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Senate

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

PRAYER

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

Gracious Lord, the divine Potter of our lives, our days are in Your hands. Shape the clay as You have planned. May the day work out exactly as You have arranged it for Your glory and our growth. We say with the psalmist, ''I delight to do Your will, O my God, and Your law is within my heart.''—Psalm 40:8. We long to know what is best for our Nation. Now at the beginning of the day we commit to You the challenges and decisions of this day. We desire to glorify You, so show us what You desire. With inspired intentionality, we put our relationship with You first and make our primary goal what is best for our Nation. In the name of the way, the truth, and the life. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

Mr. SPECTER. I thank the distinguished President pro tempore.

SCHEDULE

Mr. SPECTER. Mr. President, I have been asked by the majority leader to announce that today the Senate will immediately resume consideration of S. 1061, the Labor-HHS, Education appropriations bill. As Members are aware, under the order, all amendments had to be offered last evening to be in order. The Senate will continue debating and voting on amendments throughout the day's session. The first rollcall vote will occur at 2:15 today. As always, Members will be notified as to the scheduling of other rollcall votes. It is hoped that all action on the bill will be completed today.

As is customary on Tuesday, there will be a recess from 12:30 p.m. until 2:15 for the weekly policy luncheons to meet. Following disposition of the pending legislation, S. 1061, the Senate will begin consideration of S. 830, the FDA reform bill.

(Mr. HUTCHINSON assumed the chair.)

U.S. FOREIGN POLICY IN THE MIDDLE EAST

Mr. SPECTER. Mr. President, in the absence of any Senators in the Chamber to proceed with the legislation pending, I will take this occasion for a few moments to discuss U.S. foreign policy in the Mideast. This is especially appropriate since today the Secretary of State, Madeleine Albright, is traveling to the Mideast in an effort to promote the so-called peace process. My very strong view is that the time has come for a fundamental reassessment of U.S. policy for the Mideast. The brutal fact of life is that there is no peace process. We talk of the peace process, but there is a one-sided war being waged today by the Palestinians, a war against Israel.

Regrettably, terrorism has replaced warfare as a way of obtaining or seeking to obtain political objectives. After the Israelis were successful in the wars of 1948, 1956, 1967, and 1973, there has no longer been an effort to confront Israel militarily, but the insidious terrorist war continues. President Reagan said that the Soviets liked the arms race as long as they were the only ones in it, and then with the change of United States policy in the 1980's we brought the Soviet Union to bankruptcy and ended that matter. And now I submit it is time for a change in U.S. foreign policy in the Mideast because, simply stated, the emperor is wearing no clothes. There is no peace process. We have had continuing terrorist attacks for years, but in the last 6 months the situation has escalated.

On March 21 of this year, on July 30 of this year, and on September 4 of this year, there have been bombings, murdering 21 Israelis and wounding over 330 other Israelis. On August 27, Chairman Yasser Arafat openly embraced the Hamas leader, specifically condoning and supporting the Hamas terrorism in a picture seen around the world: The famous shot heard around the world. This is the famous picture seen around the world as depicted on the front page of the New York Times. And in this embrace and in this kiss facially, Yasser Arafat has thumbed his nose not only at the Israelis but at the United States and our allies and all others who have poured billions of dollars into the Palestinian authority.

My point is, simply stated, that it is time to stop that U.S. aid, and it is time that the U.S. exert its maximum influence to persuade our allies to stop that aid because of what has in fact happened. The Palestinians now have a police force of some 30,000. They have highly sophisticated weapons which are really not designed for a police force. Should Israel now turn over an airport to the Palestinians so that they can develop air power as well?

The fundamental principle of the Camp David accord and the Oslo accord was that there would be confidence measures established, that there would be assistance to the Palestinians in Gaza and on the West Bank, that there would be an improvement in the standard of living, that there would be an opportunity for Israel and the Palestinians to live side by side. But the brutal fact of life is that that has not happened. And when the U.S. policy now suggests going to final status negotiations, it seems totally inappropriate when the confidence building measures have not worked.

U.S. law now prohibits economic aid to the Palestinians on conditions imposed in an amendment introduced by

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

Senator SHELBY and myself in 1994 which became part of the foreign aid bill of 1995. That amendment provided that further U.S. economic aid was conditioned on two factors. No. 1, a maximum effort by the Palestinians to stop the terrorism. Realistically there cannot be guarantors. There is no such thing as an absolute success requirement. But there is a requirement of a 100 percent effort, and that certainly has not happened. The second requirement of the Specter-Shelby amendment was that the PLO charter be changed to eliminate the language calling for the destruction of Israel. That, too, has not been done, with some excuses about the Palestinian legislative group not convening, some representation that the accord signed on September 13, 1993, in effect changed the charter, but that is legally incorrect. The charter has not been changed.

After the March 21 terrorist attack on a Tel Aviv restaurant, Prime Minister Netanyahu charged that Chairman Arafat had given a green light to the terrorists. When Secretary of State Madeleine Albright appeared before the Appropriations Subcommittee on Foreign Operations, I asked whether in fact it was true that the Secretary of State knew the facts that Chairman Arafat had given a green light. Secretary Albright replied that there had not been a green light but there had not been a red light either.

Now, Mr. President, if there is not a red light, then U.S. law requires an end to the economic aid. There is an absolute obligation on the part of Chairman Arafat and the Palestinian Authority to make that maximum, 100 percent, effort and it was not made. Earlier this year, in March, Deputy Secretary of Education Moshe Peled of Israel charged that Chairman Arafat had knowledge in 1993 before the bombing of the World Trade Center. When I noted that accusation, I called upon the Department of Justice to conduct an investigation as to what had happened there. I then pursued the matter by calling Deputy Secretary Peled myself. I could not talk to him because he spoke only Hebrew, and I spoke only English. But my associate, David Brog, who works with me on these issues, who speaks Hebrew, talked to Mr. Peled, who stood by his earlier comments. And it is my understanding that the FBI has questioned Mr. Peled and that an investigation is ongoing, but as yet we have not heard what the results of that investigation are.

It was a difficult day for me back on September 13, 1993, when Chairman Arafat was honored at a ceremony on the lawn of the White House. It was an especially difficult day because many of us felt that Chairman Arafat should have been prosecuted for his complicity in the murder of our American Ambassador to the Sudan, Cleo A. Noble, Jr., and our Chargé, George C. Moore in Khartoum back in 1973. Many thought Arafat should have been prosecuted for the murders of 11 Israeli athletes at the summer Olympics in Munich in 1972. Many thought, including this Senator, that Chairman Arafat should have been prosecuted for the hijacking of the *Achille Lauro* and the murder of Mr. Leon Klinghoffer who was pushed overboard in October 1985.

But in the world of real politics, remarkable, strange, bizarre things occur, and I think such an occurrence was presented at the White House lawn back in September 1993 in conferring a joint Nobel Peace Prize on Chairman Arafat. It seemed to me that when Prime Minister Rabin shook Chairman Arafat's hand and then Foreign Minister Peres shook Chairman Arafat's hand, considering the fact that Israel had borne the brunt of the PLO terrorism, I should shake his hand as well, and I have on a number of occasions. Senator DeConcini led a delegation of which I was a member back in December 1993. Senator Hank Brown and I visited Chairman Arafat in Gaza in 1995, August. Senator RICHARD SHELBY and I visited Chairman Arafat in Gaza in January 1996, and on each occasion we pressed him hard about stopping terrorism. And in August 1996 Senator Brown and I had obtained a long list of terrorists from now Prime Minister Benjamin Netanyahu. At that time, Mr. Netanyahu was the leader of the opposition. And one by one, we went over this list of terrorists with Chairman Arafat, and we heard his excuses one by one. But now Chairman Arafat has run out of excuses.

The U.S. policy appears to be continuing to work with Chairman Arafat because there is no one else to work with, but I suggest that if Chairman Arafat is the best we have to work with, then the reality is we have no one to work with. From meetings that I have had with Palestinian leaders over the course of the past decade, it is my view that there may well be someone to succeed Chairman Arafat. We know on this state of the record, with what Chairman Arafat has done on repeated pronouncements and this embrace seen around the world, it is simply not workable to continue to deal with him.

Now, it may be that the zebra can change its stripes, but on this state of the record my sense is that it is futile to continue to deal with Chairman Arafat. The terrorists whom Israel has tried to have extradited for trial, of which 31 are now on the list, some 11 have either joined the Palestinian Authority police force or are awaiting entry there. I have discussed with the distinguished Presiding Officer, Senator HUTCHINSON, who introduced a sense-of-the-Senate resolution last week, combining our efforts in seeking hearings on this matter to go into some detail and hear from the Secretary of State after her return from the Mideast and to hear from the Department of Justice what are the ramifications of the inquiries conducted as to Moshe Peled's charges, because leadership is necessary to our foreign policy at the present time and it is counterproductive and simply not sensible to continue on the policy which is being undertaken at the present time, to continue to have United States dollars and our allies' dollars poured into the Palestinian Authority, which only increases the ability of some Palestinians to conduct terrorism and also to prepare to wage an all-out war.

The thought about a Palestinian state had been deferred, awaiting to see what confidence-building measures could arise, but when the DeConcini delegation arrived in Jericho in December 1993, just a few months after the signing of the accord on the White House lawn on September 13, 1993, the Palestinian flags were already in full evidence. As far as the Palestinians were concerned, it was a de facto state.

There had been concern that there would be a Trojan horse within Israel. That has not happened because it hasn't been a secret Trojan horse; it has been an army out in the open, some 30,000 strong with sophisticated military weapons and with the chief of police being under indictment under charge of having worked with the terrorists.

It is my hope, Mr. President, that President Clinton himself will become engaged in the Mideast peace process. I think it is a very good move for Secretary of State Albright to go to the Mideast, and I compliment the President for the decision to send our Secretary of State there, notwithstanding the terrorist attack of last week. It is my hope that there will be a renewed effort by the United States to press to resume the Israeli-Syrian dialog. I believe that the visit that President Clinton made to Damascus in 1994 was a very fruitful visit. There have been reports that President Clinton was engaged in negotiations as an intermediary between Prime Minister Rabin and President Assad which might have led to an accord between Israel and Syria, depending on what happened to the Golan Heights. That matter might have been referred to Israel for a referendum, and there are signs now that it would be fruitful to resume those discussions.

I think it also might be helpful to the Israeli-Palestinian situation to take the world's spotlight and the glare of the television cameras, so thoroughly enjoyed by Chairman Arafat, away from the Israeli-Palestinian controversy and focus some attention on an Israeli-Syrian peace accord. If a peace could be brokered between Israel and Syria to go along with the peace between Egypt and Israel from the Camp David accords and the more recent peace negotiations between Jordan and Israel, that would leave the Palestinian issue the odd man out. I believe that a direct involvement by the President, which I had suggested last August after I returned from conversations with both Prime Minister Netanyahu and President Assad, would be very, very fruitful.

I have seen in my foreign travels in my capacity as Chairman of the Senate Intelligence Committee and my work on the Foreign Operations Subcommittee of the Appropriations Committee the enormous respect and admiration that the United States is held in around the world. We are the only superpower, and we are greatly admired for our tremendous economic success. We have the potential for enormous influence. When the President of the United States, when that office is involved, regardless of who the President is—President Reagan, President Bush, President Carter, President Clinton—when the Presidency exerts that power, there are enormous potential benefits to be gained in bringing adversaries together.

It is my hope that Secretary Albright will make some progress. It is my hope that the President will personally intervene in these matters, because his participation in the past has been very, very productive, but it ought to be very plain that on the current state of the record, the United States will not, should not, cannot, must not provide further economic aid to the Palestinian Authority, that we should use our utmost persuasive powers to get our allies to follow the same course of not giving economic aid to the Palestinian Authority, because to do so is just to build up their military capacity, their capacity for terrorism, the police force, the army of some 30,000 and the sophisticated weapons they now have. The reality is that the emperor has no clothes. There is no peace process. There is a war engaged, one side of the war is terrorism, with the efforts of the Palestinians to use terrorism to replace warfare as a method of getting their political objectives.

The time has come for a fundamental reassessment of U.S. policy for the Mid-East.

The brutal fact of life is that there is no peace process.

It is time to acknowledge there is a war going on. The PLO is at war with Israel.

There can be no other conclusion from these facts:

First, the PLO/Hamas in three terrorist attacks in the past 6 months have murdered 21 Israelis and wounded over 330.

Second, Chairman Arafat has literally and figuratively embraced Hamas openly. His front page kiss of the Hamas leader seen around the world tells the Arab world and certainly the Palestinians that the Palestinian Authority condones and supports Hamas.

Third, even after last week's terrorist attack, Hamas threatens more violence if its demands are not met.

Terrorism has replaced conventional warfare in the Mid-East as the prime method to obtain political objectives. After losing the wars of 1948, 1956, 1967, and 1973, the Arab world has not directly confronted Israel militarily. Instead the PLO has sought to obtain its objectives by killing women, children, and any other available civilians by cowardly sneak attacks in restaurants, shopping centers, and street corners.

Yet, we continue to talk of the peace process while this one-sided war is being waged. President Reagan correctly noted that the Soviets liked the arms race as long as they were the only ones in it. The United States changed course in the 1980's with military preparedness and brought the U.S.S.R. to its knees in bankruptcy.

It is now time—really past time—to change U.S. policy in the Mid-East.

This week's visit by Secretary Madeleine Albright presents an occasion to do just that.

While the PLO makes a pretense at peace, the United States and our allies are making the Palestinian Authority stronger by financing their buildup.

The concept of the Camp David agreement and the Oslo accords was sound. Give the Palestinians local autonomy. Develop confidence building measures. Set the stage for the Palestinians to live side by side in peace with Israel.

The problem is that it just has not worked. It's time to acknowledge that the emperor is wearing no clothes.

I had long thought Chairman Arafat should be prosecuted for his complicity in the murder of our Ambassador to the Sudan, Cleo A. Noel, Jr., and our Chargé d'Affaires, George C. Moore, in Khartoum on March 2, 1973; for the murders of 11 Israeli athletes at the Summer Olympics in Munich in 1972; and the murder of Mr. Leon Klinghoffer on the *Achille Lauro* in October 1985. But I thought, if Prime Minister Rabin and Foreign Minister Peres could shake Chairman Arafat's hand—considering Israel had born the brunt of PLO terrorism—then so could I.

I have shaken his hand in meetings with a delegation led by Senator Dennis DeConcini in Cairo in December 1993, with Senator Hank Brown in Gaza in August 1995, and with Senator RICHARD SHELBY in Gaza in January 1996. On each occasion, our delegation pressed him on stopping terrorism. In our August 1995 meeting, Senator Brown and I had obtained from now-Prime Minister Benjamin Netanyahu, then the leader of the opposition, a list of PLO terrorists against whom Chairman Arafat refused to act. One by one we listened to his excuses why nothing could be done. By now, he has run out of excuses.

Following the Oslo accords, the United States took the lead with our allies in providing financial aid in the billions to the Palestinian Authority. Our calculation was that improving the lives of the Palestinians would provide stability to the region and promote peace.

The issue of a Palestinian state was supposedly deferred. But not as far as the Palestinians were concerned. When the DeConcini delegation arrived in Jericho in December 1993, we found flags for the Palestinian state with the PLO taking it as a fait accompli.

Some were concerned that the Oslo accords would create a Trojan horse—a concealed military force within Israel. But it was not that way at all. It was not concealed, but it was a force.

We now find a Palestinian police force—really an army. Although the Oslo accords limit the Palestinians to 24,000 policemen in the West Bank and Gaza, the Israeli Government reports that the PLO currently deploys over 30,000 policemen. The Palestinian police have acquired sophisticated weapons typically used by armies, not police forces, such as LAU and RPG antitank missiles, antiaircraft missiles, and Kayushas.

Of the 31 suspected terrorists whose extradition is being sought by Israel, 11 are either serving in the Palestinian police or are in the process of joining its ranks. The Palestinian police chief, Ghazi Jabali, stands accused by Israel of planning terrorist attacks on Israeli civilians. The Israelis cited evidence that General Jabali helped plot a July 1997 attack on Jewish settlers near Nablus. Israel has issued a warrant for his arrest and a formal order for his extradition to Israel to face these charges. The Washington Post reported on August 7, 1997, that the Clinton administration has said it has proof that Jabali helped organize this attack.

What next? Israel has resisted giving the Palestinians their own airport. Should a Palestinian air force be permitted? Will continued U.S. and allied aid be funneled into such air power and further military development?

Assessing blame for the deterioration in the Israeli-Palestinian relationship is an endless and futile undertaking. Whatever blame is attached to Prime Minister Netanyahu's rhetoric and policies, that cannot be placed on the same scale as PLO terrorist murders.

I strongly believe that the United States should now cut off any further aid and persuade our allies to do the same unless and until the Palestinian Authority demonstrates a 100-percent effort to stop terrorism. They cannot be guarantors, but they can and should be held to a 100-percent effort.

When PLO terrorism continued after the Oslo accords were signed, Senator SHELBY and I introduced the Specter-Shelby amendment which became law on August 23, 1994, as part of the fiscal year 1995 foreign operations bill. That amendment provided for a cutoff of United States aid if: First, the PLO did not change its charter calling for the destruction of Israel; and second, the Palestinian Authority did not make a 100-percent effort to stop terrorism.

In a report published in the Jerusalem Post on March 26, 1997, Deputy Education Minister Moshe Peled charged that Chairman Arafat knew in advance about the plan to blow up the Trade Center in New York in 1993. I then wrote to Attorney General Reno on April 1, 1997, asking for an investigation on that matter. After receiving a reply from the Department of Justice legislative liaison that they

knew of no evidence to support that charge, I called Mr. Peled on May 2, 1997. Since he did not speak English and I do not speak Hebrew, I asked my assistant, David Brog, who does speak Hebrew, to talk to him. Mr. Peled stood by his charge, but declined to elaborate.

On May 14, 1997, I again wrote to Attorney General Reno with more specific requests on what her Department should do in its investigation. When I announced on June 13, 1997, that I intended to put a hold—that is, hold up on the confirmation of Deputy Attorney General Eric Holder, the Department of Justice committed to undertake an investigation. I have since heard media reports that the FBI interviewed Mr. Peled in his Tel Aviv office for some 2 hours on June 26, 1997. On June 4, 1997, and again on July 28, 1997, I asked FBI Director Louis Freeh about the progress of the investigation during Judiciary Committee hearings. Both times, I was told he would let me know. To date, I have received no report on the progress of that investigation.

In light of Mr. Peled's charge and the March 21, 1997, terrorist attack on a Tel Aviv restaurant, I proposed an amendment to the fiscal year 1998 foreign operations bill providing that no aid shall be given to the Palestinian Authority unless:

First, the Palestinian Authority is using its maximum efforts to combat terrorism and, in accordance with the Oslo accords, has ceased the use violence, threat of violence, or incitement to violence as a tool of the Palestinian Authority's policy toward Israel;

Second, after a full investigation by the Department of Justice, the executive branch of government concludes that Chairman Arafat had no prior knowledge of the World Trade Center bombing, and

Third, after a full inquiry by the Department of State, the executive branch of government concludes that Chairman Arafat did not authorize and did not fail to use his authority to prevent the Tel Aviv cafe bombing of March 21, 1997.

That amendment was adopted on July 16, 1997, as part of the Senate bill and now awaits action in the forthcoming Senate-House conference.

The subsequent terrorist attacks on July 30 and September 4 require increased sanctions of an unconditional elimination of U.S. aid plus our efforts to persuade our allies to do the same.

I support the President's decision to send Secretary of State Madeleine Albright to the Mid-East notwithstanding the September 4 bombing and urge greater U.S. involvement including action by the President himself. However, I disagreed with the administration's decision to continue United States aid to the Palestinian Authority after the March 21 bombing and I oppose the suggested administration policy to move to final status negotiations promptly.

After the March 21 bombing, Prime Minister Netanyahu accused Chairman Arafat of giving a green light to that terrorist attack. On March 24, 1997, I wrote Secretary of State Madeleine Albright asking if that was true. Receiving no answer, I pursued that question when the Secretary of State appeared before the Appropriations Subcommittee on Foreign Operations on May 22, 1997.

The Secretary of State responded that Chairman Arafat had not given a green light, but had not given a red light either. That is totally unsatisfactory. Under United States law, embodied in the Specter-Shelby amendment, a red light is mandated if the Palestinian Authority is to continue to receive United States aid.

The administration continues a policy of giving financial aid to the Palestinian Authority to promote the so-called peace process and to deal with Chairman Arafat on the argument that there is no one else with whom to deal.

I emphatically disagree on both counts.

Further financial aid to the Palestinian authority only strengthens the PLO's ability to carry out terrorist attacks and ultimately wage an all-out war.

To continue to deal with Chairman Arafat on this date of the record is counter-productive and foolish. How can we deal with a man who openly embraced the Hamas terrorist leader which condones prior murder and encourages future mayhem.

If Chairman Arafat is the best we have to deal with, then their best is not good enough. After extensive dialogue with moderate Palestinians for more than a decade, I believe there are others who could to a better job than Chairman Arafat. None could do worse.

I would not categorically rule out further dealings with Chairman Arafat if he again changes his stripes. Not to discredit the zebra or to unduly mix metaphors, Chairman Arafat makes the chameleon look constant.

The Chairman Arafat who embraced Hamas leader Abdel Aziz al-Rantisi—pictured on the front page of the New York Times on August 21, 1997—is totally unacceptable as was the Chairman Arafat who was implicated in the murders of our Ambassador and Charge d'Affairs in the Sudan in 1973, the murder of 11 Israeli athletes at Munich in 1972 and the highjack/murder of Leon Klinghoffer on the *Achille Lauro* in 1985.

But, in the distasteful world of real politic, who knows? What will be the future of Chairman Arafat and the Palestinian Authority? We know that Chairman Arafat responds to pressure. If the United States applies the most pressure, perhaps he will again be minimally acceptable. But on today's record, the cutoff of aid from the United States and our allies and the rejection of Chairman Arafat should be absolute.

The desperate situation in the Mid-East calls for more intense U.S. involvement in new directions. We should continue to urge all the parties, including Prime Minister Netanyahu, to improve the climate for negotiation. However, we should not place on the same scale Israel's policy to build settlements on its own land with PLO's terrorist murders.

Somehow, we must reach the daily preaching of hatred against Jews by the PLO and Moslem fundamentalists. It may well be that until we solve that underlying problem, the reach for peace in the Mid-East will be a continuing generation away.

The record continues to demonstrate the spewing of hate by Chairman Arafat and his ilk. Just weeks ago, on August 25, 1997, a moderator on PLO controlled television declared that ''the Jews exaggerate what the Nazis did to them'' and that ''no more than 400,000'' Jews were killed in the Holocaust. Likewise, PLO officials including their representative to the United Nations in Geneva have embraced a modern version of the age-old blood liable by claiming that Israeli authorities injected hundreds of Palestinian children with the HIV virus.

These messages of hatred are not directed against Israel alone. On July 11, 1997, the PLO-appointed Mufti of Jerusalem, Sheikh Ikrama Sabri, said in a sermon broadcast on the Palestinian Authority's official radio station: ''Oh Allah, destroy America for she is ruled by Zionist Jews . . . Allah will paint the White House black . . . Allah shall take revenge on behalf of his prophet against the colonialist settlers who are sons of monkeys and pigs.''

Beyond the current visit by the Secretary of State, I continue to urge the personal involvement of the President. At the right moment, his personal touch on the Israeli-Palestinian problem could be powerful.

My foreign travels on behalf of the Senate Intelligence Committee and the Appropriations Foreign Operations Subcommittee have shown me the enormous impact the United States has around the world. The United States is respected and admired. As the only remaining superpower, our power is acknowledged as awesome.

Bringing peace to the Mid-East is an awesome task in the face of millennia of strife in that region. By properly deploying our persuasion and power, we may still be able to do it.

I ask unanimous consent that all letters and articles referred to be printed in the CONGRESSIONAL RECORD at the conclusion of this floor statement.

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

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, April 1, 1997.

Hon. JANET RENO,
Attorney General, Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: Just yesterday I saw a news report that Israeli intelligence has evidence that Palestinian Authority Chairman Yasser Arafat had prior knowledge of the 1993 plot to bomb New York City's World Trade Center which killed six people.

The news report quoted Deputy Education Minister Moshe Peled stating: ''More than

that, he [referring to Arafat] was part of the discussions on the operation.'' The news report further said that Arafat was privy to the conspiracy and met with Sudanese and Islamic terrorist leaders.

With this letter, I am enclosing for you a photostatic copy of the news report from the Jerusalem Post on March 26.

I would very much appreciate it if you would conduct the appropriate investigation to determine what evidence exists, if any, of Arafat's complicity in this matter.

It appears to me that, if true, Arafat would be prosecutable under U.S. criminal laws. I would appreciate your advice as to what indictments could be brought as to Chairman Arafat.

Thank you for your consideration of this report.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, May 14, 1997.

Hon. JANET RENO,
Attorney General, Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: By letter dated April 1, 1997, (copy enclosed) I wrote to you concerning Israeli Deputy Education Minister Moshe Peled's statement that Palestinian Authority Chairman Yasser Arafat had prior knowledge of the 1993 plot to bomb New York City's World Trade Center.

By letter dated April 29 (copy enclosed) Assistant Attorney General Andrew Fois responded with a very generalized statement about having ''queried the Israeli authorities.'' No mention was made whether the Department of Justice talked to Deputy Education Minister Moshe Peled or did any real pursuit on the matter.

Since I do not speak Hebrew, my assistant, David Brog, Esquire, talked to Mr. Peled. Mr. Peled said that he was not prepared to disclose any more information on Chairman Arafat's connection in the World Trade Center bombing beyond what he told the Jerusalem Post. Mr. Brog said that Mr. Peled was not flexible on this point and that he (Mr. Brog) had the impression that Mr. Peled had gotten into some trouble for his previous disclosure.

I am interested to know whether the Department of Justice talked to Mr. Peled before Mr. Fois's letter to me of April 29. If so, what he said. If not, why wasn't Mr. Peled questioned.

I consider this an extremely serious matter. As you know, Chairman Arafat could be extradited to the United States if there is evidence to support Mr. Peled's charge.

I formally request the Department of Justice to conduct a real investigation on this matter.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, DC, March 24, 1997.

Hon. MADELEINE ALBRIGHT,
Secretary of State,
Washington, DC.

DEAR SECRETARY ALBRIGHT: According to the weekend press reports, Israeli Prime Minister Benjamin Netanyahu has stated that Palestinian Chairman Yasir Arafat has indirectly given a green light to the terrorists resulting in the suicide bomb which killed and wounded many Israelis last Friday.

According to the news reports, Chairman Arafat and the Palestinian authority released Ibrahim Maqadmeh. Prime Minister Netanyahu further stated that Chairman Arafat and the Palestinian authority have failed to detain known terrorists and to confiscate weaponry.

In my judgment, it is very important for the State Department to make a factual determination as to whether Chairman Arafat and the Palestinian authority did give a green light indirectly to the terrorists and whether there was a failure to detain known terrorists and to confiscate weaponry.

I would appreciate your advice, as promptly as possible, on your Department's conclusion as to whether Chairman Arafat and the Palestinian authority gave an indirect green light to the terrorists.

As you know, an amendment offered by Senator Shelby and myself to the Middle East Peace Facilitation Act of 1995 conditions the $500 million in U.S. aid to the Palestinian authority on presidential certification that the Palestinian authority is complying with all of its commitments under its peace accords with Israel, including its commitment to prevent acts of terrorism and undertake ''legal measures against terrorists, including the arrest and prosecution of individuals suspected of perpetrating acts of violence and terror''.

The Senate Appropriations Subcommittee on Foreign Operations, on which I sit, will soon be considering this issue for fiscal year 1998 so I would appreciate your prompt response.

In addition, I would appreciate your advising me as to whether there is any U.S. aid in the pipeline which has not yet been turned over to the Palestinian authority. If so, I request that such payments be withheld until the determination as to whether the Palestinian authority is complying with the Specter-Shelby amendment.

Sincerely,

ARLEN SPECTER.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, April 29, 1997.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: This is in response to you letter to the Attorney General dated April 1, 1997. Your letter encloses a news article from The Jerusalem Post in which it is reported that Yasser Arafat may have had prior knowledge of the bombing of the World Trade Center building on February 26, 1993.

Aside from the news report enclosed with you letter, the Department of Justice is unaware of any information that Yasser Arafat either had prior knowledge of the bombing of the World Trade Center or was in any way involved in the conspiracy to bomb the building. We have queried the Israeli authorities about this information and they deny the accuracy of the statements attributed in the article to the Deputy Education Minister.

I hope this information is helpful. If we can be of further assistance with regard to this or any other matter, please do not hesitate to contact this office.

Sincerely,

ANDREW FOIS,
Assistant Attorney General.

[From the Jerusalem Post, Mar. 26, 1997]

ARAFAT KNEW OF WORLD TRADE CENTER PLOT

(By Steven Rodan)

Israeli intelligence has evidence that Palestinian Authority Chairman Yasser Arafat had prior knowledge of the successful 1993 plot to bomb New York City's World Trade Center, which killed six people. Deputy Education Minister Moshe Peled said Tuesday night.

''More than that, he was part of the discussions on the operation,'' Peled said, ''I call on the prime minister to give the information to the Americans, so they'll know who they're dealing with.''

Peled confirmed information relayed by intelligence sources that, several days before the February 26, 1993 bombing, Arafat met with Sudanese and Islamic terrorist leaders who discussed the plot.

The sources said Arafat was privy to the conspiracy because of his close personal ties to Sudanese leader Hassan Turabi, head of the National Islamic Front. According to a U.S. State Department report on terrorism, Turabi is a leading advocate of closer ties between terrorist groups and their government sponsors. He was also a leading figure in the Fatah-Hamas dialogue in 1995.

Two Sudanese diplomats were arrested and later deported in July of 1993, after U.S. authorities directly linked them to the explosion at the World Trade Center and a plot to bomb the United Nations.

Israeli government spokesmen refused to comment on the intelligence reports or on Peled's call for Prime Minister Binyamin Netanyahu to release them to the U.S. ''I don't know anything about it,'' said David Bar-Illan, director of communications and policy planning in the Prime Minister's Office.

A Defense Ministry spokesman also refused to comment.

But U.S. and Israeli intelligence sources agree that Arafat continues to maintain a large number of Fatah guerrillas in bases in Sudan, 1,200 of whom arrived from that country in 1994 and now serve in the Palestinian security forces. One Israeli source said the number of Fatah guerrillas in Sudan is close to 3,000.

''Arafat continues to maintain a training base in Sudan and the Fatah people there and work closely with the regime and with Iran,'' said Yonah Alexander, a Pentagon consultant and director of the terrorism studies program at George Washington University. ''If there hadn't been an agreement with Israel, then Fatah would definitely have been on the U.S. list of terror organizations.''

But a U.S. counterterrorism official disputed the claim and said Israeli officials might be confusing Fatah with Abu Nidal's Fatah Revolutionary Council, which trains in Sudan.

''There's no doubt there are terrorist groups training in Sudan, but (Fatah) isn't one of them,'' he said.

U.S. counterterrorism officials have ''never heard any report of Fatah'' training there, he said. He also stated that ''there's been no indication of that kind of Sudan connection'' to the World Trade Center bombing.

At one of the Sudanese camps, Kadru north of Khartoum, Iranian experts trained terrorists, including Fatah forces headed by Jaber Amer, as commanders, intelligence operatives, and bombmakers, according to the sources.

A U.S. congressional investigator with close ties to Israeli officials said Hamas and Fatah have training camps in Sudan. ''They work together,'' he said. ''Arafat has strategic ties with Turabi and he has exploited them in order to forge cooperation with Hamas.'' But the investigator said although he has heard of reports that Arafat knew of the World Trade Center bombing plot, and was said to have even praised the idea, he is skeptical of the veracity of the information, ''I have yet to be convinced,'' he said.

U.S. State Department officials said the PLO has not authorized any terrorist attacks since Arafat signed the Declaration of Principles with Israel in September 1993. One official who works on the State Department's report on global terrorism said he does not know of any Fatah bases in Sudan.

In another development, Israeli officials said the Clinton administration has quietly dropped its dispute of Israel's assertion that

Arafat has allowed the Islamic opposition groups to resume terrorist attacks on Israel.

The officials said the CIA now shares Israel's assessment that Arafat gave Hamas and Islamic Jihad a green light to carry out terrorist attacks, at least while he is abroad.

[From the New York Times, Aug. 21, 1997]

DEFYING ISRAEL, ARAFAT EMBRACES ISLAMIC MILITANTS

(By Joel Greenberg)

GAZA.—Defying Israeli and American demands that he crack down on Islamic militants, Yasir Arafat kissed and applauded leaders of the Hamas and Islamic Holy War movements today and warned that Palestinians were prepared to resume their violent revolt against Israel.

At a conference of Palestinian factions here, Mr. Arafat returned to the combative language of the seven-year uprising against Israeli occupation, which ended in 1994 with the beginning of Palestinian self rule.

''There was an uprising for seven years,'' Mr. Arafat told the conference, which he called to protest the policies of Prime Minister Benjamin Netanyahu of Israel. ''Who did it? The lion cubs, our children—this glorious uprising. Seven years. We can erase and do it again from the beginning. There is nothing far from us. All options are open to us.''

As he has many times in his career, Mr. Arafat was fighting on several fronts at once.

His remarks came just days after Dennis B. Ross, the American mediator, prodded him to renew security cooperation with the Israelis and take action against Hamas and other hard-line Islamic groups that have carried out terrorist bombings in Israel. Mr. Arafat met Tuesday with the head of Shin Bet, the Israeli domestic security agency, as he began to comply with that request.

But at today's session in Gaza, called the National Unity Conference to Confront the Challenges, Mr. Arafat was lining up support from a broad array of factions, including the militant Islamic groups who favor a more confrontational stance toward the Israelis. The Islamic groups said they saw the meeting as a means of resisting the crackdown by the Palestinian Authority that Israel and the United States are demanding.

[In Washington, senior American officials were dismayed by Mr. Arafat's remarks. ''It simply makes an already difficult situation more difficult,'' one official said. ''We have a crisis of confidence, so no party should do or say things that undermine confidence about a peaceful resolution of their differences.''

[James P. Rubin, the State Department spokesman, said the United States remained convinced that Mr. Arafat would carry out his pledge to cooperate with the Israelis against terrorism. ''We are going to judge, in the area of security cooperation and antiterrorist cooperation, Chairman Arafat by deeds,'' he said. ''Deeds are the coin of the realm when it comes to fighting terrorism.'']

Today's conference in Gaza was significant because it marked the first time Islamic Holy War, a militant group that operates primarily in Gaza, had joined a meeting of Palestinian factions under Mr. Arafat's leadership. Unlike Hamas, which has both social programs and a military wing, Islamic Holy War has devoted itself almost exclusively to attacks on Israel.

At the conference, representatives of Hamas and Islamic Holy War, who are political leaders of their organizations, not members of their clandestine military wings, exchanged customary kisses with Mr. Arafat after their speeches.

They said later that their participation in Mr. Arafat's conference did not mean they were renouncing violence, as the Palestinian leader did in reaching an accord with the Israelis. The delegates said they remain implacably opposed to the agreement reached in Oslo in 1993 between Israel and the Palestine Liberation Organization.

''This is not a conference to support Oslo, but to support the stance of our people against the American and Israeli pressures on the Palestinian Authority to arrest and crack down on the Islamic movements,'' said Abdel Aziz al-Rantisi, a Hamas leader.

The relationship between Mr. Arafat and the Israeli Government, which had been strained, worsened considerably last month after a suicide bombing in a Jerusalem market on July 30 in which 14 people and the two attackers were killed.

Israel demanded that Mr. Arafat take action against Hamas and Islamic Holy War and it imposed economic sanctions and other punitive measures that the Palestinian leader condemned as a declaration of war against his people.

The measure included closing borders, demolishing houses of Palestinians on the grounds that they were built without permits, and freezing payments of taxes and other money to the Palestinian Authority.

Israel's moves united Palestinians of all political stripes behind Mr. Arafat. Many perceive him as standing up to heavy Israeli and American pressures to suppress the militants.

United States officials have backed the Israeli demands, but they have also urged Israel to rescind economic sanctions that are not directly linked to its security. To ease the economic pressure, President Hosni Mubarak of Egypt pledged Tuesday to give the Palestinian Authority $10 million.

Israeli officials criticized Mr. Arafat for inviting Hamas and Islamic Holy War to the Gaza conference, asserting that his invitation of groups responsible for bombings that killed scores of Israelis contradicted his commitment to fight terrorism. Mr. Arafat is ''giving the terrorist organizations a stamp of approval,'' said David Bar-Illan, communications director for Prime Minister Netanyahu.

Mr. Arafat and his aides might think that ''appeasing, pacifying and placating these organizations will do the trick,'' Mr. Bar-Illan added, ''but they already tried that, and we found that all this dialog does is give these organizations the respectability and legitimacy which makes it easier for them to continue their terrorist activity with impunity.''

But Tayeb Abdel Rahim, a close aide of Mr. Arafat who was chairman of the conference, rejected the Israeli criticism. ''None of the speakers advocated explosions or terrorism,'' he said. ''They all protested the Israeli policy that disregards the peace process. They agreed on a common denominator of rejecting the policy of dictation.''

The speakers, apparently following rules agreed upon in advance, did not call explicitly for violence against Israel, but instead urging ''resistance,'' ''confrontation'' and ''struggle'' against the Israeli ''enemy.''

Many called on Mr. Arafat to stop security cooperation and negotiations with the Israelis, and urged a boycott of Israeli products in response to the Israeli border closures. They criticized American officials for what they described as a stance that favors Israel, and they urged Mr. Arafat to resist Israeli ''dictates'' backed by the Americans to crack down on militant groups.

Mr. Arafat has recently renewed security contacts at the urging of the Americans, and he met on Tuesday with Ami Ayalon, the head of Shin Bet, the Israeli security services. But before the conference delegates he vowed never to submit to Israeli economic and political pressures.

''In the name of our children,'' he said, ''the children of the uprising, I say: No one can humiliate the Palestinian people, no one can defeat the Palestinian people, no one can make our Palestinian people bow!''

ORDER OF PROCEDURE

Mr. SPECTER. Mr. President, we continue to await the arrival of Senators on the floor to present amendments. We have a very crowded schedule for the Senate with the FDA legislation and other appropriations matters to follow. So I urge my colleagues to come to the floor so we can continue to move the Labor, Health and Human Services bill along.

In the absence of any other Senator on the floor, 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. DORGAN. 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.

Mr. DORGAN. I ask unanimous consent I be allowed to speak for 10 minutes as in morning business.

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

NATIONAL TESTING

Mr. DORGAN. Mr. President, I understand we are not yet on the appropriations bill today. It has not been formally called up. We have a number of issues in the appropriations bill that is now before the Senate, and I know the majority leader and others would like to complete it soon. I want to describe one of them that I think is very important that I hope will get resolved today. That is the issue that was raised last week on the subject of national testing with respect to achievement levels at various grades in our schools.

President Clinton has suggested, and others have called for some kind of national testing system by which we can evaluate at the fourth grade level whether children are able to read sufficiently and at the eighth grade level whether they have sufficient capabilities in mathematics, because those are the benchmarks in the education system that allow you to proceed and succeed. If you are not able to read sufficiently in fourth grade, you are not going to do well beyond that. If you don't have a basic grasp of the concept of mathematics by the eighth grade, you are not going to do well beyond that. The question is, What are we getting for our education dollars? We spend a substantial amount of money in this country on elementary and secondary education. What are we getting for it?

The proposal is a proposal that says, let us measure that, let us evaluate that, student to student, school to

school, State to State, so that we know what we are getting out of our education system. There isn't a more important subject, in my judgment, for this country's future than the subject of education. Is our education system a good one? Does it work? Does it prepare our country for the future?

Benjamin Franklin once said that if you invest your purse in your head, no one will ever take your purse from you. His point was that, if you invest in education, nobody can ever take from you what you have achieved yourself. That is a very important point. That is why it is so important for our country to make sure that we have an education system that works.

Although reading is the foundation for virtually all other learning in our country, it is estimated that 40 percent of America's fourth graders cannot read at a basic level. Likewise, nearly 40 percent of eighth graders in our country are not achieving at a basic level, and 76 percent are not achieving at a proficient level. According to a recently released Third International Math and Science Study, 55 percent of U.S. eighth graders score below the international average in math.

Now, the point about national testing is not to suggest in any way that the Federal Government try to run the local school systems. School systems ought to be run locally. They are now and they will be in the future. But we ought to give parents information about how their students and schools in our States are doing, comparing them student to student and school to school and State to State. We simply don't have that capability. Providing parents with that information, through a national testing program, will be an important step in trying to evaluate where we are in the educational system and then what we need to do to strengthen and improve it.

Again, this is a proposal that says, let us try to evaluate across this country how our children are doing in reading at the fourth grade level and how our children are doing in mathematics at the eighth grade level. Giving parents that information will be enormously beneficial. I have two children in public schools this morning. They are the most wonderful young children that live in this country—as all parents feel about their children. I want them to have the finest education available to them. They are in public school. I like their teachers, I respect their school. But I happen to believe that, to the extent that we can improve this country's educational system, we will do that if we arm parents with more and more information about how the system does, how the schools are doing, how the teachers are doing, and how our students are doing.

There are three things that will work to improve education in this country, and all three are necessary in order for the educational system to work well. First is a student that is willing to learn. Secod is a teacher that knows how to teach. And third is a parent that is involved in their student's education. The failure to have any one of the three means we don't do nearly as well as we can.

Now, the proposal for a national testing program has substantial support. Polls have shown that 77 percent of the American people support national standards for measuring the academic performance of schools. It has substantial support from leaders all across this country, national business leaders like the National Chamber of Commerce, the Business Roundtable, the National Alliance of Business, and it is clear to them that our ability to succeed in the long term and compete in the long term with other countries rests in our ability to provide an educational system that educates our children sufficiently so that we do succeed and prevail.

Here is the testimony from the business leaders in America. Let me read a couple of the pieces of testimony. This is Jim Barksdale, the CEO of Netscape Communications, and L. John Doerr, a partner in the firm of Kleiner, Perkins, Caulfield & Byers, on behalf of 240 technology industry leaders in a bipartisan call for national education standards in reading and math:

> Every State should adopt high national standards, and by 1999, every State should test every fourth grader in reading and eighth grader in math to make sure these standards are met. President Clinton's national testing initiative offers a new opportunity to widely accept national benchmarks in reading and math against which States, school districts, and parents can judge student performance.

Now, the proposal is completely voluntary. No student is required to take tests. Any student can opt out, any school can opt out, any State can opt out—a completely voluntary proposal. Then we had some amendments offered in the other body, the House of Representatives, an initiative, and some amendments here in the Senate, which I think will be withdrawn, that would prohibit any kind of national testing. So there has been discussion back and forth in recent days about, should we prohibit any kind of national testing? I think the answer to that should be no.

We are proposing that the National Assessment Governing Board, called NAGB—a bipartisan, independent board—will oversee and ensure the integrity of these national tests. NAGB was established by Congress in 1989 to independently formulate policy guidelines for the National Assessment of Educational Progress.

I don't have any interest, again, in having the National or the Federal Government decide that we are going to, in any way, impose restrictions or arbitrary requirements on school districts across this country. That is not my interest. It is my interest to provide some leadership to see if we can't describe some kind of national achievement levels which we aspire to reach as a country.

It is interesting. You go on a radio show, talk radio, these days—and it has been that way for some years now—and somebody calls in and talks about how any effort by anybody to test some sort of achievement level is some intrusive encroachment on education. I don't think that at all. As much as we spend on education, we ought to try to find out what we are getting for all of this. Where are we succeeding and where are we failing? That is what this initiative is all about. It is not an attempt to eclipse the powers, rights, or interests of local school boards. It is an attempt to see if we can't, all across this country, give parents more information about what they are getting for their education dollar and give school administrators and give other administrators who are interested in this an evaluation of where we are with respect to reading at the fourth grade level and mathematics at the eighth grade level, to see whether we are reaching the goals that we aspire to reach as a country. If we can't take that first baby step, if we don't have the opportunity or courage to take that step, then we are not in any way going to achieve the goals we have for this country's education in the years ahead.

I thought this was going to be resolved last week, and I understand it is still ricocheting around the Chamber. If it's not resolved, I am inclined to offer a second-degree amendment to one of the first degrees that has been noticed, which would simply say that the National Assessment Governing Board would be the board that would be empowered to help provide this national testing. I want us to have an affirmative discussion and decision on this. I think that will be a very important thing for the Senate to say with respect to this appropriations bill because it is likely the appropriations bill coming to conference from the House side will say, in a negative way, that they don't want anything to do with this kind of national testing.

So I came to the floor today to say that I thought this had been resolved last week, and it has not been. If it is not resolved soon, I would like to offer an amendment. Senator BINGAMAN has one noticed. If that is not offered, I will probably offer a second degree, and we should have a vote on this issue. This country can do better in education. One way to do that is to aspire to have a national evaluation of what we are getting and what our performance levels are at the fourth grade level for reading and at the eighth grade level for mathematics.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I ask unanimous consent that I may speak for up to 10 minutes as in morning business.

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

NATIONAL EDUCATIONAL TESTING

Mr. GORTON. Mr. President, I want to say to the Senator from North Dakota that I have listened with great care to his remarks and with a strong degree of sympathy and support for all that he has to say. I do want to add two cautions or questions that I know he will consider very thoughtfully in this connection, however.

I am here on the floor to speak to an amendment I introduced last night that would take dozens, perhaps hundreds, of categoric programs for education and consolidate them and distribute them on a formula basis to each school district, with a firm belief that our school board members and teachers in various schools throughout the country can make a better determination as to how to use that money than can bureaucrats here in Washington, DC.

But a part of my talk in a few moments will relate to this very question of achievement. I agree with the Senator from North Dakota, but the two caveats I have are these. Will we have a set of national standards or national tests that truly measure learning, knowledge, as we wish it to be?

There is great suspicion that anything sponsored by the Federal Department of Education will be of questionable validity in the real world in showing where our students are. And will a set of national tests drive out more sophisticated and better quality State and/or local tests? Will school districts and State superintendents of public instruction across the country say, fine, we have these national tests now, we don't need to do anything other than to teach to those tests—the very modest one subject in fourth grade and one subject in eighth grade?

I say that because, in preparing for my other comments, I have here the results of the first experimental year of a new set of tests given in the State of Washington to a wide number of students in more than 250 school districts and some private schools throughout the State. Now, these tests are far more sophisticated and far deeper than anything we are talking about here on a national level. Starting in the fourth grade but to be extended up to the tenth grade in the future, students were tested in listening, reading, writing, and mathematics. In other words, four sets of tests, rather than the one called for in the President's proposal.

Moreover, they were tested for their actual mastery of the subjects, rather than just on some sliding scale: Are you in the fiftieth percentile of all the people who took the test, either in the State or across the country? The State of Washington does use the current national tests in some of these areas, which are simply true, false, or a fill-in-the-blank-with-a-pencil kind of test. These new tests, however, in a number of the areas, include essay examinations as well as true, false, or multiple choice tests.

This is what some of the national organizations or experts have to say about this. I am quoting from last Thursday's Seattle Times.

Washington's new test gets high marks from experts familiar with similar assessments in other States. Most say it will take time for students to meet the new standard and that these kinds of tests, called performance-based assessments, are more demanding than the fill-in-the-bubbles tests most parents and students are used to.

The problem with standardized tests is that they hold schools accountable not for how students do in relation to a fixed standard, but rather in relation to how other students do —''a fuzzy concept,'' said Dr. Philip Daro of the New Standards Project, a consortium of States and urban districts creating education-reform models.

''Performance-based tests are more realistic, more practical, more like people evaluated in the workplace,'' Daro said.

The American Federation of Teachers said Washington's standards in English and science meet its criteria for being strong, coherent and useful to teachers and parents. The State's math standards are borderline and its social-studies standards are considered below par, with too little attention given to that history.

Under those consensuses, one of the reasons for the criticism of mathematics is that even in the Washington State tests, among students who rank very high in National College Board examinations and the like, you can get a perfect score in the fourth grade mathematics test even though you have the wrong answer. Some of the SAT questions give a perfect score in this test if you get the reasoning right even if you come up with the wrong answer. That is not going to please the real world, or a potential employer is not going to be comforted by having an employee who may think logically but reaches the wrong answer in a mathematical computation.

Given that, however, Mr. President, it is breathtaking and disappointing to report that in these four areas 62 percent of the fourth graders who took the test in my State exceeded the standard for listening, 48 percent for reading, 32 percent for writing, and 22 percent for mathematics even with the possibility of getting a perfect score on some of the tests on some of the questions in the test without getting the right answer. Twenty-six percent of our fourth grade students flunked all four, or failed to meet the standard in all four, and only 14 percent met the standards in all four.

I was very disturbed by the fact that our State superintendent of public instruction, who is new, and, may I say, said, ''We must not be discouraged by results of the assessment, or try to hammer children and teachers.'' I think we should be discouraged by those results. I don't think we should hammer children and teachers. And I will speak in a few minutes on the proposition that I think they ought to get more direct aid from ourselves, and fewer bureaucrats telling them what to do and how to do it. But these are very disappointing results.

I guess my fear and my only reservation is about the remark on national standards, with which in theory I certainly agree, in connection with the talk by the Senator from North Dakota is that I would hate to see a set of national standards that we work down to rather than up from.

The same article said that only one State, Iowa, is not engaged in some kind of testing at the present time.

So my real question on this is how do we see to it that a set of so-called ''national standards'' don't end up depreciating, or making less demanding, the requirement to meet certain standards that many States have now and others like my own are moving toward with great rapidity?

I simply have that as a question.

Mr. DORGAN. Mr. President, will the Senator from Washington yield for a question?

Mr. GORTON. He certainly would.

Mr. DORGAN. Mr. President, before I ask the question, I say I think the remarks by Senator GORTON are important and raise the right question.

I would not suggest that we have some sort of aspiration for national testing that would in any way lower standards. We need to raise standards. It seems to me that the proposals that have been advanced, for example, with respect to the reading at the fourth grade level is one of these gateway activities. If you do not get through that fourth grade level and are able to read and go beyond, and you are beyond that and aren't able to read sufficiently, nothing else will come together in your educational career. That is the problem. That is why you need to measure on some of these gateway activities like reading at the fourth grade level and mathematics at the eighth grade level.

The Senator from the State of Washington made a couple of important points. There are some good testing activities going on in some States. Some are terribly deficient. It is important to understand that, whether it is the National Chamber of Commerce, the Business Roundtable, or the technology firms in our country who are asking for this and who believe this is an essential part of understanding what we are getting from our educational system and how to fix it. They feel that we have a significant problem. And, in order to fix that problem, you need to figure out where you are, and where you go from that point to fix it. I share that feeling.

I say to the Senator from Washington that the points he made are accurate. Isn't it the case, however, that we should be able to recognize the concern some people have about who would do the testing, or what kind of testing would be done? Shouldn't we be able to overcome those concerns by saying at least we aspire as a Nation to achieve some goals with respect to our children who are in the fourth grade and the eighth grade, and with respect to their meeting the mathematics skills? Shouldn't we be able to meet the concerns that the Senator from Washington expresses?

Mr. GORTON. My answer to that question is an unqualified yes. Of course we should do just that. What we must take great care with is seeing to it that any national standards strengthen and encourage the standards that are already being set in any of the States; that they be able to move forward; not an excuse to move backward; and that they measure real knowledge. I believe that the heart of some of the objections to the national standards are the ones made by the American Federation of Teachers to Washington State mathematics. There just is no way except in the heart of some totally abstract profession that you can justify giving 100 percent to a student who gets the wrong answer to a question. It may be encouraging students to move towards a way to come up with the right answer. But that is not something that ought to get 100 percent.

I hope we derive a system for whatever national tests come, and I think some are likely to come that measure real knowledge and real progress, and that encourages States to make their own standards even tougher and their assessments to take place more frequently.

The PRESIDING OFFICER. The time allotted to the Senator has expired.

Mr. GORTON. I ask for two additional minutes.

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

Mr. GORTON. I would just like to say in summary that I am in no way critical of what my State has done, and the movement towards these standards I find very encouraging. I think absent these constructive criticisms that they are likely to set very, very good and very significant standards. It is just that I have to predicate the comment that we shouldn't be discouraged by the results. We should be discouraged by the results. And we should resolve that we are going to do everything possible to cause those results to improve markedly and as quickly as possible.

Mr. DORGAN. Mr. President, if I may ask the Senator to yield for one additional question, I come from a school where I was involved in a graduating class of nine. I come from a county that has 3,000 people. The community in which I grew up has 300 citizens. My high school class was a class of nine. That school district was educating the children in my school to go out into the workplace and to do things with the kind of background they gave us in a different time. And that school district still exists, and the school still exists. It is still a very small school. But now those children that are being educated in that school are going out into the marketplace in a different era. We are now involved in much different kinds of global competition in which we are competing against kids in Germany and Japan who are going to school 240 days a year. Our kids are going to school 180 days a year competing with respect to jobs and economic opportunity. And it is a much different world. That ought not suggest that we manage in any way our schools differently. The control and the authority and the payment for the schools ought to come from local government and local school districts and State governments.

But the point that is made by the people in the technology area, by the chamber of commerce and elsewhere, is that we are involved in global competition, and our education system must produce the quality of education that meets that competition in order for this country to succeed and to achieve what we want to achieve in the future.

That is why it is important for us to be discussing these issues. What are we getting for our education dollar? And are we achieving with our children proficient levels of mathematics in the fourth grade and education in the eighth grade, and how do we measure that?

The PRESIDING OFFICER. The time allotted to the Senator from Washington has expired.

Mr. DORGAN. I thank the Senator from Washington for yielding.

Mr. GORTON. I thank the Senator from North Dakota for his thoughtful comments, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the role.

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

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

UNANIMOUS-CONSENT AGREEMENT—S. RES. 120

Mr. GORTON. Mr. President, on behalf of the majority leader, I ask unanimous consent that at 12 noon today, the Senate proceed to the consideration of a resolution regarding Mother Teresa that was submitted today by Senators NICKLES, LOTT, and DASCHLE. I further ask unanimous consent that there be 30 minutes of debate equally divided in the usual form. I finally ask unanimous consent that at the hour of 2:15 p.m. today, the Senate proceed to a vote on the adoption of the resolution with no intervening action or debate. This resolution has been cleared by the minority leader.

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

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

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1061, which the clerk will report.

The bill 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 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.

Durbin amendment No. 1085, to provide for the conduct of a study concerning efforts to improve organ and tissue procurement at hospitals, and require a report to Congress on the study.

Durbin (for Levin) amendment No. 1086, to express the sense of the Senate that hospitals that have significant donor potential shall take reasonable steps to assure a skilled and sensitive request for organ donation to eligible families.

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

McCain-Gramm amendment No. 1091, to eliminate Medicare incentive payments under plans for voluntary reduction in the number of residents.

McCain-Kerry amendment No. 1092, to ensure that payments to certain persons captured and interned by North Vietnam are not considered income or resources in determining eligibility for, or the amount of benefits under, a program or State plan under title XVI or XIX of the Social Security Act.

Craig-Bingaman amendment No. 1093, to amend the Fair Labor Standards Act of 1938 to adjust the maximum hour exemption for agricultural employees.

Landrieu amendment No. 1095, to increase funds to promote adoption opportunities.

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

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

Specter (for Nickles) amendment No. 1109, to require that estimates of certain employer contributions be included in an individual's social security account statement.

Specter amendment No. 1110, to reduce unemployment insurance service administrative expenses to offset costs of administering a welfare-to-work jobs initiative.

Specter amendment No. 1111, to provide start-up funding for the National Bi-partisan Commission on the Future of Medicare.

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

Harkin (for Wellstone) amendment No. 1088, to increase funding for Federal Pell Grants.

Harkin (for Wellstone) amendment No. 1089, to increase funding for the Education Infrastructure Act of 1994.

Harkin-Bingaman-Kennedy amendment No. 1115, to authorize the National Assessment 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 initiative.

Ford amendment No. 1117 (to Amendment No. 1078), to express the sense of the Senate on compensation for tobacco growers as part of legislation on the national tobacco settlement.

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

Murray amendment No. 1119, to provide funding for the National Institute for Literacy.

Harkin (for Bennett) amendment No. 1120, to award a grant to a State educational agency to help pay the expenses associated with exchanging State school trust lands within the boundaries of a national monument for Federal lands outside the boundaries of the monument.

Ford (for Kerrey) amendment No. 1121, to exempt States that were overpaid mandatory funds for fiscal year 1997 under the general entitlement formula for child care funding from any payment adjustment.

Domenici (for Gorton) amendment No. 1122, to provide certain education funding directly to local educational agencies.

Gorton modified amendment No. 1076, to allow States to use funds received under title XXI of the Social Security Act to provide health insurance coverage for children with incomes above the minimum Medicaid eligibility requirements.

AMENDMENT NO. 1122

Mr. GORTON. Mr. President, I ask unanimous consent to call up an amendment that I introduced yesterday to provide certain educational funding directly to local educational agencies.

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

AMENDMENT NO. 1122, AS MODIFIED

Mr. GORTON. Mr. President, I send a modification of that amendment to the desk.

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

The clerk will read the modification.

The bill clerk read as follows:

The Senator from Washington [Mr. GORTON], for himself, and Mr. DOMENICI, proposes an amendment numbered 1122, as modified.

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

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. Mr. President, reserving the right to object, is the Senator going to explain the modification?

Mr. GORTON. I will explain the whole amendment, as modified.

Mr. JEFFORDS. I withdraw my objection.

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

The amendment, as 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; or

(J) to carry out part K of the Elementary and Secondary Education Act of 1965;

(K) to carry out title IV–A–5 of the Higher Education Act; 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 of the Secretary.

(d) The Secretary shall determine the amount awarded to each local educational agency under this section as follows:

(1) First, the Secretary, using the information provided under subsection (c), shall determine a per child amount by dividing the total amount of funds described in subsection (b), by the total number of kindergarten through grade 12 students in all States.

(2) Second, the Secretary, using the information provided under subsection (c), shall determine the baseline amount for each local educational agency by multiplying the per child amount determined under paragraph (1) by the number of kindergarten through grade 12 students that are served by the local educational agency.

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) Nothwithstanding paragraph (3), the Secretary shall compute the amount awarded to each local educational agency serving the States 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 made available to carry out this section is insufficient to pay in full all amounts awarded under subsection (d), then the Secretary shall ratably reduce each such amount.

(f) If the Secretary determines that a local educational agency has knowingly submitted false information under subsection (c) for the purpose of gaining additional funds under this section, then the local educational agency shall be fined an amount equal to twice the difference between the amount the local educational agency received under subsection (d), and the correct amount the local educational agency would have received if the agency had submitted accurate information under subsection (c).

(g) In this section—

(1) the term ''local educational agency'' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965;

(2) the term ''Secretary'' means the Secretary of Education; and

(3) the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, for the benefit of the Senator from Vermont, the modification strikes all references to any departments other than those going through the Department of Education, and there is a modification with respect to the distribution formula for the States of Alaska and Hawaii, States that have artificially high income levels which do not necessarily reflect the standard of living in those two very expensive States, and adds one additional minor exception to the scope of the bill.

Fundamentally, Mr. President, this amendment is based on the philosophy that the school board members, the administrators, the teachers and the parents in communities all across the United States are better able to set their educational priorities and to meet their educational goals than is the Congress of the United States or bureaucrats of the Department of Education. You can't make a telephone call because we tried to call the Congressional Research Service and ask how many programs there are that support the education of our children between kindergarten and 12th grade.

Instead, they can identify a few programs, large programs, which are devoted exclusively to that purpose, but there are hundreds of others which do so in part that they cannot identify.

Congressman HOEKSTRA of Michigan, in the House, has identified approximately 760 programs funded by the Federal Government directly or indirectly affecting the education of our

children between kindergarten and the 12th grade. No one can say how much of this money actually gets into teaching children as against paying for bureaucrats at the Federal level, the State level, the school district level, or the time it takes the teachers to fill out all of the forms necessary to meet the auditor's requirements of each of these individual programs.

The Cato Institute has determined that of the roughly $15 billion going from the Department of Education for K through 12 programs only about $13 billion gets to local education, but it does not and cannot reflect how much the local education agencies have to spend on the administrative requirements of these 760 education programs.

So what this bill says is that with certain exceptions, the largest and most notable of which are the Individuals with Disabilities Education Act that was debated earlier this year, and impact aid, which goes to school districts with a large Federal presence, for 1 year at least we are going to ignore all of these hundreds of programs and their specific requirements and all of the bureaucracy in the Department of Education and simply take the exact number of dollars that are included for those programs in this bill and to distribute them on a per student basis to every school district in the United States. To the best of our ability to do so—and I must confess that in dealing with this number of programs, we may have missed some—we are speaking of a little bit more than $11 billion of the appropriations in this bill.

We are going to say, instead of our deciding how they ought to be spent, instead of our saying that every school district in the country has to meet exactly the same requirements for getting this money, let us accept the novel idea to which almost all of us give lip service when we are at home that maybe the men and women who are dedicated enough to run for positions on local school boards, maybe the teachers who are in the classroom every day, perhaps the principals and administrators there can use that $11 billion plus to provide more in the way of educational services than are being provided at the present time. Almost without exception our debates in this Chamber on education policy, when we deal with budget resolutions, when we deal with reconciliation bills, when we deal with this appropriations bill, have to do with how much money we are going to spend on education. It is the firm view of Members of this body and most of the general public that the more money we spend the better the results will be. And yet we are all convinced that the results are not very good. We are disturbed enough about it so that we want to create national standards and national tests.

I just had a discussion on that subject with the distinguished Senator from North Dakota [Mr. DORGAN]. At the same time I shared with the body the pioneering work my own State of Washington is doing in setting standards and testing students against those standards and the highly disappointing results of the first of those sets of tests this year, that only 22 percent of our fourth grade students meet those standards in mathematics. I am convinced that we ought to talk about quality as well as quantity; that simply adding dollars to programs, the net result of which are test results like these and like the others we deprecate all across the country, is not the wisest course of action.

Last year, the Congress in its wisdom did something that Congresses rarely do. We decided that we did not know an awful lot about welfare and that maybe 30 years of an increasing nationalization of welfare policy, the net result of which was worsening almost every social pathology welfare was designed to cure, was not the right course of action. And so in essence we said perhaps we should not set all the requirements ourselves. Perhaps we should let 50 States experiment broadly with welfare policy and maybe all of us will learn more about what works and what does not work.

This amendment gives the Senate the opportunity to do just exactly that with our education policies in kindergarten through 12th grade. Curiously enough, we seem to have largely accepted that policy with respect to higher education. The great bulk of our higher education programs go directly to students—guaranteed student loans, Pell grants, other means tested aid to students go to the customer, the user of educational services rather than to some huge bureaucracy that is given the power to say what colleges and universities can teach and how they teach it.

Now, we know that there are higher educational institutions that do not do a very good job, but our cure has not been to cut off students and stop allowing them to make choices. We do allow them to make those choices. Why don't we try in this particular case—this is not a debate on vouchers and giving money directly to parents, as much as I may favor that. This is a debate about giving the money directly to school districts, to the professionals who work in the classrooms, to the amateurs in almost all cases who run for and are elected to school boards all across the United States. It is difficult for me to imagine, with three Senators in the Chamber, that the priorities of the school districts in Rutland, VT, and Portland, OR, and Bellevue, WA, are going to be identical. It is impossible for me to justify the amount of paperwork that must go into justifying the expenditure of the money for these hundreds and hundreds of programs that go to K through 12 education at the present time, right from the level of the classroom on up through the individual school, to school district, to the State education agency, to the U.S. Department of Education.

Let's take a page out of what we hope will be a successful decentralization of our welfare policy and decentralize decisionmaking in our schools. Let our parents through their PTA's, our teachers, our school board members, our principals, decide how to use this $11 billion to educate kids. And then if we can devise it, we can in fact come up with some tests, some standards that they ought to meet and test them against those standards. What we know now is that the money is not being spent very well, at least it is not being spent very successfully. Let's try temporarily to let someone else make those decisions and see whether we cannot do better.

I am convinced that we will do a great deal better.

Mr. JEFFORDS addressed the Chair.

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

Mr. JEFFORDS. I wish to speak against the amendment.

I think the desires and the hopes of the Senator from Washington are certainly admirable, but I think if one examines where the problems are in education right now the thought that it will be solved by just giving a blank check to the local agencies to correct these problems I think would find itself quite misdirected.

First of all, it goes without saying and everybody must recognize that this is probably the grossest exercise of changing the situation from what is normally considered the authorization process that I have seen to date.

Now, I do not disagree with the fundamental problem that the Senator from Washington recognizes, and that is we have an awful problem in this Nation educationally. When 51 percent of the students in this country graduate functionally illiterate, when we find ourselves trailing way behind other nations in competition for the type of work that is necessary in our country, we know we have a problem. Right now, for instance, we have 190,000 jobs available in this Nation that we cannot fill because schools have not produced students with the skills to take them, whereas our competitors do not have that problem.

But where is the problem? The problem is at the local level because they have not had the guidance from above or whatever to increase the mathematical skills and to ensure that we do not push young people through the school systems by what is called social promotion. Those are the big problems. Giving blank checks to the local governments is not going to solve the problems. I would guess it would probably exacerbate them.

For instance, one of the programs that we have which is more aimed at the problems than anything is the Eisenhower math program. It is designed to provide professional development. Congressman GOODLING, who is chairman in the House, and I agree on one thing, that the most important thing we can do now is to improve the professional development of our teachers. If

they don't know what the standards are they should meet in order to meet worldwide competition, then it is difficult to expect that they are going to change to meet those standards. The Eisenhower program has been very successful in the math area, but it is so small that it cannot possibly do all the work. If we were to take and throw more money, if you want to call it throw, into the Eisenhower program and things like that, it might make some sense. But just to give it carte blanche to the districts dependent on the wealth, not on the quality of education, this makes a presumption that is not accurate in many cases, and that is, the quality of your education will be determined by the amount of money that is spent; therefore, if you give more money to the poor areas, they are going to end up with better education, and if you take it away from the ones with higher expenditures on education, they are not going to be hurt. There is no basis for making that kind of conclusion.

Title VI, a block grant, which is chapter 2, is the best hope we have for getting the kind of professional development which Congressman Goodling and I agree is the greatest need of this Nation today that would eliminate the money that goes toward that direction of trying to make sure that we improve the ability of our teachers to meet modern needs of our society.

You can argue about some of the other programs, but School to Work is another one. School to Work is putting its finger on the basic problem in this country, and that is that we do not train our young people for work; we ignore that. The educational institutions, in most cases, are just making some progress now with bringing the school into the work area and letting them know what the young people need for skills in order to get those very well-paying jobs that are out there. School to Work is aimed at that. To cut the funding for that and give more money to the local agencies to do what they want with it is not going to solve the problems of this Nation.

We are going to try to in the Work Force Improvement Act, which we will be moving out of committee very soon, consolidate a lot of these programs that perhaps eat up more money in bureaucracy than they do in producing results. I don't have a problem with that, but that should be done during the reauthorization process. To make such a fundamental change now on an appropriations bill where we would take away from the States—remember, the States distribute title I money and things like that in accordance with not only financial problems, but educational need. This would do away with that aspect and give that role to the Secretary of Education. I am amazed to think the Senator from Washington would suggest we ought to give the money to the Department of Education to distribute. Granted, it is a formula distribution, but still right now it is the States that make the decisions based upon the educational need as well as economic need.

So I think for all these reasons I would have to strongly oppose this amendment. I encourage, though, as the Senator from Washington has done, to raise the level of understanding of what the problems of this Nation are in education. The basic problem is very fundamental, and that is that the schools in this country are not equipped now to handle the demands made upon them by the competition in the world economic situation which requires us to produce kids that have better skills.

There is certainly no excuse for allowing young people to go through the school system and come out the other end, like half of our kids do, without knowing how to read. That is why emphasis is being placed by the administration, myself, Congressman Goodling and others on that. We have to face up to the problem. Facing up to the problem is not going to solve it by throwing more money and taking it away from any direction at all, but just giving it to the local school system.

I must strongly oppose the amendment of the Senator from Washington, but I do praise him in the sense of raising again the awareness of this body and the Nation to the serious problems we have with education at the local level.

Mr. President, I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, on this subject, it is obvious that between my friend, the Senator from Vermont, and myself there is a great gulf to fix. I note just a couple of his phrases. One was ''carte blanche.'' The other was the necessity for ''guidance from above.''

It is the view of the Senator from Vermont that without ''guidance from above,'' our teachers, our school board members, our principals won't know what to do, that they will be clueless about the education of our children for our 21st century world, and that unless they are told by us, right here in this body, U.S. Senators, what their priorities are, how they are going to meet those priorities, and unless we let a group of bureaucrats in the Department of Education, right to the tiniest detail, dictate how Federal money is going to be spent, our teachers, school board members, principals and parents won't have the slightest idea of how to meet these challenges, and they will waste all of this money, it will go for nothing.

Well, my golly, if we had been able to show by tests that we have been overwhelmingly successful, that everyone was doing well, I don't suppose I would be out here now. But one of the other features we are almost certain to authorize, with my conditional approval at least, is to come up with a rational way in which to test our students at various levels with respect to their knowledge about the most important of the academic subjects they are in school to learn.

My reservations on that is, I have grave fear that national testing may actually drive out more rigid State testing in a number of places across the country. If it encourages even stronger standards, then it seems to me that it is a very, very good idea. It is one thing to test, but it is another thing to tell every teacher, ''Here's who you have to teach and here is how you have to teach and, by the way, here are all the forms you have to fill out at some point or another during your school day to make absolutely certain you didn't teach the wrong student and, therefore, disqualify our school district for some of its title I money.''

Obviously, every Member of this body who believes that he or she knows more about educational priorities than do his school board members, his teachers, his or her parents should certainly vote against an amendment like this. If Members are content, Mr. President, with between 700 and 760 different education programs coming out of probably five or six different Departments of the U.S. Government, each with its own requirement and its own forms to fill out, if they believe that is a satisfactory way to do things, fine, they should vote for the status quo.

I have more trust in the American people. I have more trust in the people who give up their time without compensation to serve on school boards and in parent-teachers associations. I have more trust in the teachers that we have in the schools themselves. I think they will do a better job with the money. I think we will get better education. Of course, anyone can have a quarrel with the formula for distribution, which is a rough formula giving slightly more money to poor States or school districts in poor States than it does to school districts in wealthy States. But I believe I can make this representation, Mr. President. It will be difficult to find a school district anywhere in the United States that doesn't have more money for the actual education of its students under this formula than it does at the present time. Why? Because at the present time, a whole bunch of this money, hundreds of millions of dollars, gets taken out right here in Washington, DC, by the bureaucracy. More hundreds of millions of dollars get taken out by the State educational entities, and tremendous burdens, nonteaching burdens, are imposed on local schools, school districts and teachers in keeping track of all of it and filling out the forms. So the most disfavored school districts under this formula will actually get more money to put into the education of their students than they do at the present time.

I will be the first to admit, Mr. President, that on the floor of the Senate, this is a brand new and a radical proposal. I would be surprised if it became

law as a part of this appropriations bill. But, Mr. President, we are 10 years past due in discussing this subject. It is time we did here what we say we want to do when we are at home. I can't speak for every other Senator, but I know that one of the most popular statements I can make at a town meeting or to any group in the State of Washington is, ''I believe you, through your schools right here, should have more say as to how you spend the money that goes into educating your children.'' Principals approve of it, school board members approve of it, teachers approve of it, parents approve of it, the taxpaying public approves of it.

I would be willing to make a small wager that, in general terms, almost every Member of this body makes the same speech under appropriate circumstances in his or her own State when he or she is asked about that question. ''Yes, I believe in local control of schools. Yes, I believe in locally elected school boards. Yes, I believe decisions can be made better close to the student, but * * *'' Usually they don't articulate the ''but.'' ''But'' comes back here when they actually vote in a manner totally contrary to the way in which they speak at home.

So this provides a simple opportunity, Mr. President, an opportunity to say whether you really do believe that educational policy, that money for education is likely to be spent more wisely and more effectively by those who are in the field doing it professionally, meeting with their students every day, or whether, in the phrase of the Senator from Vermont, they need ''guidance from above,'' guidance from right here in these seats, because otherwise, a carte blanche will result in educational disaster.

I hope Members will give serious consideration to this philosophy. This may be the first time we have discussed this in the form of an amendment like this in a number of years, but I do not think, Mr. President, it is going to be the last time. I believe we will discuss the general philosophy of this proposal, at least, increasingly until the time that we are willing in fact to place a degree of trust in local educational authorities that we all say we have in theory.

I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. I will make a couple more comments here.

Let us just think about what would happen if we did this, what it would do for education. All of a sudden, without any qualifications or requirements, or anything else, if we were to send checks to our local governments, with a hope they would spend it on education—I know what would happen in my State.

We have just gone through property tax reform. Everybody is up in arms over the cost to the local governments from property tax reform. I bet if you were to do it, this would end up in property tax relief. Maybe that is a good thing. Maybe it is a good thing to relieve the local property tax in communities around the country. But it is not going to tackle or do anything to solve the very basic problems we have in education. There is nothing in here that would in any way determine that the local governments are going to spend it on education.

Now, ''above'' can mean the superintendent of a region, they are knocked out. The State's school system has no control or no suggestions in any way how to spend this money. We are just sending checks to the local communities and saying, ''Gee, we would kind of like you to spend this on education, but there's no requirement, or you can say you do, but then you just cut yours back and you spend this money on education, but you cut back on the local money, on what you're spending on education now, and you can cut your property taxes.'' It might be very popular. I think it would be. I expect it would sell very well with the taxpayers of local communities saying, ''Wow, finally we can start going down on the cost of education in this community.''

Will it benefit the students? Not at all. This is, again, authorization of the grossest kind in the appropriations process.

So I say to Members that this is one area where we have huge needs trying to change what is going on in this country in education, to raise the levels to be able to meet international competition, to make sure we are not embarrassed again as we have been for years now on international tests with our young people, especially in math and science. We know we have to make changes. Anyone here who believes that just throwing money at the local communities is going to bring about these kinds of changes, I do not think you will find anyone who can consider this is seriously the way to go.

Mr. President, I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I ask unanimous consent that the distinguished occupant of the chair, the junior Senator from Oregon, be added as a cosponsor to the amendment.

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

Mr. GORTON. Mr. President, that is a truly incredible statement on the part of the Senator from Vermont. In the first place, of course, this amendment does not give this money to local governments. It gives it to local education authorities, that is, school boards and school districts. Evidently the Senator from Vermont feels that his own constituents have so little regard for education in the State of Vermont that they would immediately cut their contribution to the education of their children by the amount of the distribution to those local school boards. I would be ashamed to make that comment about the people of the State of Washington. I cannot imagine that that would happen.

Moreover, Mr. President, the Senator seems to forget that at least a significant part of this money is in the educational system at the present time. It is my view that just not enough of it gets there, that too much of it gets siphoned by the bureaucrats on the way to a school district in Vermont or in Oregon or in the State of Washington. But to make the statement that only we are wise and only 100 Members of the U.S. Senate are really concerned about education and that, if we were to allow a local school agency to set its own priorities with the money we appropriated to education, that they might not do it, that they would just simply decide, ''Oh, no, education isn't very important. We can now cut down our own contribution level,'' is insulting, I would say, Mr. President, to every citizen of the United States who cares about his or her children or his or her country or their future.

This money is going into education now. That is why we are appropriating it. Too much of it is going to a bureaucracy and not getting to the children who are being educated. Too many priorities are being set here, and too few at home. That is what the question is about.

Mark my words, Mr. President, successful or unsuccessful, if this amendment passes, more money—not less—more money will get into the education of almost every student in the United States of America. The fundamental question is not how much; the fundamental question is, who ought to make the decision as to how it is spent? We here in this body, great educational experts as we seem to think we are, or the people who are actually providing the teaching in the day-to-day operations of our schools?

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

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

Mr. GREGG. Mr. President, I want to yield the floor to the distinguished chairman of the Finance Committee who needs some time here to take up another issue, but just quickly before I do that, I do want to congratulate the Senator from Washington, Senator GORTON, for his proposal here, because it has highlighted what is the core debate in the issue of education, which has been raised in part by the President.

This administration's approach to education is about the same as it has approached campaign finance reform—talks one game; does another game. Basically, the purpose of almost all the

major initiatives that have come out of this administration on the issue of education have been to encourage and strengthen the control of the Federal Government over the process of educating children. Every initiative that seems to come out of this administration seems to have been drawn up in the bowels of the major labor unions, major teaching unions here in Washington, the purpose of which appears to be the fundamental goal of moving the control of education out of the local communities and into the Federal sector, out of the hands of the parents, out of the hands of the teachers, out of the hands of the school systems at the local level, into the hands of the Federal bureaucracy, into the hands of the big labor unions centered here in Washington.

Their education initiatives can almost all be characterized as having that as their basic philosophical groundwork, whether it happens to be their initial proposal on Goals 2000, which luckily was amended so that that did not happen, or their initial proposal on national educational testing, which the President has now backed off of because the country has been alarmed by it and which he is changing.

What Senator GORTON's proposal does is say, ''Let's end it right here. Let's return to the local folks, people who control the educational process, people who should be involved in the educational process, specifically, the parents, the teachers, the principals, local school boards, the capacity to manage the money we have the Federal Government presently controling. Let's end this huge bureaucracy which is draining off billions of dollars annually from the students of this country, turning it over to a class of individuals whose basic goal is to perpetuate their own careers versus perpetuating better education. Let's put an end to that. Let's give the dollars right to the schools. Let's let the schools, the parents, the teachers and the principals make the decision.''

It really should not be a unique or radical idea. It should be a very common, very appropriate idea. But in the context of the strange thought process which dominates the beltway, it appears to be a radical idea.

Actually, I congratulate the Senator from Washington, Senator GORTON, for putting forward this initiative. I think it is going to generate a very huge and positive debate of the question of where the control of education should be. I look forward to participating in that debate. But I do not wish to take further time from the Senator from Delaware. Therefore, I yield the floor at this point.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 1091

Mr. ROTH. Mr. President, I rise to oppose the McCain amendment on graduate medical education, amendment No. 1091. I oppose it, although I am sure it is well-intentioned. I believe this amendment is not appropriate on this bill. I also believe the amendment is based on some misunderstandings.

But first, as a general rule, I do oppose any amendments on appropriations bills designed or related to Medicare or any other matter that we dealt with in the Balanced Budget Act. Some of these amendments may seem noncontroversial or even desirable; however, it is simply not appropriate to begin loading up important appropriations legislation with amendments unrelated to the underlying bill.

Let us remember the ink is hardly dry on the Balanced Budget Act. If we begin the process of reopening this legislation, I assure you there will be no end to other amendments.

Many of these amendments will likely affect matters important to other Members and their States.

Then there is the matter of good faith. A provision in the McCain amendment would strike a House provision we accepted in the conference on BBA. I am sure there are many Senate provisions the House would like to strike.

Mr. President, I will briefly comment on the substance of the McCain amendment. The McCain amendment eliminates funding for a program that would provide assistance to teaching hospitals that voluntarily choose to downsize their residency programs. The funds provided through this program will partially cushion the financial losses teaching hospitals will incur as they reduce the number of doctors in training.

Members should know that Medicare does not simply pay teaching hospitals for training but rather for care given to Medicare patients. These funds do not reimburse hospitals for doing nothing, as some claim. Far from it. Hospitals will use their funds to hire staff doctors, nurse practitioners, physician assistants and other personnel to replace the residents. These funds will also help teaching hospitals, often the Nation's best hospitals, to adjust to a highly competitive health care marketplace and develop alternate means of caring for vulnerable uninsured patients.

One last point. The provision that the McCain amendment would strike saves at least $380 million in Medicare over the next 5 years, according to CBO. Let me emphasize this important point. Medicare will actually save money as we help the Nation's teaching hospitals. The McCain amendment would add to the deficit by almost $400 million because no offset is provided.

Mr. President, once again, I urge Members to oppose the McCain amendment on graduate medical education.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to support my revered and respected chairman in this regard. It is the case, sir, that 5 legislative days ago we passed this measure. It is a measure which originated in the House and in a good faith exchange in conference the Senate accepted it, the conferees did. There were three of us—Mr. LOTT, the chairman, and myself. The bill passed Congress in a spending measure that was appropriate to the occasion.

Now, first, although it is not technical, it is so profoundly important. This is legislation on an appropriations bill. It is the ancient wisdom of this body not to do such things. A point of order would obviously lie against the amendment. It is important. It is how we proceed in this body.

Further, sir, on the merits of this matter, I, for my part, would have to say I would like to see how this works. This is a 5-year period. I can attest, and I know that my colleague from New York and our chairman would agree, the Finance Committee has been seized with this subject. As the medical care system of our country becomes more rationalized, as economists would put it, as price considerations enter into markets and decisions are made, and health maintenance organizations rise and you see all manner of mergers and acquisitions and the general evidence of a market which is good, you also find yourself with some of those effects which are common which involve institutions or desirable behaviors that markets do not provide.

In the profession of economics, they are known as public goods. Everybody benefits from public goods so nobody will pay for them. If you want them, you have to find them in a public mode. That is why we have public schools. That is why we have, come to think about it, why we have the Marine Corps. These are public goods that you have to provide for in the collective mode.

In 1994, as the Finance Committee was considering the health care legislation sent to us by the administration we found ourselves more and more interested in the question of medical schools. In this new world, who takes care of these special institutions which have high prices? They have high prices because they have high costs. They have high costs because they are teaching.

We had a wonderful exchange and I am sure the chairman recalls it. One morning a witness from Fordham University, an ethicist, Father Charles J. Fahey said, ''What I am seeing is the ''commodification'' of medicine—a wonderful phrase. The then head of the UCLA Medical Center, Raymond G. Schultze, said at another hearing ''Can I give you an example? In southern California we now have a spot market for bone marrow transplants.''

All that is something that is to be welcomed. It is happening anyway, going to happen in whatever market for medical care, and we have to provide some nonmarket provisions for these singular institutions, these great teaching hospitals, in the great age of

medical science. In the history of the species it is only in the last 40 or 50 years—40 some say, 50 radicals would say—that medicine has really been able to do something. It is learning exponentially, learning by the hour.

In this situation there can be a surplus of some doctors generally, of some specialists in particular, some judgments need to be made, and this transition needs to be made.

As I understood the legislation, I think the chairman would agree, we were proposing a 5-year transition period to see whether we did not get good results—we will not know in the next 5 years, at least—to save money.

It has a clear and necessary purpose. On both grounds, Mr. President, I rise to join the chairman. First of all this is legislation on an appropriation bill, which we must not have. Secondly, this is a measure that was included in the Balanced Budget Act only just this moment, and it is in response to a real life situation in an open experimental mode. In 5 year's time we will know more, and I plead—this is a subject that will not go away. We will be debating this matter, the matter of teaching hospitals and medical schools on the floor of the U.S. Senate for a quarter century to come.

I join the chairman in proposing that we not approve this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I am pleased to have the opportunity to join with the distinguished ranking member and the senior Senator from New York, the ranking member on Finance and the chairman of Finance, the distinguished Senator from Delaware, in opposing the McCain amendment.

Let me say that the rhetoric is rather fascinating, the rhetoric that is used in support of this amendment, that we are paying for something that we are not getting. The fact of the matter is that it totally ignores the reality that teaching hospitals that administer to the poorest of the poor, that provide training for our Nation's doctors, that provide medical services to those who would otherwise in many cases find it difficult to get those services, will actually be saving the taxpayer money as a result of the legislation that has been enacted, a legislation which the amendment that we are now discussing would strike down.

The fact is the Congressional Budget Office as recently as this morning has scored the McCain proposal as one that would cost the Treasury $350 million. So it is rather disingenuous to say that we are paying for something, in the rhetoric which is used, to suggest that ''Government rationing of medical training, ultimately the rationing of health care, smacks of socialism, not democracy'' does not recognize the problem that exists.

It costs approximately $100,000 a year. That is what the Government is paying, for every resident who is employed at the various hospitals throughout the country. There is a recognition that there is an oversupply. So the Congress, with the administration, developed a format whereby over a period of time, hospitals would reduce the number of doctors and would actually be then saving the Government $350 million.

Now, if we want to continue business as usual, want to continue subsidizing the oversupply, then we strike this amendment. That is what the Senator would be doing. What he would be doing is absolutely in contravention of what good planning and what good medical practice and what is in the best interests of the taxpayer—allow this amount to gradually go down in the number of doctors who are being trained.

Now, I understand the Senator from Arizona has asked for the ability to debate this measure later in a fuller context and would like an hour equally divided. At that point in time I hope the chairman of the Budget Committee, Senator DOMENICI, would raise a point of order against the amendment pursuant to section 302(f) of the Budget Act because that point of order, in my opinion, lies, it is proper, and would request a ruling of the Chair. I am not going to do that. I hope we would have the chairman of the Budget Committee review this as to whether or not technologically this would cost the taxpayers $350 million and there is no offset provided.

Now, do we really want to say we want to knock out a program that will reduce the number of doctors and save the taxpayers of this country close to half a billion dollars? That is what the McCain amendment would do, as well-intentioned as it might be. And believe me, I do not question the Senator's intentions. I think he has a legitimate point.

Are we paying for something that we are not getting? I think the fact is we are going to be reducing the supply and we will be saving $350 million but we are doing it in an orderly manner. We are allowing those who are on the battlefield, those who are providing services for the neediest of the needy, for those who do not have adequate health insurance, those people who would otherwise not receive the kinds of medical services and high quality, they are in our inner core cities throughout our Nation because those are the hospitals in most cases that will be affected, the great institutions in our metropolitan communities throughout this country.

It makes no sense, it seems to me, to knock out a program that will deprive us of the opportunity of seeing an orderly downsizing, and, yes, save taxpayers money at the same time.

I join in opposition to this amendment and I commend the chairman of the Finance Committee from Delaware and my distinguished colleague from New York, Senator MOYNIHAN.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 1076

Mr. ROTH. Mr. President, I should now like to turn to Amendment 1076, offered by the Senator from Washington. I must oppose this amendment which alters the complexion of the newly created State children's health insurance program. The appropriations bill is simply not the vehicle for reopening the Balanced Budget Act. The amendment raised issues which should be addressed for all States, not just a few. Barely a month has passed since the bill was enacted. This is not the time to reopen the balanced budget amendment.

Mr. President, as reported out of the conference with the House, it is clear that the fundamental purpose of the new $24 billion children's health program is to expand health insurance coverage for children who do not presently have health insurance.

Under the new children's health program, the Federal Government will increase its share of the cost of providing public insurance in some States by as much as 30 percent. This so-called enhanced match is to act as an incentive to expand coverage to more children. And, indeed, that is what we all expect will happen.

At the same time, we do not want to simply shift new costs to the Federal Government to provide services to individuals who are already covered by insurance whether through the private sector or the public sector. Nor should these funds be used to merely supplant State funds. At the very least, we should try to minimize this from happening.

As the Senate considered the children's health legislation over the summer, it limited eligibility to 200 percent of the Federal poverty level. The Senate was gravely concerned, and rightly so, about the crowding out effect in which public insurance would replace private insurance.

But States which had already expanded eligibility above 200 percent of poverty argued that they would not be able to use their new child health allotment because of this limitation. There would be no children to cover, they argued.

In deference to those States, we agreed to raise the eligibility limit to 50 percentage points above a State's Medicaid standard in the conference with the House. We also provided States with options for participating in the program above their current levels.

The Gorton amendment is not about States expanding coverage for children beyond their current commitment. It is about claiming additional Federal dollars to do what the States have already agreed to do.

This is an important issue which should not be determined after a few minutes of debate on an appropriations bill.

Furthermore, the amendment would create another inequity which should be carefully considered and addressed, if necessary.

The Gorton amendment applies to only a handful of States which have previously expanded coverage to children. The Gorton amendment applies only to those States which have expanded Medicaid at least up to 200 percent of the poverty level and up to age 17. These States are to be congratulated for their leadership. But there are also at least 20 other States which have also expanded Medicaid eligibility, which would not gain the advantage extended by the Gorton amendment.

While the amendment provides the enhanced match for total expansion, it does not provide the same advantage for those States which have made only a partial expansion. For example, a state which has expanded to 185 percent of the poverty level would not be eligible for the enhanced match for new children up to that level.

Creating such inequities illustrates a fundamental problem with using the appropriations process for legislating in place of the authorizing committees. While perhaps a problem might be solved for a few States, that solution might create new inequities among several more States.

If the policies in the new children's health program should be changed, then let us examine the issue in a thorough and complete manner which is equitable for all States. But we cannot and should not attempt to do so today.

Mr. President, I yield the floor.

Mr. MOYNIHAN. Mr. President——

UNANIMOUS-CONSENT AGREEMENT

Mr. ROTH. If the Senator will yield, I ask unanimous consent that consideration of Senate Resolution 120 begin following the remarks of the distinguished senior Senator from New York.

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

The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise simply and succinctly for the purpose of endorsing the statement by our revered chairman and, once again, to say, as he put it, the ink is scarcely dry on this legislation and here we are changing it. Could it have been 5 legislative days since it was last enacted, and we are changing it?

And, importantly, this is legislation on an appropriations bill. It is not in the interest of our institution to let that begin. It is a lesson we have learned in difficult ways in the 19th century, and we have shown how important it has been in this century. As we approach a new century, it is no precedent to establish.

I believe we will now move to the measure indicated by the Senator from Delaware.

EXPRESSING THE SENSE OF THE SENATE ON THE DEATH OF MOTHER TERESA

The PRESIDING OFFICER. The clerk will report Senate Resolution 120.

The assistant legislative clerk read as follows:

A resolution (S. Res. 120) expressing the sense of the Senate on the occasion of the death of Mother Teresa of Calcutta.

The Senate proceeded to consider the resolution.

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

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

Mr. BROWNBACK. Mr. President, I am here today to address the resolution introduced in the Senate by the Senator from Oklahoma on Mother Teresa. Last week, we lost a saint when Mother Teresa passed away at age 87. We are poorer, but Heaven is richer.

She died owning, as I have read in the news accounts, very few things here. She owned about two pairs of sandals, three robes, rosary beads. That was here. But in Heaven, she has a mountain of gold. She had touched so many different lives on this Earth. It is an incredible definition of a successful life: a loving, caring, compassionate, selfless, child of God, caring for, in many cases, the most downtrodden of God's children. Would that I could live my life as well.

I have been struck by some of her writings and things that she has spoken about. They have been accumulated in different books. Some of the statements are absolutely precious. I want to give a couple of them here in the Senate today because I think they are so touching of indicative of what a successful life is. A successful day isn't necessarily when you pass a bill in the Senate, or that you have a successful business transaction, or you pass a test, or you win a game. But a successful day is when you positively touch another life. She did that thousands of times, millions of times, across this globe. She cared for the poorest of the poor. She said this at one point in time:

I see God in every human being. When I wash the leper's wounds, I feel I am nursing the Lord himself. Is it not a beautiful experience?

Imagine if each of us, every day, if we saw everything that we did as nursing and touching the Lord himself. Here she is talking about caring for the least of God's children in that way, and she sees it as serving the Lord himself. What about us here in the Senate? If we did something similarly, saw ourselves as touching other lives in the most positive way we possibly could, what sort of world would that make?

Think of another quote that she gave in one of her speeches where she said this:

Our mission is to convey God's love—not a dead God but a living God, a God of love.

And then she added:

I am just a little pencil in his hand.

But what a beautiful picture he drew with that little pencil. What if each of us looked at ourselves as that little pencil, but being used to draw a beautiful picture, a panorama for others to see and to be able to enjoy, and for others to be able to grow by, for others to be able to be loved by that picture that we draw.

I have this quote posted in my office, which I think particularly is apropos giving her just passing this week:

At the moment of death, we will not be judged by the amount of work we have done, but by the weight of love we have put into our work.

You just think about that in measuring each day, not by the success of whether or not we did things like a bill passing through or, again, whether we passed a test, but by the weight of love that we put into our actions and what we actually did that very day and how we touched people. Did we do it in a positive, loving fashion? Would that the world operated that way.

My own experiences with Mother Teresa were here in the Senate. The only time that I had a chance to meet her was when she came here and received the congressional gold medal this year. We were all nervous about whether she would actually be able to physically get here because she had been ill, in poor health. She was able to make it here and she shared an hour and a half with us here in the House and in the Senate, in the rotunda area, meeting with different people. I remember so much going through that experience and thinking of reading these quotes, these pearls of wisdom she had laid out on how to live life, thinking she was going to put forward another one that day. I was holding onto each word to see, is there going to be another line like ''I am just a little pencil that you can guide one's life by.'' But it didn't seem to come that day. She would talk about a number of different things, but there, seemingly, were no pearls.

Then I remember walking her out to the car, and there were throngs of people excited to see her as she waved and touched different people. The motorcade was waiting to get away. She was sitting in the car, and I went over to thank her one last time for coming in and honoring us by being here and receiving the presentation. She grabbed my hand with both of hers and stared at me with those deep eyes of hers and that little frame that she had, and she looked up at me and just said three words, and she said them four times. She said:

All for Jesus.

We can all have different faiths and views of the world, but that was a driving focus for her, serving her Lord. How she did it each day is a testimony to each of us of how we should live.

We lost a saint, but the tragedy isn't that she died; the tragedy would have been had she never lived. She lived fully and gave us so much in raising our consciousness, lowering our line of sight, and redefining compassion for an entire planet. For that, I thank her and I am thankful for her life. I think we

should all consider and contemplate what we can add to our own lives by the model that she gave.

So I am delighted to support this resolution of recognition for Mother Teresa for all that she has done for this world and for the example she has lived.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I ask unanimous consent Senator ASHCROFT be added as cosponsor.

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

Mr. NICKLES. Mr. President, I am pleased to sponsor this resolution with Senator LOTT, Senator DASCHLE, Senator BROWNBACK, and Senator HUTCHINSON.

I want to compliment Senator BROWNBACK for his outstanding statement, and also thank Senator BROWNBACK and Senator HUTCHINSON for their work to award Mother Teresa the Congressional Gold Medal. Earlier this year, when she spoke to both the House and the Senate, and, frankly, to the country, we had a real honor, a real pleasure, maybe of seeing a real saint in our presence.

I have had the pleasure of greeting Mother Teresa two or three times in my Senate career: Once in 1985, when she received the Presidential Medal of Freedom, and then also when she addressed the National Prayer Breakfast, I believe it was in 1994.

At the conclusion of my remarks, Mr. President, I ask unanimous consent to have printed in the RECORD Mother Teresa's statement, her speech to the National Prayer Breakfast. It was an outstanding speech; a moving speech.

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

(See exhibit 1.)

Mr. NICKLES. Mr. President, Senator BROWNBACK used the word ''saint.'' And I can't recall too many living individuals that I ever referred to as a saint. But I remember during Mother Teresa's life, after meeting her in 1985 and subsequent to her speech at the National Prayer Breakfast, I referred to her as ''a living saint.''

The very fact is that her life touched other lives in letting them know that they are loved by God. Looking at her speeches and at her statements, she truly did make this world a better place. She did love people who were downtrodden. She did love the people that no one else would love. She did reach out to protect all individuals. Her love for the ailing and for the sick is well known. Her love for the unborn is well known. In her speeches at the National Prayer Breakfast, she was talking about abortion and what a terrible cruelty it is. Then she ended up, and concluding said, ''Well, send me your children. If you do not want your child, I will take your child.'' Again we are talking about a real missionary of love.

So, Mr. President, it is with sadness that we note Mother Teresa's passing. But we did want to recognize her great contributions to mankind throughout the world.

And so it is with a sense of sadness that the Senate today will be voting on this after lunch today, but we wanted to recognize the wonderful expression of love that Mother Teresa of Calcutta has had and the impact she has had on our lives, and really the lives of countless people throughout the world.

I yield the floor.

EXHIBIT 1

WHATEVER YOU DID UNTO ONE OF THE LEAST, YOU DID UNTO ME

(By Mother Teresa of Calcutta)

On the last day, Jesus will say to those at his right hand,

''Come, enter the Kingdom. For I was hungry and you gave me food, I was thirsty and you gave me drink, I was sick and you visited me.''

Then Jesus will turn to those on his left hand and say.

''Depart from the because I was hungry and you did not feed me, I was thirsty and you did not give me drink, I was sick and you did not visit me.''

These will ask him,

''When did we see you hungry, or thirsty, or sick, and did not come to your help?''

And Jesus will answer them,

''Whatever you neglected to do unto one of the least of these, you neglected to do unto me!''

As we have gathered here to pray together, I think it will be beautiful if we begin with a prayer that expresses very well what Jesus wants us to do for the least. St. Francis of Assisi understood very well these words of Jesus and his life is very well expressed by a prayer. And this prayer, which we say every day after Holy Communion, always surprises me very much, because it is very fitting for each one of us. And I always wonder whether eight hundred years ago when St. Francis lived, they had the same difficulties that we have today. I think that some of you already have this prayer of peace, so we will pray it together.

Let us thank God for the opportunity he has given us today to have come here to pray together. We have come here especially to pray for peace, joy, and love. We are reminded that Jesus came to bring the good news to the poor. He had told us what that good news is when he said,

''My peace I leave with you, my peace I give unto you.''

He came not to give the peace of the world, which is only that we don't bother each other. He came to give peace of heart which comes from loving—from doing good to others.

And God loved the world so much that he gave his son. God gave his son to the Virgin Mary, and what did she do with him? As soon as Jesus came into Mary's life, immediately she went in haste to give that good news. And as she came into the house of her cousin, Elizabeth, Scripture tells us that the unborn child—the child in the womb of Elizabeth—leapt with joy. While still in the womb of Mary, Jesus brought peace to John the Baptist, who leapt for joy in the womb of Elizabeth.

And as if that were not enough—as if it were not enough that God the Son should become one of us and bring peace and joy while still in the womb, Jesus also died on the Cross to show that greater love. He died for you and me, and for the leper and for that man dying of hunger and that naked person lying in the street—not only of Calcutta, but of Africa, of everywhere. Our Sisters serve these poor people in 105 countries throughout the world. Jesus insisted that we love one another as he loves each one of us. Jesus gave his life to love us, and he tells us that he loves each one of us. Jesus gave his live to love us, and he tells us that we also have to give whatever it takes to do good to one another. And in the Gospel Jesus says very clearly, ''Love as I have loved you.''

Jesus died on the Cross because that is what it took for him to do good for us—to save us from our selfishness and sin. He gave us everything to do the Father's will, to show us that we too must be willing to give everything to do God's will, to love one another as he loves each of us. If we are not willing to give whatever it takes to do good for one another, sin is still in us. That is why we too must give to each other until it hurts.

Love always hurts.

It is not enough for us to say, ''I love God.'' But I also have to love my neighbor. St. John says that you are a liar if you say you love God and you don't love your neighbor. How can you love God whom you do not see, if you do not love your neighbor whom you see, whom you touch, with whom you live? And so it is very important for us to realize that love, to be true, has to hurt. I must be willing to give whatever it takes not to harm other people and, in fact, to do good to them. This requires that I be willing to give until it hurts. Otherwise, there is no love in me and I bring injustice, not peace, to those around me.

It hurt Jesus to love us. We have been created in his image for greater things, to love and to be loved. We must ''put on Christ,'' as Scripture tells us. And so we have been created to love as he loves us. Jesus makes himself the hungry one, the naked one, the homeless one, the unwanted one, and he says, ''You did it to me.'' On the last day he will say to those on his right, ''whatever you did the least of these, you did to me,'' and he will also say to those on his left, ''whatever you neglected to do for the least of these, you neglected to do it for me.''

When he was dying on the Cross, Jesus said, ''I thirst.'' Jesus is thirsting for our love, and this is the thirst for everyone, poor and rich alike. We all thirst for the love of others, that they do out of their way to avoid harming us and to do good to us. This is the meaning of true love, to give until it hurts.

I can never forget the experience I had in visiting a home where they kept all these old parents of sons and daughters who had just put them into an institution and, maybe, forgotten them. I saw that in that home these old people had everything: good food, comfortable place, television—everything. But everyone was looking toward the door. And I did not see a single one with a smile on his face.

I turned to Sister and I asked, ''Why do these people, who have every comfort here—why are they all looking toward the door? Why are they not smiling?'' (I am so used to seeing the smiles on our people.'' Even the dying ones smile.) And Sister said, ''This is the way it is, nearly everyday. They are epxecting—they are hoping—that a son or daughter will come to visit them. They are hurt because they are forgotten.''

See, this neglect to love brings spiritual poverty. Maybe in our family we have somebody who is feeling lonely, who is feeling sick, who is feeling worried. Are we there? Are we willing to give until it hurts, in order to be with our families? Or do we put our own interests first? These are the questions we must ask ourselves, especially as we begin this Year of the Family. We must remember that love begins at home, and we

must also remember that ''the future of humanity passes through the family.''

I was surprised in the West to see so many young boys and girls given to drugs. And I tried to find out why. Why is it like that, when those in the West have so many more things than those in the East? And the answer was, ''Because there is no one in the family to receive them.'' Our children depend on us for everything: their health, their nutrition, their security, their coming to know and love God. For all of this, they look to us with trust, hope, and expectation. But often father and mother are so busy that they have no time for their children, or perhaps they are not even married, or have given up on their marriage. So the children go to the streets, and get involved in drugs, or other things. We are talking of love of the child, which is where love and peace must begin. There are the things that break peace.

But I feel that the greatest destroyer of peace today is abortion, because it is a war against the child—a direct killing of the innocent child—murder by the mother herself. And if we accept that a mother can kill even her own child, how can we tell other people not to kill one another? How do we persuade a woman not to have an abortion? As always, we must persuade her with love, and we remind ourselves that love means to be willing to give until it hurts. Jesus gave even his life to love us. So the mother who is thinking of abortion, should be helped to love—that is, to give until it hurts her plans, or her free time, to respect the life of her child. The father of that child, whoever he is, must also give until it hurts. By abortion, the mother does not learn to love, but kills even her own child to solve her problems. And by abortion, the father is told that he does not have to take any responsibility at all for the child he has brought into the world. That father is likely to put other women into the same trouble. So abortion just leads to more abortion. Any country that accepts abortion is not teaching the people to love, but to use any violence to get what they want. That is why the greatest destroyer of love and peace is abortion.

Many people are very, very concerned with the children of India, with the children of Africa, where quite a few die of hunger, and so on. Many people are also concerned about all the violence in this great country of the United States. These concerns are very good. But often these same people are not concerned with the millions who are being killed by the deliberate decision of their own mothers. And this is what is the greatest destroyer of peace today: abortion, which brings people to such blindness.

''I want this child!''

And for this I appeal in India and I appeal everywhere: ''Let us bring the child back.'' The child is God's gift to the family. Each child is created in the special image and likeness of God for greater things—to love and to be loved. In this Year of the Family we must bring the child back to the center of our care and concern. This is the only way that our world can survive, because our children are the only hope for the future. As other people are called to God, only their children can take their places.

But what does God say to us? He says, ''Even if a mother could forget her child, I will not forget you. I have carved you in the palm of my hand.'' We are carved in the palm of his hand; that unborn child has been carved in the hand of God from conception, and is called by God to love and to be loved, not only now in this life, out forever. God can never forget us.

I will tell you something beautiful. We are fighting abortion by adoption—by care of the mother and adoption for her baby. We have saved thousands of lives. We have sent word to the clinics, to the hospitals, and police stations: Please don't destroy the child; we will take the child.'' So we always have someone tell the mothers in trouble: ''Come, we will take care of you, we will get a home for your child.''

And we have a tremendous demand from couples who cannot have a child. But I never give a child to a couple who has done something not to have a child. Jesus said, ''Anyone who receives a child in my name, receives me.'' By adopting a child, these couples receive Jesus, but by aborting a child, a couple refuses to receive Jesus.

Please don't kill the child. I want the child. Please give me the child. I am willing to accept any child who would be aborted, and to give that child to a married couple who will love the child, and be loved by the child. From our children's home in Calcutta alone, we have saved over 3,000 children from abortions. These children have brought such love and joy to their adopting parents, and have grown up so full of love and joy! I know that couples have to plan their family, and for that there is natural family planning. The way to plan the family is natural family planning, not contraception. In destroying the power of giving life, through contraception, a husband or wife is doing something to self. This turns the attention to self, and so it destroys the gift of love in him or her. In loving, the husband and wife must turn the attention to each other, as happens in natural family planning, and not to self, as happens in contraception. Once that living love is destroyed by contraception, abortion follows very easily.

The greatness of the poor

I also know that there are great problems in the world—that many spouses do not love each other enough to practice natural family planning. We cannot solve all the problems in the world, but let us never bring in the worst problem of all, and that is to destroy love. This is what happens when we tell people to practice contraception and abortion.

The poor are very great people. They can teach us so many beautiful things. Once one of them came to thank us for teaching them natural family planning, and said: ''You people—who have practiced chastity—you are the best people to teach us natural family planning, because it is nothing more than self-control out of love for each other.'' And what this poor person said is very true. These poor people maybe have nothing to eat, maybe they have not a home to live in, but they can still be great people when they are spiritually rich. Those who are materially poor can be wonderful people. One evening we went out and we picked up four people from the street. And one of them was in a most terrible condition. I told the Sisters: ''You take care of the other three, I will take care of the one who looks worse.'' So I did for her all that my love can do. I put her in bed, and there was a beautiful smile on her face. She took hold of my hand, and she said one thing only: ''Thank you,'' Then she died.

I could not help but examine my conscience before her. I asked, What would I say if I were in her place?'' And my answer was very simple. I would have tried to draw a little attention to myself. I would have said, ''I am hungry, I am dying, I am cold, I am in pain,'' or something like that. But she gave me much more—she gave me her grateful love. And she died with a smile on her face.

Then there was the man we picked up from the drain, half-eaten by worms. And after we had brought him to the home, he only said, ''I have lived like an animal in the street, but am going to die as an angel, loved and care for.'' Then, after we had removed all the worms from his body, all he said—with a big smile—was: ''Sister, I am going home to God.'' And he died. It was so wonderful to see the greatness of that man, who could speak like that without blaming anybody, without comparing anything. Like an angel—this is the greatness of people who are spiritually rich, even when they are materially poor.

A sign of care

We are not social workers. We may be doing social work in the eyes of some people, but we must be contemplatives in the heart of the world. For we must bring that presence of God into your family, for the family that prays together, stays together. There is so much hatred, so much misery, and we with our prayer, with our sacrifice, are beginning at home. Love begins at home, and it is not how much we do, but how much love we put into what we do.

If we are contemplatives in the heart of the world with all its problems, these problems can never discourage us. We must always remember what God tells us in the Scripture: Even if the mother could forget the child in her womb—something that is impossible, but even if she could forget—I will never forget you. And so here I am talking with you. I want you to find the poor here, right in your own home first. And begin love there. Bear the good news to your own people first. And find out about your next-door neighbors. Do you know who they are?

I had the most extraordinary experience of love of a neighbor from a Hindu family. A gentleman came to our house and said, ''Mother Teresa, there is a family who have not eaten for so long. Do something.'' So I took some rice and went there immediately. And I saw the children, their eyes shining with hunger. (I don't know if you have ever seen hunger, but I have seen it very often.) And the mother of the family took the rice I gave her, and went out. When she came back, I asked her, ''Where did you go? What did you do?'' And she gave me a very simple answer: ''They are hungry also.'' What struck me was that she knew. And who were ''they?'' A Muslim family. And she knew. I didn't bring any more rice that evening, because I wanted them—Hindus and Muslims—to enjoy the joy of sharing.

But there were those children, radiating joy, sharing the joy and peace with their mother because she had the love to give until it hurts. And you see this is where love begins: at home in the family. God will never forget us, and there is something you and I can always do. We can keep the joy of loving Jesus in our hearts, and share that joy with all we come in contact with. Let us make that one point: that no child will be unwanted, unloved, uncared for, or killed and thrown away. And give until it hurts—with a smile.

Because I talk so much of giving with a smile, once a professor from the United States asked me, ''Are you married?'' And I said, ''Yes, and I find it sometimes very difficult to smile at my spouse—Jesus—because he can be very demanding—sometimes this is really something true. And there is where love comes in—when it is demanding, and yet we can give it with joy.

One of the most demanding things for me is traveling everywhere, and with publicity. I have said to Jesus that if I don't go to heaven for anything else, I will be going to heaven for all the traveling with all the publicity, because it has purified me and sacrificed me and made me really ready to go to heaven. If we remember that God loves us, and that we can love others as he loves us, then America can become a sign of peace for the world. From here, a sign of care for the weakest of the weak—the unborn child—must go out to the world. If you become a burning light of justice and peace in the world, then really you will be true to what

the founders of this country stood for. God bless you!

Mr. NICKLES. Mr. President, I ask unanimous consent that Senator DOMENICI be added as a cosponsor.

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

Mr. DASCHLE. Mr. President, I am pleased to join my colleagues in offering this resolution to establish a National Day of Recognition for the humanitarian works of Mother Teresa.

This past Friday the world suffered a great loss with the death of Mother Teresa, a woman called not only to minister to those in the shadows of life, but to be among them and shed on them the light of love and human decency.

Someone once asked St. Francis what a person needed to do to please God. He answered, ''Preach the Gospel every day. If necessary—use words.'' Mother Teresa lived just that sort of life. She was a living lesson to all of us that faith is more than words. It is the good deeds we do in this world. For that lesson, we owe Mother Teresa not only a tremendous debt of gratitude, but the resolve to carry on her difficult but extremely important work.

Mother Teresa's life certainly was one of action and deeds. She was a tireless builder. She founded the Missionaries of Charity in 1950. An order that began with 12 members now has grown to a worldwide community of 4,000 nuns who administer orphanages, AIDS hospices, and other centers of charitable activity in the United States and around the world.

Later, she founded the Nirmal Hriday Home for Dying Destitutes. From this beginning sprang numerous other facilities for the sick and dying shunned by traditional institutions. This dedication to those on the margins of life is perhaps Mother Teresa's most profound legacy.

It is one thing—certainly important and meaningful—to give occasionally to charitable causes or lend valuable time to charitable work. These are personal sacrifices that give us a stronger connection to our community and more meaning to our own lives. It is quite another thing—nearly incomprehensible to those of us blessed with the material comforts of our modern American life—to give up all one has and to make this sacrifice and dedication to others the sole focus of one's life. To do this among conditions of squalor and misery—at risk to one's own health and life—and to focus on those on the margins of life shunned even by hospitals and other institutions dedicated to improving human life, that is the character of Mother Teresa's life that earned her the affectionate label, ''the Saint of the Gutter.''

Mr. President, Mother Teresa was a tiny woman, but she was an enormous inspiration. The best way for us to honor Mother Teresa is to reach outside ourselves and try, each day, to show a little more compassion in our own lives. I hope this resolution serves to remind us of that goal and to signal to the world our tremendous gratitude, respect, and admiration for Mother Teresa—an extraordinary woman who has touched and enriched all our lives.

Mr. CAMPBELL. Mr. President, I want to express my deep sorrow over the loss of Mother Teresa. At the age of 87, she had made infinite strides in promoting peace and goodwill throughout the world. In a long overdue gesture, the Senate recently bestowed upon Mother Teresa the Congressional Gold Medal for her role as head of the Missionaries of Charity. For a woman of her stature, it was a humble honor.

As I listened this weekend to the many replays of interviews with Mother Teresa, I could not help but be stunned by endless depths of her compassion. Her desire to hug and touch people otherwise reviled by society, the strength of her hands and enormity of her presence despite her diminutive size, are just a few images which come to mind. Mother Teresa was a woman who measured and understood the rest of humanity in a way few, if any, others do. In recognizing her today, it is with reverence and the utmost respect for a person who labored as a living saint on behalf of mankind.

She will never be forgotten. Her charitable mission will be carried on in her adopted home of India, as well as the dozens of countries where her works have been taken up by others. While Mother Teresa is irreplaceable, we can only hope to learn and live by her example in the future.

Mr. MURKOWSKI. Mr. President, I rise as a cosponsor of this resolution honoring the memory of a woman who may be the 20th century world's greatest role model and humanitarian, Mother Teresa.

Words cannot express the contribution she has made to humankind. By her selfless acts over the past five decades administering to the poorest of the poor, she has set an example for how we all should try to live. The world would be a far better place if all people followed the light of her shining example.

I have heard the word ''Saint'' used in the same breath as the name Mother Teresa. It is hard to imagine any other person who has lived in this century to whom that appellation would better apply. Hers was truly a life of selflessness, where the totality of her identity comes through service to God.

I have, in my life, met many people who have been major actors on the world stage—Presidents, Prime Ministers and other leading officials at home and abroad. This year, I had the opportunity to meet and briefly talk with this very frail nun in our Capitol. This was an honor that I will cherish throughout my life.

It is not often that I have had the chance to be with someone whose very presence is so intensely humbling. That was the case with Mother Teresa. She truly was representative of the best in the human spirit and will be remembered for centuries to come.

She will be sorely missed.

Ms. MIKULSKI. Mr. President, in a week already saddened by the loss of Diana, Princess of Wales, we were further grieved to learn Friday of the death of Mother Teresa. Her presence, that of a living saint, will be sorely missed.

Mother Teresa has played the role of world conscience. Throughout her life, she has lived in the most pure and basic manner. While caring for the destitute and sick, she insisted on living in poverty herself. Mother Teresa believed that ''the more we empty ourselves, the more room we give God to fill us.'' She practiced what she preached.

Mother Teresa's remarkable and selfless works have been recognized around the world. In 1979, she was awarded the Nobel Peace Prize. In 1980, she was bestowed India's highest honor, the Jewel of India award. Last year, President Clinton conferred honorary American citizenship on Mother Teresa. Most recently, she was awarded a congressional Medal of Honor. Mother Teresa knew that these were merely earthly rewards.

While she was an international figure, she remained focused and committed to her mission. She rejected the media attention these awards drew, saying that she must get back to her work. Any money that came with these awards was immediately given to the poor.

Mother Teresa will be sadly missed but her work will continue. I pray that Sister Nirmala will be given the same strength and world support to continue the mission Mother Teresa founded in 1948, the Order of the Missionaries of Charity. I also pay tribute to Mother Teresa's life by recommiting myself to work for the poorest members of society. Mr. President, I yield the floor.

Mr. BYRD. Mr. President, just as the world was recovering from the shock last week of the sad news about the tragic and untimely death of Princess Diana—including the disturbing discovery that alcohol may have been linked to the crash—it was again rocked by reports of the death of another of its beloved heroines. Mother Teresa, considered by many to be a living saint, died last Friday at the age of 87. Like Princess Diana, who dedicated much of her attention to the needs of the unfortunate, Mother Teresa was a beacon of hope for countless people who were all but abandoned by mainstream society. But, unlike Princess Diana, Mother Teresa chose to highlight the plight of the destitute by becoming destitute herself. Although a physically small woman, Mother Teresa was a colossus of inspiration. She had little more to offer than kindness, faith, and tenacity, but Mother Teresa ably provided the world with much, much more.

Mother Teresa embodied hope. She served God by reaching out to the poor. She dedicated her life to humanitarian

aid, making personal sacrifices that most of us cannot easily understand. Mother Teresa traveled to areas where most would fear to go; she embraced AIDS patients and lepers, cradled dying babies, and brought a glimmer of hope to the hopeless. She rejected modern-day comforts, and when she left this world she owned little more than her sari and her rosary beads.

Mother Teresa's name is recognized throughout the world, and her influence is immeasurable. In 1979, she was awarded the Nobel Peace Prize. Earlier this year she was presented the Congressional Medal of Honor. She is one of only five people ever to be awarded honorary citizenship to the United States. Mother Teresa shared her time with some of the world's most impoverished and unfortunate citizens. Her light burned with superhuman brightness to illuminate the darkness in others' lives.

Born in 1910 in an Albanian region which later became a part of Yugoslavia, Mother Teresa's father died unexpectedly when she was a young girl, and she first learned to care for others while helping her mother look after her two sisters and others in the community. At the age of 18, she joined the Sisters of Our Lady of Loreto, an active mission in India, and spent two decades with the order, first as a teacher and then as a principal. In 1948, an inner voice told her it was time for a change. Sister Teresa left the convent with the vision of starting her own school, determined to dedicate her life to helping the most forsaken and abandoned. Possessing no capital, she first taught by scratching letters in the dirt with a stick. By 1950, she had established a new religious order, and named it the Missionaries of Charity.

The vision that began with a tiny stick drawing on a gritty street, has grown into an assembly of 600 clinics, orphanages, soup kitchens, maternity homes, refugee centers, and havens for the poor, sick, and dying in more than 100 countries. These facilities are staffed by 4,500 nuns, 500 brothers, and thousands of volunteers from around the globe.

She refused to accept steady funding or fund-raising money from government, private, or religious institutions, relying instead on her faith in God. Yet, she soothed those in pain and brought smiles to cheerless faces, never forgetting the forgotten. The world is a better place because of the sacrifices she made and the warmth she radiated. Mother Teresa once said, ''To God there is nothing small. The moment we have given it to God, it becomes infinite.'' With her passing, Mother Teresa joins with God's infinity. May her acts of unselfishness and compassion be an inspiration to us all to strive, each in our own way, to make life better for all of those who lives we touch.

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

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

Mr. BROWNBACK. Mr. President, I thought I might put in the RECORD, and in the resolution there is listed a number of things that Mother Teresa did, but just for the interest of the body, it might be interesting to note some of those things that happened.

Mother Teresa expanded her personal dedication by founding the Missionaries of Charity, which people may not be familiar with but I think most are, which included well over 3,000 members of 25 countries who devote their entire lives to serving the poor without accepting any material reward in return. She has been recognized as a humanitarian around the world in various forms: The first Pope John XXIII Peace Prize in 1971; the Jawaharal Nehru Award for International Understanding in 1972; the Nobel Peace Prize in 1979; the Presidential Medal of Freedom in 1985; and the Congressional Gold Medal in 1997.

She was born in 1910 in the former Yugoslavia, and received a calling on a train saying she should go serve the poorest of the poor, a calling, that was recently just celebrated, of nearly 50 years ago. That is when she went to India to start her Missionaries of Charity.

There are a couple of things that also stand out in my mind. When she received the Nobel Peace Prize she refused a dinner, the banquet that they normally put forward for those who receive that, and asked that the cash equivalent instead be used for money to build more missions and help more people instead of having the lavish dinner.

I know that in the discussions with her group on the Congressional Gold Medal she suggested that rather than presenting a Congressional Gold Medal to her could they just melt the medal down and give them the equivalent of that in money so they could use that to put up more buildings and help more people of the poorest of the poor.

You look at some selfless things like that, and you just become amazed at what she did, and, yet, also what she could accomplish when there is that much selflessness that goes into it.

I think one should recognize all of those accomplishments. And those are just the tip of the iceberg because those speak of kind of the big things that we can identify. But they don't speak of the faces that she has stared into, or the feet that she has washed, and the people she served, one at a time.

I think that is worthwhile to add into the RECORD.

Mr. President, I yield the floor. 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. HATCH. 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. HATCH. Mr. President, I rise today to attempt something that I know will not fully succeed. I stand to speak to the legacy of Mother Teresa who in my opinion, was one of the greatest of all humanitarians and advocates for the poor, for the unclothed, the unhoused, the ignored, and the forgotten poor of the world—not only the forgotten poor of India but of the world at large.

Many, of course, have remarked on the striking coincidence that last week we saw the passing of two of the world's most famous women—the Princess of Wales, and the guardian of India's poor, and really the poor of the world. Their association was coincidence. And those who again say that Diana's commitment to the poor, to the sick, and to the maimed simply ignored the profound friendship that had formed between these two remarkable women. As Diana was moved to even greater compassion by the small nun from Calcutta, so were all of us who knew Mother Teresa.

I don't have a power wall in my personal office—pictures of me with other dignitaries. In my office you will find a lot of paintings. And the only photographs are of my family and one other individual. For years I have had a photo of Mother Teresa and me from one of the several meetings that I was most fortunate to have with her over the years. I met her here in Washington at least twice. And I visited her in Calcutta, and visited her orphanage there. In Washington one time was with a number of others. But the second time was just Mother Teresa and myself and one staff member.

For me, Mother Teresa embodies the highest commitment to spiritual principles in this very imperfect world. And her memory I will always keep alive to remind me that we can in fact hold spiritual principles deeply relevant to this harsh world. That little nun from Calcutta held the greatest power that anyone can have—the power of love. She radiated it through her actions by serving the destitute, the maimed, and the forgotten.

There have been some trivial criticisms about her—that she didn't address the root causes of the horrible poverty in which she lived. We should never forget the distinction between the abstractions of policy and the practice of charity. We must never lose the humility that recognizes that the policy attempts that governments and their leaders make often fall short while the commitment to love can be endless. And in the end the love given to a homeless child or to a dying street person cannot be legislated.

I recently heard a particularly telling anecdote concerning Mother Teresa. She was in the ghetto of Calcutta

putting salves on the wounds of a desperately sick person. A devout priest who was accompanying her said, ''I wouldn't do that for $100,000.'' I think maybe it could have even been $100 million. ''I wouldn't either,'' the dear, wise woman responded. ''I do it for Christ.''

I know that it is considered by some inappropriate to mention anything religious. But Mother Teresa reminded all of us of the great good that all religions do for man. And her Christian compassion will be an inspiration to me as long as I live.

Mr. President, I will never forget seeing her emotional remarks about abortions and the heinous nature of abortion in our society and in our world today—30 million children aborted just in the history of our country since 1972. I remember her saying, ''If you do not want them, give them to me.'' She meant it. She took care of the poor, the sick, the maimed, the forgotten, those who were rejected by the rest of the world. She took them to her bosom. She took them to her best ability to help, and, because of her, literally thousands—hundreds of thousands—of people have been helped around the world. And millions know what it is like to do charitable giving.

Mr. President, God bless the memory of Mother Teresa, as he blessed all of those who knew this woman, who I think will be known as one of this century's most selfless and wonderful humanitarians.

So I am happy to cosponsor any resolution that supports Mother Teresa. And I hope that all people throughout the world will take her example and realize that all of us in our own sphere, in our own little life, can do a little bit more for our fellow men and women than we have been doing, and use her as an example of one who gave her all for her fellow men and women and children.

I thank her personally, and that is why I am making these remarks this day.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first, let me say to Senator HATCH that I am pleased that I was present for his eloquent remarks. I thank him very much.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate not go in recess until I have completed my remarks.

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

Mr. DOMENICI. I ask the occupant of the chair. Is that too much of an inconvenience for him?

The PRESIDING OFFICER. I thank the Senator from New Mexico for his consideration. No, under my schedule I am willing to stay here until you finish your comments.

Mr. DOMENICI. I thank the Chair.

Mr. President, I had thought that sometime today or tomorrow I would sit down and write a series of remarks and reflections and thoughts about Mother Teresa. But I think it would be more appropriate that I not delay that and that I say a few words now so that it is incorporated into this RECORD as reference to this wonderful and quite appropriate resolution.

Let me first say I am not one of the privileged Senators who has met Mother Teresa and been with her for any length of time, although I have met her once. But I believe it is fair to say that even while I have not met her, I have probably never, in my years of life and certainly my years in the Senate, observed from a distance such a remarkable person. That is what makes it difficult, because she is so remarkable, because she is so different from what the world talks about today and what the world espouses as success, as the way we ought to live our lives so we can be successful. She is so far removed from that and is yet great without any question, that sometimes it is hard to find words in our kind of world to talk about her.

But I was thinking, from my own standpoint, over the weekend I was privileged as a member of my own family in Albuquerque, NM, to be present with our entire family and many hundreds of friends at the 50th jubilee of one of my own sisters being a Sister of Charity. She is a couple years older than I and has been a Sister of Charity for 50 years and has taught kids all across this country. She assumes she has touched and taught no less than 10,500. So I feel I could talk about her for a minute while we talk about the great sacrifices of Mother Teresa.

But obviously, it was an interesting weekend in that regard, for while we are all grieving the death of this saint, I was privileged to be part of a family event where I think we have somebody very close to that title who is our own blood.

Then, as I thought about what we ought to say here today, I hearkened back to a long, long time ago when we were taught a little bit about the Old Testament and the New Testament. What I was thinking about is that this is a pretty muddled up world. Things aren't going so well. There are a lot of people terribly worried about our value system and where are we going versus our Maker, where is this world apt to end up with what appears to be such an absence of what we understand is the right thing to do and the right way to go and right and wrong on a daily basis. I was thinking back to the Old Testament of Sodom and Gomorrah and Abraham negotiating with God. They had a very interesting negotiation. It shows that Abraham was a wonderful negotiator even in working things out with the Maker, for as you recall he talked about how many good people you have to find in Sodom and Gomorrah to save it. The negotiations started very high and ended up I believe at 10—10. I don't think they could find 10, so Sodom and Gomorrah were destroyed.

What does this have to do with Mother Teresa? Well, I guess I would say that it is pretty clear to me that the kind of relationship we were talking about back in the Old Testament is still a relationship with the Maker, with the God Almighty, and I believe it is imperative that the world give great confirmation and credence to someone whom we know is the kind of person that is so good and so much in touch with what the Almighty thinks and wants that they are clearly capable of intervening and saving us. So I don't think we should just praise her for the marvelous acts of love, but I think we should thank her, we should thank her from the bottom of our hearts for contributing in a very big way toward a more positive relationship between the Almighty and humankind.

Now, having said that, I want to make just a couple of other points. I know it is very easy for people to talk about Mother Teresa and not want to talk about her faith, but I do not think you can do that. I do not think you can say she is a great humanitarian. In fact, I do not believe she would want to be called a humanitarian. Her faith is very simple, profound, and real. She believes what her faith tells her, and that is that the poor and the downtrodden, the sick, and those who are on their death beds with all kinds of infirmities present in their bodies and minds, that they are Jesus Christ.

Now, I am not offended, nor am I concerned, about saying that right here on the Senate floor because that is true. So we must talk about her in that context, for to do otherwise is to deny her existence and why she did what she did.

Now, having said that, it is very hard for most mortals to live their faith that way—very hard. Nonetheless, I think what I choose to honor today and to thank her for is that she did, as a matter of fact, live her faith, totally to the core. Every bit of her being was living that New Testament admonition, for we recall that Jesus Christ said, ''If you are taking care of somebody who is desperately hungry, you are taking care of me; if you are taking care of those who are suffering, you are taking care of me.''

Now, most of us are not able to bridge that gap of faith that she bridged every day, every moment, for she literally lived her life fully aware of and practicing that admonition. So it seems to this Senator that it is most befitting, and in particular in the kind of world we live, in which just 2 weeks ago we had a poll of the American people and with the economy humming and with all the material things seeming to go well, huge numbers of Americans said we are on the wrong path. I think the wrong path did not have much to do with material wealth. I think they are frightened about the way we behave, and they are worried about what that is going to end up doing to us.

So I think it is fair that we step back and say, well, here is one, the lady

from Calcutta, here is one who sees it completely different than we do, and yet look how many lives she affected, look how many people came within the yoke of this little, tiny, frail body, which probably at her death was not bigger than 75 to 80 pounds at the most.

So I thank Senator NICKLES and others, and I join as a cosponsor of this resolution, but it is again as you look at things really inadequate. As I look at the occupant of the chair and I think what do we really feel about this lady and we can't quite write it down, we can say with absolute assurance that she is the right kind of person to respect, that she is the right kind of person and personage for the U.S. Senate to pay tribute to.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOMENICI. Mr. President, I ask unanimous consent, in behalf of the leader, that following the 2:15 p.m. vote on Senate Resolution 120, the pending resolution, the Senate begin 60 minutes of debate on the McCain Amendment 1091, and, at the expiration or yielding back of the time, the Senate vote on or in relation to amendment 1091.

I understand this is cleared on the other side.

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

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will now stand in recess until the hour of 2:15.

Thereupon, the Senate, at 12:39 p.m., recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

EXPRESSING THE SENSE OF THE SENATE ON THE DEATH OF MOTHER TERESA

The Senate continued with the consideration of the resolution.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on Senate Resolution 120.

Mr. KERRY. 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 resolution. 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 Vermont [Mr. LEAHY] is absent on official business.

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—98

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

NOT VOTING—2

Bennett	Leahy

The resolution (S. Res. 120) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 120

Whereas, the American people are greatly saddened by the death of Mother Teresa of Calcutta;

Whereas, Mother Teresa founded the Missionaries of Charity, which now operates numerous orphanages, hospices, and other centers of charitable activity in the United States and around the world, offering compassionate care to those who are too often shunned by other institutions;

Whereas, Mother Teresa has been recognized as an outstanding humanitarian and has received: the first Pope John XXIII Peace Prize (1971); the Jawaharlal Nehru Award for International Understanding (1972); the Nobel Peace Prize (1979); the Presidential Medal of Freedom (1985); and the Congressional Gold Medal (1997);

Whereas, Mother Teresa became only the fifth person ever awarded honorary U.S. Citizenship (1996);

Whereas, Mother Teresa inspired people worldwide through her selfless actions and altruistic life;

Whereas, Mother Teresa embodied benevolence, compassion, and mercy and brought the face of God to humanity;

Now, therefore, be it Resolved, That the Senate—

(1) expresses our deep admiration and respect for the life and work of Mother Teresa, and extends to her Missionaries of Charity our sympathy for the loss they share with the world;

(2) recognizes that Mother Teresa's work improved the lives of millions of people in the United States and around the world, and her example inspired countless others;

(3) encourages all Americans to reflect on how they might keep the spirit of Mother Teresa alive through their own efforts; and

(4) designates September 13, 1997 as a National Day of Recognition for the humanitarian efforts of Mother Teresa and of those who have labored with her in service to the poor and afflicted of the world.

The Secretary of the Senate shall transmit an enrolled copy of this resolution to the Calcutta, India, Mother House of the Missionaries of Charity.

Mr. SPECTER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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, under a previous agreement, the distinguished Senator from Arizona, Senator MCCAIN, will proceed with his amendment for 1 hour.

I have discussed the amendment offered by the distinguished Senator from Washington, Senator GORTON. He has two amendments pending. Let me be sure which of the amendments we have here. It is an amendment denominated to allow States to use funds under the Social Security Act to provide health insurance coverage for children with incomes above the minimum Medicaid eligibility requirements.

Senator GORTON advised me he would be agreeable to a time agreement of 1 hour equally divided. He is not now on the floor, but he made that representation to me. I do not, frankly, like to proceed without having him on the floor, but I ask unanimous consent that we may proceed—well, I am advised there may be a question on the other side of the aisle.

But let me proceed, Mr. President, to say that if we are able to lock in that time agreement, then the managers would like to proceed to the two debates, 1 hour each, which would bring us to 4:40, at which time we would have two votes stacked back to back.

At the conclusion of those votes, or after the first vote, when the Senators are present, it would be my intention, as manager of the bill, to try to seek time agreements on the outstanding amendments which are pending at that time. The Senators will all be on the floor after the first vote and before the second vote.

We are within striking distance of seeing some light at the end of the tunnel. If we could have Senators on the floor at that time, I think we could come to closure. We have the amendment by the distinguished Senator from Illinois, Senator DURBIN, pending on the tax issue. It is my hope that we can get a 1-hour time agreement on that, equally divided. I know that is agreeable to Senator DURBIN, but there are others who may offer a second-degree amendment, Senator FORD perhaps, and others who are not now present. If we could get that resolved after the first vote, it would be helpful on the management of the bill.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The distinguished Democratic leader.

Mr. DASCHLE. Reserving the right to object, I think the suggestion made by the distinguished Senator is a good one. I intend to support it. I ask, if we can add to that, a unanimous consent request that Senator DURBIN be recognized to offer his amendment, leaving open the option of people offering second-degrees following the two votes that you suggest.

Mr. SPECTER. Mr. President, if my distinguished colleague will yield, I would be agreeable to that. I had discussed with Senator DURBIN his being next in sequence. I think that would be appropriate to lock that in by unanimous consent.

I am now advised, that even on recognition on our side of the aisle, we need to check with some other people. But let me say to Senator DURBIN that it will be my effort to have him proceed at that time, but I want to consult with some of my colleagues, so that is not in the form of a unanimous-consent request.

Mr. DASCHLE. If the Senator will yield, Mr. President, I say, if we could have the understanding that as soon as it is cleared on his side that he would seek recognition for purposes of propounding that aspect of the unanimous-consent request, I would not have any objection to the UC request that he currently has proposed.

Mr. SPECTER. I would be delighted to do that, except I am not going to be on the floor. We have a Governmental Affairs hearing. Let me say that when we get clearance on this side, it will happen, we will work it out.

Is the time agreement on the Gorton amendment cleared at this point? It is?

Mr. President, I ask unanimous consent then that after the conclusion of the 1 hour of debate on the McCain amendment, we proceed to the Gorton amendment for 1 hour equally divided, and that at the conclusion of the vote on the McCain amendment, we will have a discussion as to sequencing further on the bill and at that time seek to have unanimous consent to proceed next to the Durbin amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. I withhold for just a moment, Mr. President.

Mr. HARKIN. Mr. President, just one moment.

Mr. McCAIN. Mr. President, while they are discussing, may I seek recognition for a comment?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I understand now that there would be a budget point of order raised against my amendment. A budget point of order, to my understanding, is debatable. I may seek some time to rebut the budget point of order, so that may affect this unanimous-consent request, I say to my colleague from Pennsylvania. I do not intend to take a lot of time, but I intend to take enough time to rebut it.

I thought I would get an up-or-down vote on this amendment. Apparently, there is going to be a budget point of order. So since the budget point of order is going to be posed, I feel that aspect of this issue ought to be addressed.

Mr. SPECTER. Mr. President, if my colleague will yield, could we enter into a time agreement on how long you would take on that discussion?

Mr. McCAIN. I would be glad to discuss that. It would be a very brief period of time, like 10 to 15 minutes.

The PRESIDING OFFICER. The Chair advises the Senator from Arizona, budget points of order are not debatable.

Mr. McCAIN. The motion to waive the budget point of order is debatable. That is what I will propose once a budget point of order is made.

The PRESIDING OFFICER. The Chair advises the Senator that generally that is true, but if there is a time limitation on the amendment that has already been agreed to that does not allocate time on debatable motions, those motions are not debatable. It would be debatable within the 1-hour time agreement.

Mr. SPECTER. Mr. President, if my colleague will yield, might I suggest we alter the time agreement to give the Senator from Arizona an additional 10 minutes to debate the point of order?

Mr. McCAIN. I appreciate that. That would be sufficient.

The PRESIDING OFFICER. Is there objection to the request by the Senator?

Mr. SPECTER. If the Presiding Officer will withhold for 1 minute, please, we need to make one more telephone call, so I suggest we proceed with Senator McCAIN's amendment, with my leave to interrupt, if I might when the phone call is made, to complete the unanimous-consent agreement.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, my understanding is we have 1 hour equally divided.

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 1091

Mr. McCAIN. Mr. President, this amendment eliminates the financial incentive payments created under the Balanced Budget Act for teaching hospitals to reduce their medical residency program. The Federal Government has created an incentive program which gives hundreds of millions of taxpayers' dollars to teaching hospitals for not training medical students.

Mr. President, I strongly suggest if this amendment is defeated, which I guess in all likelihood it probably will be, that we now propose amendments that would restrict the number of graduates of law school. Most Americans believe there are too many lawyers, although probably the majority of my colleagues would not agree. Perhaps we should put a cap on the number of graduates of journalism school. Clearly there are way too many people in that business. And maybe we should also cap the number of graduates of photography school. That would cut down on the paparazzi and the problem we have there.

Mr. President, this is not a Republican or Democrat difference. This is capitalism versus socialism. Vladimir Lenin would be proud of this proposal for government control, government planning, and, frankly, it is remarkable that we would have included it even in the way in which it was included in the Balanced Budget Act, which was over 1,000 pages, and we had less than 24 hours to review the final draft.

It is just remarkable. It is a new subsidy program. I would like to read a couple of quotes. My friend from Texas wants to speak on it, so I will be fairly brief. The payment represents a rare attempt by the Federal Government to use subsidies as leverage to shrink a particular work force. ''I know of no profession where there has been as much federal effort to regulate,'' said Uwe Reinhardt, a health economist at Princeton University. ''You don't do it for economists, for architects, for engineers.''

''It is voluntary, but it isn't voluntary for the taxpayers,'' said the Heritage Foundation.

The National Taxpayers Union supports Senator McCAIN's amendment to eliminate the graduate medical education. ''We believe it is a wasteful use of taxpayers' dollars.''

Others question whether it is necessary. The number of young doctors training to become anesthesiologists, for example, has declined from 1,500 three years ago to 450 this year following well-publicized warnings that the field was saturated. Starting a few years ago, ''people weren't able to get the plum jobs in the cities they wanted. [They] would have to take jobs in Idaho, Oklahoma,'' said James Kottrell, chairman of anesthesiology at the State University of New York Health Center in Brooklyn.

Mr. President, 46 million Americans are underserved in health care today in America. That is a fact and everyone knows it. So now we are going to pay teaching universities hundreds of millions of dollars of taxpayers' dollars not to train doctors that are needed.

This morning in the Washington Post—and I ask unanimous consent the entire article be printed in the RECORD—was an editorial by Daniel S. Greenberg, editor of Science & Government Report.

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

MED SCHOOL MILLIONAIRES

(By Daniel S. Greenberg)

Don't expect anything but a hemorrhage at the Treasury from that new program to counter the doctor surplus by paying hospitals to reduce the number of residency slots for the final phase of medical training.

Reminiscent of the agricultural-support schemes that paid farmers for not growing

crops, the medical plan was inspired by an immutable law of American medical practice: More doctors mean more medical spending, despite the penny-pinching tactics of managed care. So, stop them before they can start hustling patients, the Washington strategists concluded. The medical-education industry, however, is too profitable, inventive and resilient to yield to that tactic.

The major factor in the medical-production pipeline is medical-school enrollments. And data compiled by the American Medical Association show that these have remained virtually unchanged for more than 15 years, as have the number of medical schools.

In fact, medical schools have supplanted military bases as immortal institutions. In 1980–81, the 124 medical schools in the United States enrolled 65,497 students; in 1996–97, the number of schools remained duties. Over the past decade, this income total for faculty at 124, and enrollments stood at 66,712—though a long succession of studies proclaimed a surfeit of doctors.

The big change in medical education was a vast increase in revenues, much of it from so-called practice plans that pay medical faculty for attending to patients, usually in conjunction with their teaching duties. Over the past decade, this income total for faculty at the 124 schools has risen from $5.2 billion to $10.6 billion.

And, in accord with the Willie Sutton principle, the number of full-time faculty has soared, though the number of students remains almost unchanged. In 1983–84, the nationwide faculty totaled 56,564. In the current academic year, the number of faculty members is 95,568.

Where are they coming from? to a large extent, they were already there at the university on other payrolls, and were switched to the more bountiful cash flow of medical education, which draws on patient fees, federal research and amply loans to finance runaway tuition fees—to be repaid by high medical incomes.

A little-known fact of American higher education is that the highest paid people on many prestigious campuses are not university presidents. The big bucks go to the medical school professors. At Columbia University, according to the Chronicle of Higher Education, the president was pad $317,187 in 1994–95, while one professor of surgery received $1,526,397 and two others took in more than $1 million apiece.

At Cornell University, the president received $294,687 in pay and benefits in 1994–95. A professor of surgery at Cornell received $1.7 million in pay that year, while two others each took in over $1.2 million.

The president of New York University was paid $379,000. The chairman of neurosurgery got $748,342, while four other medical professors received more than $600,000 each.

At universities without medical schools, pay scales don't approach these stratospheric medical incomes. At Princeton, for example, the presidential pay was tops at $305,538, and the next five highest salaries ranged between $197,796 and $240,713. At MIT, the president received $285,000, and the next highest salary was $236,000.

The medical-school industry, in alliance with local politicians, is eternally resistant to downsizing pleas. The Pentagon wants to close the medical school that was forced on it by Congress in 1972, the Uniformed Services University of the Health Sciences, in Bethesda. The General Accounting Office says the school is excessive and satisfies only a tiny proportion of the armed services' physician requirements. But the school survives.

The Washington lobby for medical schools, the Association of American Medical Colleges, says the solution to the doctor surplus is to exclude foreign-trained physicians from residency slots. The downside to that prescription is that foreigners are willing to train and practice in inner-city areas that home-grown physicians tend to shun.

But whatever is done in the quest for surplus reduction, the odds are that it won't work. The medical-education industry is too smart and well-connected to be deprived of its golden goose.

Mr. MCCAIN. Reading from the editorial:

Don't expect anything but a hemorrhage at the Treasury from that new program to counter the doctor surplus by paying hospitals to reduce the number of residency slots for the final phase of medical training.

Reminiscent of the agricultural-support schemes that paid farmers for not growing crops, the medical plan was inspired by an immutable law of American medical practice: More doctors mean more medical spending, despite the penny-pinching tactics of managed care. So, stop them before they can start hustling patients, the Washington strategists concluded. The medical-education industry, however, is too profitable, inventive and resilient to yield to that tactic.

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* * * * *

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Mr. President, I will not complete the article. The medical education industry is too smart and well connected to be deprived from its golden goose.

Mr. President, let me read from a quick letter that we got from the Taxpayers Foundation. This is directed to the Secretary of Agriculture.

DEAR SIR: My friends, Wayne and Janelle, over at Wichita Falls, Texas, received a check the other day for $1,000 from the government for not raising hogs. So, I want to go into the ''not raising hogs'' business myself next year.

What I want to know is, in your opinion, what is the best type of farm not to raise hogs on, and what is the best breeding hogs not to raise?

The story goes on and on.

I want to be sure that I approach this endeavor in keeping with all government policies. I would prefer not to raise Razor hogs, but if that is not a good breed not to raise, then I can just as easily not raise Yorkshires or Durocs.

As I see it, the hardest part of this program is keeping an accurate inventory of how many hogs I haven't raised. My friend Wayne is very excited about the future of this business. He has been raising hogs for 20 years and the most he ever made was $420 in 1978, until this year, when he got your check for $1,000 for not raising hogs.

Mr. President, the letter goes on.

If I can get $1,000 for not raising 50 hogs, will I get $2,000 for not raising 100 hogs? I plan to operate on a small scale at first, holding myself down to about 4,000 ''not raised'' hogs, which will give me $80,000 income the first year. Then I can buy an airplane. Now, another thing: these hogs I will not raise will not eat 100,000 bushels of corn. I understand that you also pay farmers for not raising corn and wheat. Will I qualify for payments for not raising wheat and corn not to feed the 4,000 hogs I am not going to raise? I want to get started not feeding as soon as possible, as this seems to be a good time of the year to not raise hogs and grain. I am also considering the ''not milking cows'' business, so please send me any information on that also.

I hope that the Secretary of HHS will be ready to supply various teaching hospitals around America and people who want to go into the teaching hospital business how they can qualify for these hundreds of millions of dollars for not teaching doctors. I believe there will be a lot of entrepreneurs throughout the Nation that will want to qualify for a program that pays them hundreds of millions of dollars for not teaching doctors.

Mr. President, we will have more debate on this. It is a serious issue. I think it is a defining issue as to what we feel is the role of Government in our society.

I reserve the remainder of my time.

Mr. GRAMM. Mr. President, let me ask the Senator from Arizona to yield me 5 minutes.

Mr. MCCAIN. I yield 5 minutes to the Senator from Texas.

Mr. GRAMM. Let me begin where Senator MCCAIN left off.

It is a great paradox in a dramatic change in public programs subsidies. So, therefore, we are moving toward ending the practice of paying people not to produce things we do not want.

What an incredible paradox it is. At the very moment that we are getting out of the business of paying people not to produce agricultural products, the Federal Government is on the verge of paying medical schools not to train doctors.

Let me explain how the program came about and how it works and then try to end up as quickly as I can by explaining to people why, as chairman of the Medicare subcommittee, I am for the McCain amendment.

First of all, we set up a program to fund graduate medical education. It

was done a long time ago, but in essence, we were running a surplus in Medicare, so rather than coming up with a funding mechanism for training doctors, Congress simply reached into Medicare and took the money away from beneficiaries and from payroll taxpayers to fund graduate medical education.

It is an outrage that with Medicare on the verge of being insolvent, we are still plundering the Medicare trust fund to pay for graduate medical education. I believe that should end.

Basically, we have an entitlement program run by the Department of Health and Human Services which pays teaching hospitals for residents to be trained in various specialties. The average subsidy is about $100,000 a year per slot. About $35,000 of that amount goes to the resident and $65,000 to help fund the cost of graduate medical education.

Now, there is virtual unanimity that we are training too many doctors and too many specialists. Rather than going back and eliminating the entitlement or reducing the payment for the entitlement so that fewer schools will be providing the training to fewer students, Congress was afraid to change the program. It simply lacked the political courage to cut these entitlements to graduate medical schools.

So HCFA initiated a pilot program in one State, New York, and started paying medical schools not to train doctors.

Basically it works like this: If the teaching hospital agrees not to train a doctor they otherwise are entitled to receive funding to train, then we pay them the money. Interestingly enough, in the first 2 years of the program we are going to pay them $100,000. Yet by not training a resident, they do not have to pay a resident $35,000. So now they are getting $35,000 more for not training the doctor than they got for training the doctor during the first 2 years.

Now, basically, this is an absurd situation. The idea we are taking the taxpayers' money and paying people not to train doctors is almost unbelievable. If you went out and did a survey of the American people and asked them about this program, they would not believe the Government would be doing this. But not only are we doing it in a very small provision in this budget bill we passed, a provision that most Members knew absolutely nothing about, we are expanding this program from just New York to the whole country. So we are going to be paying people all over America not to train physicians.

The PRESIDING OFFICER. The Senator from Texas has used the 5 minutes.

Mr. GRAMM. I yield 1 additional minute and I will be through.

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

Mr. GRAMM. There will be people who come over and say, well, in the long run, it will save us money to pay medical schools not to train doctors. My response is that this is an absurd program. We ought to stop doing it. We ought to end the program right here on the floor of the Senate today. Then the committee can go back, because it will be forced to do something about the program, and come up with a coherent program to reduce the overall subsidy.

But we should not get into a situation where we are doing in medicine what we did in agriculture for years and years and years, and that is paying people to not produce things that we do not want.

It is unimaginable this has occurred. Yet it has. It needs to be stopped. I want to urge my colleagues to vote for the McCain amendment, and then all the technical things that need to be fixed about it we will fix later.

UNANIMOUS-CONSENT AGREEMENT

Mr. SPECTER. I think we are now ready for the unanimous consent request which I now propound.

I ask unanimous consent that the debate on the Gorton amendment No. 1122 be limited to 1 hour equally divided, that no amendments be in order to the Gorton amendment, and the Gorton amendment will be subject to a tabling motion at that time at the conclusion or yielding back of time.

Let me specify, so there is no doubt, the 1 hour of debate would be prior to the motion to table.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

Mr. SPECTER. Just to be clear, I want to be sure that we have an additional 10 minutes for the Senator from Arizona, in addition to his 1 hour, on the point of order which may be raised.

I ask unanimous consent that, in addition to the 1 hour on the McCain amendment, in the event a point of order is raised, Senator MCCAIN will have an additional 10 minutes to debate that.

The PRESIDING OFFICER. Without objection—

Mr. HARKIN. Reserving the right to object, Mr. President. As I understand it, the unanimous consent would be that after the hour of debate, equally divided, under the McCain amendment, since points of order are not debatable, it would be a motion to waive. If there is a motion to waive the point of order, that would be debatable, and Senator MCCAIN wants 10 minutes under that process.

Mr. SPECTER. That is correct. It was more precisely stated. It is 10 minutes to debate the motion to waive the point of order.

Mr. HARKIN. I would want to have 10 minutes in the event somebody over here wants to speak. So I would like it to be 10 minutes for Senator MCCAIN and 10 minutes on this side.

Mr. SPECTER. With that modification, I propound the request.

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

Mr. SPECTER. So that our colleagues may be aware of the sequencing, Mr. President, the debate on the McCain amendment, the first hour should run at approximately 3:40, and the conclusion on a motion to waive would be either at 3:50 or 4 o'clock, then an hour of debate on the Gorton amendment, and then there would be a vote on the McCain amendment. And in between, votes to be stacked on McCain and Gorton and after the vote on the McCain amendment, we will try to reach time agreements on the remaining amendments and try to clear at that time an agreement that Senator DURBIN proceed next on his amendment. I thank the Chair.

Mr. HARKIN. If the Senator will yield. For the benefit of Senators, what we are looking at right now is probably two votes that will take place at about 4:45 or 5 o'clock.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, in the absence of any other Senator seeking recognition, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENTS NOS. 1119, 1120, 1109, 1092, 1121, 1085, 1086, AND 1093, EN BLOC

Mr. SPECTER. Mr. President, I ask unanimous consent that the following pending amendments be considered, en bloc: amendment No. 1119 by Senator MURRAY, providing for an additional $1 million for the National Institute of Literacy; amendment No. 1120 by Senator BENNETT regarding school trust lands; amendment No. 1109 by Senator NICKLES regarding the Social Security Administration and the reporting of employer contributions; amendment No. 1092 authored by Senators MCCAIN and KERRY, regarding eligibility for benefits under Medicaid and SSI; amendment No. 1121, authored by Senator KERREY, regarding child care funding allocation errors; amendments numbered 1085 and 1086 by Senators DURBIN and LEVIN, regarding organ donation; amendment No. 1093 authored by Senators CRAIG and BINGAMAN regarding the maximum hour exemption for certain agricultural employees.

Mr. President, I further ask unanimous consent that Senators ROTH and MOYNIHAN be added as cosponsors to amendment No. 1109.

Each of these amendments I am advised, are appropriately offset and have the approval of both managers, as negotiated by staffs, and with the authorizing committees where necessary. I ask unanimous consent that the amendments be agreed to, en bloc.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments (Nos. 1119, 1120, 1109, 1092, 1121, 1085, 1086 and 1093) were agreed to.

AMENDMENT NO. 1085

Mr. DURBIN. Senator LEVIN will be offering a sense-of-the-Senate amendment that complements this amendment. I want to commend him for his

hard work in this area since 1979 when he succeeded in instituting directives aimed at increasing the number of military organ donors. Senator DEWINE's staff has also been most helpful in suggesting modifications to improve this amendment and we have incorporated all their suggestions into this amendment.

More than 50,000 Americans are waiting for organ transplants and hundreds of thousands more need tissue transplants. Every year, thousands die needlessly due to lack of donors. In 1996 alone, 3,916 people on the transplant waiting list died because no organs were available for them. Nearly one-fifth of all heart and liver transplant candidates die while waiting for organs. Every 18 minutes another person is added to the waiting list for organs. Each day, eight people die because an organ was not available. Yet since 1986, hospitals that participate in the Medicare or Medicaid Program are required to have in place policies to offer eligible families the option of organ and tissue donation. Last year at an HHS hearing on liver allocation and organ donation, Michael Evanisko, president of the Partnership for Organ Donation testified that at least half of the solution to the organ donor shortage could be achieved by focusing on hospital practices. The partnership's research with 11 organ procurement organizations and over 130 hospitals nationwide, in conjunction with the Harvard School of Public Health and Harvard Medical School, estimated that:

* * * if hospitals adopted optimal organ donation practices, an additional 5,000 donors would result, bringing the effectiveness of the donation system from one-third to nearly 70%.

The major impediments to donation, according to Evanisko, are whether families are approached about donation and how the request is handled.

Last year, Senators DORGAN and FRIST here in the Senate joined forces with myself and DAVE CAMP in the House and we added a section to the Kassebaum-Kennedy Health Portability Insurance Act, which resulted in taxpayers who were receiving a tax refund this year, at the same time received an organ donation request card. An estimated 70 million Americans received this solicitation. Those of us who worked hard to incorporate that provision into the bill, certainly hope that it will increase the number of organ donors. However, increasing the numbers of individuals with organ donor cards alone will not save lives, if hospitals do not effectively identify these eligible donors. Approaching families in a sensitive manner about organ donation is also extremely important.

My amendment would ask HHS together with GAO, to survey 5 percent of the donor hospitals in order to ascertain how the program is working nationwide. This information could be used to determine best hospital practices. This amendment complements our previous efforts to maximize the numbers of lives saved for those in need of organ or tissue transplants.

Mr. DEWINE. Mr. President, I rise today to support an amendment offered by my colleague from Illinois, Senator DURBIN. The Senator's amendment calls for a report to identify the best ways to recover organs and tissue from those who have died suddenly so that the lives of others can be saved through organ transplants.

Today, more than 54,000 Americans are waiting for an organ transplant; and 10 Americans will die each day before an organ can be found. And the sad fact is that these deaths are preventable. We have the technology to give these people a second chance through transplants—but while we have the technology, we don't have the organs.

I am convinced that much of this problem can be solved by making people aware of this problem and educating them about the need for organ donation. And I have been working on that for some time.

However, just as important is looking at the system we have in place for organ procurement—to see if there are structural hurdles that we can help remove. The law today requires hospitals to have a protocol in place for organ procurement. Not all do. Those that do don't necessarily work with the organ procurement organizations [OPO's] in their local areas. These are the hurdles that Senator DURBIN's amendment tries to address. The study that this amendment requires is an important one. I hope that it will provide us all with information about how best to identify appropriate organ donors and then, how best to approach their families. I would hope that this study would take into account the fact that these best practices may well be different in different parts of the country. To the extent the Secretary can identify these differences in her report, I think it would be meaningful to the hospitals and their respective OPO's.

When we fail to identify a potential donor or bungle our communication with a potential donor's family, we compound an already tragic situation. Already someone's family member—a mother, brother, or sister—has died. The second tragedy is that—despite that person's willingness to donate and save another's life—that wish is ignored or the request to the family is handled poorly, raising unnecessary doubts about donation.

I'd like to thank Senator DURBIN—I appreciate his thoughtful efforts toward increasing organ donation and improving organ procurement. I also want to thank him for accommodating my concerns in his amendment. I look forward to working with him in the future on this issue that is so important to both of us.

AMENDMENT NO. 1086

Mr. LEVIN. Mr. President, the need for organ transplants has continued to outpace the availability of transplantable organs. However, studies have shown that this trend can be reversed by improving the process that families experience in hospitals. Congress recognized the vital role that hospitals can play in organ donation when it enacted legislation to require hospitals to be responsible for facilitating organ donation. The Omnibus Reconciliation Act of 1986 and subsequent legislation, requires organ procurement organizations and hospitals to establish organ donation protocols to enable hospitals to initiate requests, on a routine basis, for organ donation.

A recent Harvard School of Public Health study, based on the examination of thousands of medical records in 125 hospitals in four regions of the United States, found that despite the legal responsibility to inform surviving family members of donation options, many hospitals frequently fail to do so. According to the study, 27 percent of potential donors were lost either because health professionals did not identify potential donors or did not ask families about organ donation.

Mr. President, the amendment I am offering today seeks to bring attention to the potential of hospitals to alleviate the donor shortage, and to shed some light on the fact that hospitals can improve their donor policy by instituting demonstrated best practices in organ donation. There are a number of major initiatives underway focusing on hospital practices in organ donation that can result in saving thousands of additional lives in the not-too-distant future.

For example, the Michigan Hospital Association (MHA) is embarking on an important initiative to encourage its members to improve their organ donation effectiveness. It includes identifying stragies designed to improve the organ donation consent process and examining all aspects of the process, from community education to provider interaction with the family. The initiative will also generate specific recommendations to improve the tissue donation process, as well as major organ procurement.

The Association of Organ Procurement Organizations is in the midst of a major pilot project to conduct reviews of deaths that have occurred in hundreds of hospitals across the country. This project will provide an unprecedented level of information on organ donor potential and performance and lead to targeted strategies to help hospitals improve their effectiveness.

Additionally, The Partnership for Organ Donation, in collaboration with the University HealthSystem Consortium (an alliance of 70 academic health centers), has begun a major initiative to improve organ donation practices in hospitals across the country. The goal is to increase organ donation significantly in these hospitals by institutionalizing best-demonstrated practices. The project follows an ''action research'' design, which includes diagnosing hospital performance, building

consensus on the donation protocol, establishing a donation team in the hospital, educating all relevant staff in-depth, enacting the new protocol, and on-going monitoring for quality assurance. The project ultimately will lead to practice guidelines for organ donation, which, if adopted nationwide, could provide organs for many of the 53,000 Americans currently awaiting transplants. it is currently being implemented in a number of leading hospitals, including Henry Ford Hospital in Michigan, Virginia Commonwealth University's Medical College of Virginia Hospitals, University of Iowa Hospitals and Clinics, Oregon Health Sciences University Hospital and Clinics, Ohio State University Medical Center, Medical College of Ohio, St. Vincent Medical Center of Ohio and Riverside Hospital in Columbus, Ohio.

Collectively, these innovative endeavors will prove that patterns of nondonation can be modified. Mr. President, my amendment is aimed at encouraging hospitals to alleviate the donor shortage and sheds some light on demonstrated best practices that can improve organ donation in hospitals. It also expresses the sense of the Senate that hospitals that have significant donor potential shall fulfill their legal responsibility to assure a skilled and sensitive request for organ donation to eligible families. The Harvard study estimated that 5,600 additional lives could be saved each year if hospitals improved their practices relative to donation requests. A Gallup survey indicated that 85 percent of the American public supports organ donation, and 69 percent describe themselves as likely to donate their organs upon death.

Mr. President I understand that the amendment has been accepted. I thank the managers of the bill for their support. I would also like to acknowledge the support and cosponsorship of this amendment by Senator Thurmond, Senator Durbin, Senator Inouye and Senator Dorgan. Mr. President, I understand that the managers will also accept the Durbin-Levin amendment requesting the U.S. Department of Health and Human Services together with the General Accounting to conduct a comprehensive survey of donor hospitals to ascertain:

(1) the differences in protocols for the identification of potential organ donors

(2) whether each hospital has a system in place for such identification of donors, and

(3) protocols for outreach to the relatives of potential organ or Tissue donors.

The report will also include the Secretary's recommendations on the most efficient and comprehensive practices for identifying organ and tissue donors and for communicating with relatives of potential organ donors.

I commend Senator Durbin for all of the innovative work he is doing in the area of organ donation. Of particular note is Senator Durbin's Organ Donation Insert Card Act which was enacted into law over a year ago that I was pleased to cosponsor. The insert card is included along with the tax refunds to millions of Americans giving them the opportunity to indicate if they want to become an organ donor.

Mr. President, these organ donor measures, including my negotiations over the past decade with Department of Defense Health officials to increase the number of military organ donors, complement efforts to maximize the numbers of lives saved for those in need of organ or tissue transplants. I am encouraged that the two Department of Defense Directors instituted a number of years ago will result in every member of the military having an opportunity to indicate if they wish to become a donor. Under the Directive:

> Unless contra-indicated medically, legally, or for religious reasons, organ and tissue donation shall be discussed with next of kin in every death in a military Medical Treatment Facility including Uniformed Services Treatment Facilities.

Additionally, the Department of Defense has instituted the process of including organ donor information in the Defense Enrollment Eligibility Reporting System (DEERS). In April of 1995, the Department reported a 30 percent positive response to this directive, which had not yet been fully implemented.

AMENDMENT NO. 1109

Mr. NICKLES. Mr. President, in 1989, Congress enacted legislation that requires that the Social Security Administration provide workers with regular statements about the value of their Social Security benefits. SSA is required to send these forms—known as the Personal Earnings and Benefit Estimate Statements (PEBES)—to any eligible individual who requests one and was mandated to send an annual PEBES to each eligible workers over the age of 59 in 1995.

In FY 2000, the Secretary will be required to send this form annually to all eligible workers over the age of 25—An estimated 123 million Americans are expected to receive this form in FY 2000. The SSA projects that the cost of administering this law in FY 2000 will be $80 million.

These forms are specifically designed to help beneficiaries understand the value of their Social Security benefits. While I agree with the stated goal of the PEBES forms, I do not agree that the PEBES form in its current design meets the test of providing that information. In fact, I believe that in its current structure the PEBES form is misleading to beneficiaries.

Right now, individuals are provided an estimate of their retirement benefit. They are provided a yearly breakdown of their reported earnings, and a yearly breakdown of the taxes he or she paid. What is NOT reflected in this statement is the employer's contribution. My amendment will require the Social Security Administration to include the employer's contribution on the PEBES statement.

By not including the employer's contribution, the form misleads workers on the actual amount of money being contributed into Social Security on their behalf and distorts the true rate of return on their taxes.

Most people think that FICA represents 7.65 percent of their wages. Actually, it is twice that when you consider the employer's contribution totaling 15.3 percent—12.4 percent designated Social Security and 2.9 designated to Medicare.

Mr. President, the employer share of FICA is a labor cost. This is a cost of employing somebody in this country. This is compensation that is not available to go to the employee but instead is contributed on their behalf through FICA taxes. While we refer to this as the employer share, in reality this additional 7.65 percent comes out of the employee's compensation.

The PEBES is only telling half the story. Omitting the employer's share of FICA is a gross misrepresentation. The worker who looks at his or her statement will falsely assume that their estimated benefit is providing them a much higher rate of return. In fact, the rate of return is much lower because the taxes that a person is paying is actually TWICE what the PEBES form indicates.

The PEBES form does provide for representation of the self-employed share, however, those workers who are not self-employed are not getting the truth about the performance of their Social Security taxes.

Mr. President, my amendment is simple. It will require that we are honest to taxpayers about not only what their full benefits will be but that we are also honest on what the full cost of those benefits are. If we are going to take the time and resources to educate workers on their benefits we should ensure that it is done honestly and correctly.

Frankly, I believe that we would improve the PEBES form even more by tackling some of the issues that Senator Grams has laid out in his legislation Workers should be informed on the real rate of return on their taxes; they should understand how the Social Security program is performing compared to the private market; and finally, when the Social Security Administration projects benefit estimates they should also be required to inform beneficiaries that the trust fund won't be able to pay benefits after 2029.

I am pleased that this amendment has been accepted by the managers of the bill and I believe it will help improve one of the few tools available to us in educating the public about planning for their retirement.

AMENDMENT NO. 1093

Mr. CRAIG. Mr. President, I am pleased that the Senate is considering today an amendment I am offering with Senators BINGAMAN and DOMENICI.

This amendment to S. 1061 would make a change to the Fair Labor Standards Act (FLSA) that is narrow

in scope, but is of critical importance to irrigators in Idaho and the West.

Our amendment solves a problem with the interpretation of a provision of the FLSA.

Currently, nonprofit organizations that deliver water for agricultural purposes—such as water districts organized by local governments, co-ops, and non-profit corporations—are exempt from the maximum-hour requirements of the FLSA.

However, according to the Department of Labor, if even one drop of this water is used for purposes it considers ''non-agricultural'', then the water delivery organization loses its exemption and severe penalties can be imposed. This is true even for minimal or incidental uses, such as road watering, lawn and garden irrigation, or livestock consumption. Such uses may be closely related to, but technically not interpreted as being, ''agricultural purposes''.

Our amendment clarifies that the maximum hour exemption applies to water delivery organizations that supply 90 percent or more of their water for agricultural purposes.

The work being done for these organizations is very seasonal. Irrigation has never been, and can not be, a 40-hour-per-week, 12-months-a-year, undertaking. During the summer, water must be managed and delivered continually. Later in the year, following the harvest, the work load is light, consisting mainly of maintenance duties.

Our amendment is better for employers, workers, and farmers.

If a water delivery organization is forced to pay overtime during the summer, it will have to lay off workers in the winter. Then it will hope that skilled, specialized workers, who know the equipment and the area, are available again next spring. Our amendment solves this problem, by promoting a stable work force and level costs, year-round.

This adjustment also helps ensure year-round incomes and job security for employees.

Our amendment restores the flexibility that traditionally existed and was always intended by Congress. It more accurately reflects the realities of agricultural water delivery.

Representative MIKE CRAPO of Idaho has introduced a similar measure in the other body. It is our hope that this adjustment finally will become law this year.

Finally, I want to acknowledge a former member of my staff, who is now an attorney in Idaho, Norm Semanko. Norm actually began work on this amendment some time back and laid the groundwork that has led up to its adoption by the Senate today. My staff still refers to this amendment as the Semanko Act.

I understand this amendment will be accepted on both sides. I thank the managers of the bill for their support and assistance; the chairman and ranking member of the Labor and Human Resources Committee, with whom we consulted; and Senator BINGAMAN and his staff for their strong efforts on behalf of this amendment.

Mr. BINGAMAN. Mr. President, I'm cosponsoring this amendment to section 13(b)(12) of the Fair Labor Standards Act, to make this law reflect the on-farm realities in the West. I believe this amendment follows what must have been the true intent of legislation in the first place. Section 13 is a long list of occupations that for one reason or another we have exempted from the various overtime requirements of the law. Section 13(b)(12) in particular exempts employees of irrigation districts.

The reason for this exemption has to do with the requirements of farming in the arid West. In my home state of New Mexico, for example, we usually have two to three months each year, from about mid-May to the end of July, where we get little or no rain. This yearly dry spell is right at the height of the dry season, and if a farmer can't irrigate his crops they die. Because of the expense of irrigation systems, most farmers belong to an irrigation district that maintains a system of canals and ditches to supply water to their fields. Most irrigation districts employ their ditch riders year round so that they know the system, the individual farms, and the needs of each farmer in the district, and don't have to relearn the process every year. With year-round employment these folks are an integral part of the farm community. However, the work these people do is very seasonal. Typically, a ditch rider will work long and hard hours during the summer irrigation season, and have a relatively lax work schedule the rest of the year. In enacting section 13(b)(12), Congress recognized the importance that year-round employment has for both the ditch riders and their families, and the farming community. However, it appears that in acknowledging the unique working conditions required for western farms, that the law was written too narrowly. The current section exempts:

> . . . any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes.

The phrase ''exclusively for supply and storing of water for agricultural purposes,'' has recently been interpreted by rulings in the 9th and 10th Circuit Courts to mean that all of the water from a district's system must be used for irrigation or the district loses the exemption.

This strict all or nothing approach just doesn't match with the reality of western farming communities and the day-to-day life on a western farm. In the dry and dusty summer months it is very typical for farmers to use of their irrigation water for dust control, and for watering their lawns and flower beds. That is just human nature. However, the vast majority of water is used for growing crops.

Mr. President, this amendment, which changes the exemption to required that ''at least ninety percent'' of the water be used for agriculture, merely reflects a practical application of this long established exemption. As the irrigation season is just winding down for this year, the farm districts will soon be making decisions regarding whether to retain their ditch riders in light of the recent court rulings. With this in mind, I ask my colleagues to accept this amendment now, so that there won't be any disruption to these people's lives.

AMENDMENT NO. 1120

Mr. BENNETT. Mr. President, in the Federalist Papers, Madison tried to allay fears of a Federal government overpowering state and local concerns, by stating:

> . . . where on one occasion improper sacrifices have been made of local considerations to the aggrandizement of the federal government, the great interests of the nation have suffered on a hundred from an undue attention to the local prejudices, interests, and views of the particular States.
>
> . . . But what degree of madness could ever drive the federal government to such an extremity?—Federalist Paper, No. 46.

Mr. President, while Mr. Madison believed that Federal encroachment of local interests would be rare, I believe the State of Utah finds itself in that circumstance. Utah's education budgets are being improperly sacrificed by federal action. Mr. Madison predicted that legislative devices would be used to solve these types of problems. He was right. Today I am offering an amendment in an attempt to do just that.

Last September, the President created the 1.7 million acre Grand Staircase-Escalante Monument in Utah. While I vehemently disagreed with the process the Administration used to designate this monument, it is now a fixture on our map. We must now move on and work toward resolving the problems that were created by this Proclamation.

One of the most important issues that must be addressed are the 176,000 acres of school trust lands trapped within the boundaries of the monument. For those of you who are not familiar with school trust lands, let me briefly explain. At statehood, the federal government granted about one-ninth of the lands in Utah for the support of public education. School trust lands exist solely to generate revenue for public schools.

President Clinton, in designating the monument acknowledged the impact to state education funds. He stated, ''I know the children of Utah have a big stake in school lands located within the boundaries of the monument that I am designating today . . . creating this national monument should not and will not come at the expense of Utah's school children.'' Utah's citizens, and

education groups, including the Utah's Education Association, the Parent-Teacher Association, the School Boards Association, the State Board of Education, the School Superintendents Association, the Association of Elementary School Principals, the Association of Secondary School Principals, and School Employees Association agree, and have spoken loudly and clearly about the need to solve this problem for the benefit of Utah's school children.

President Clinton then directed the Interior Department to conduct a land exchange of school trust lands located within the Monument. While this is one of the most realistic solutions to this problem, it will not be easy. Land exchanges are expensive, time-consuming, and unfortunately, will negatively impact tight State education budgets. In a May 14 report on the Grand Staircase-Escalante Monument, the Department of Education reached the following conclusion:

> The Department [of Education] recognized that the process of arranging for land exchanges exacts costs on the State of Utah . . . These costs are paid from funds that would otherwise be available for public education.

Mr. President, this amendment provides a grant to the Utah State Education Agency to partially defray expenses of conducting a land-exchange. State education funds are badly needed to educate Utah's children.

I would like to thank Senator SPECTER and Senator HARKIN for their assistance, and leadership in education. I look forward to working with them, the Department of Education and the Administration on this issue, and appreciate their willingness to work with me.

AMENDMENT NO. 1111

Mr. SPECTER. Mr. President, I ask unanimous consent that the pending amendment be set aside and that the Senate turn to the consideration of amendment No. 1111 to Senate bill 1061.

AMENDMENT NO. 1123 TO AMENDMENT NO. 1111

(Purpose: To assure the Medicare Commission examines the role of medical research and long-term care in the future of Medicare)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from Iowa [Mr. HARKIN], for himself and Mr. FEINGOLD, proposes an amendment numbered 1123 to amendment No. 1111.

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

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

The amendment is as follows:

> At the end of line 3 in the pending amendment insert the following: ": *Provided further,* That in carrying out its legislative mandate, the National Bipartisan Commission on the Future of Medicare shall examine the role increased investments in health research can play in reducing future Medicare costs, and the potential for coordinating Medicare with cost-effective long-term care services".

Mr. HARKIN. Mr. President, this amendment provides $900,000 for the first year costs for the bipartisan Commission on Medicare authorized in the Balanced Budget Act of 1997. The additional funds are fully offset.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SPECTER. That amendment is agreeable to this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment.

The amendment (No. 1123) was agreed to.

Mr. SPECTER. Mr. 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.

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

The amendment (No. 1111), as amended, was agreed to.

Mr. SPECTER. I move to reconsider the vote.

Mr. HARKIN. I move to lay that on the table.

The motion to lay on the table was agreed to.

Mr. HARKIN. I ask unanimous consent that the RECORD be corrected to reflect that amendment No. 1115 is a Harkin amendment, cosponsored by Senators BINGAMAN and KENNEDY.

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

Mr. HARKIN. I ask unanimous consent that Senator BINGAMAN be added as a cosponsor to amendment No. 1101.

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

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. How much time is remaining on both sides on the pending McCain amendment?

The PRESIDING OFFICER. The Senator from Arizona has 15 minutes 30 seconds. The Senator from Iowa has 21 minutes.

Mr. McCAIN. Mr. President, I yield myself 5 minutes.

Mr. HARKIN. If the Senator will withhold, will the Senator yield for a unanimous-consent request?

Mr. McCAIN. Yes.

PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Janet Goldberg, a detailee in my office, be permitted privileges of the floor on the debate of the Labor, Health and Human Services appropriations bill.

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

The Senator from Arizona is recognized.

AMENDMENT NO. 1091

Mr. McCAIN. I yield myself 5 minutes, and then I hope that the opponents of the amendment will use part of their time because I don't intend to use all of my time since I would like to save some time at the end.

Mr. President, there is going to be a budget point of order. I will respond to that at the right time. I remind my colleagues that the provision contained in the Balanced Budget Act was not contained in the balanced budget bill passed by the full Senate. The full Senate never had the opportunity to review this provision. Not only did the Senate not have the opportunity to debate this provision when we considered the budget bill in June, we were not given sufficient time to clearly examine the budget bill after conference.

The Balanced Budget Act is over a thousand pages, and we had less than 24 hours to review the final draft after receiving it from the conferees. Mr. President, it is also well known that a provision originally was going to be included that would affect only the State of New York, and then it was expanded to the entire country.

Mr. President, I just read a very amusing—at least to me —letter from a fellow that wanted to not raise hogs or not grow grain. I have been amused somewhat by this proposal that we would pay teaching hospitals not to teach, or pay farmers not to grow, or to pay anybody not to do something. It is somewhat amusing, but at the same time, occasionally in this debate we should focus on the fact that there are 46 million Americans who still lack access to doctors and medical care in America.

Here we have a situation where, according to the Health and Human Services Department, 46 million Americans don't have access to health, doctors, and medical care, yet, now we are going to restrict the supply of doctors in America. It flies in the face of every fundamental belief that I have, ranging from what capitalism and the free enterprise system is all about to what our obligations as a society are.

If we are going to restrict the number of doctors, how in the world are we supposed to take care of these 46 million Americans who live in rural communities and inner-city neighborhoods and have shortages of physicians and health care professionals? The very poorest people in America, Mr. President, are the ones who don't have health care, and now we are going to deprive them of the possibility of treatment?

There are programs that serve underserved areas, including the National Health Service Company, Area Health Education Centers, Interdisciplinary Training for Health Care in Rural Areas, Community Health Center, Migrant Health Centers, and the Health Professions Work Force Development Program.

I hope that my colleagues will join me in rejecting this proposal that somehow we are helping Americans by restricting the number of doctors. Mr. President, in its own bizarre fashion,

the CBO is claiming this will cost the American taxpayers money. I find it bizarre. I find it incredible. And the fact is that if we are now going to accept the assumption of the CBO that we save money by not having teaching hospitals teach, then clearly we can save money by not having other organizations in America that receive Federal subsidies do their job as well. It seems that it is only the medical profession that seems to be able to get away with this.

By the way, Mr. President, this experiment ''* * * will pay hospitals in the State''—the State of New York, not the entire country but just in the State of New York—''$400 million over the next several years, while they gradually decrease the number of young doctors they train.''

My understanding is that there will be no change for the first 2 years of this.

That experiment ''* * * drew an outcry from teaching hospitals elsewhere that felt New York had wrangled a lucrative special deal. Their protests attracted the sympathy of congressional Republicans who decided that, instead of trying to block money for New York, they would expand the opportunity nationwide.''

To quote further:

The payments represent a rare attempt by the Federal Government to use subsidies as leverage to shrink a particular work force. ''I know of no profession where there has been as much Federal effort to regulate,'' said Uwe Reinhardt, a health economist at Princeton University. ''You don't do it for economists, for architects, for engineers.''

The payments also are the government's first effort to constrict the pipeline of people entering the medical profession. Several influential groups have warned lately that the nation has too many doctors, particularly specialists, and have urged the federal government to impose limits on the number of recent medical school graduates, known as residents, who pursue several years of advanced training before beginning to work on their own. But until now that advice has met with legislative resistance.

The New York experiment and the nationwide initiative hinge on changes in Medicare, the largest federal insurance program for the elderly and disabled. Since it began, Medicare has underwritten residency training programs heavily and has, in effect, made residents a prized, inexpensive kind of labor for their hospitals. Taxpayers spend $7 billion a year on such training.

Until now, many teaching hospitals have been reluctant to cut back, because every resident translates into an average subsidy of $100,000 a year. ''It has not been financially rewarding to downsize,'' said Muncey Wheby, associate dean for graduate medical education at the University of Virginia.

Under the budget agreement, hospitals that downsize will not get extra money outright. But if they volunteer to reduce their residency programs by 20 percent or 25 percent over five years, Medicare will cushion the financial blow. For the first two years, it will pay the whole subsidy for the missing residents. After that, the payments will taper off for three years.

The agreement also for the first time essentially forbids hospitals to increase the sizes of their residency programs.

Mr. President, the article goes on with other suggestions:

But others suggest that hospitals will be rewarded needlessly for cutbacks that some have started to make without being paid to do it. Some say the initiative is the medical equivalent of discredited agricultural programs that have paid farmers not to grow certain crops.

''I don't know where the hell as Republican Congress gets off doing labor force planning for the medical profession,'' said Robert E. Moffit, deputy director for domestic policy studies at the Heritage Foundation, a conservative think tank. ''As an economic principle, it is absurd.''

How many physicians the nation produces has important effects on the cost of the health care system. The greater the number of doctors, research has shown, the more medical tests and expensive specialty treatment patients tend to receive, because physicians find subtle ways to keep themselves employed.

With more than 700,000 physicians, the United States has more doctors per capita than virtually any other country. In particular, it has a vast supply of specialists, who are starting to find themselves in less demand as more patients are insured through ''managed care'' plans that favor treatment by lower-cost medical generalists.

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

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

Mr. MCCAIN. Mr. President, in light of the fact that I am the only one here on the floor, I ask unanimous consent that the time be taken off the time of the opposition to the amendment.

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

Mr. MCCAIN. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be taken from the opposition to the amendment.

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

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, could I ask how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Arizona controls 7 minutes; the opposition controls 4 minutes and 53 seconds.

Mr. MCCAIN. Mr. President, I know that the opponents of this amendment would like to make some comments.

Oh, here is one right now.

Mr. DOMENICI. Mr. President, I seek recognition.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Who is the opposition?

I guess I am the opposition.

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

Mr. DOMENICI. How much time do I have?

The PRESIDING OFFICER. The Senator has 4 minutes 50 seconds.

Mr. DOMENICI. Who dealt away all my time in opposition?

The PRESIDING OFFICER. It was running during the quorum call.

Mr. DOMENICI. First let me apologize. I was at the Senate Committee on Governmental Affairs. Frankly, of all the times you could have, I was actually asking questions. But I do not need any more time.

Mr. MCCAIN. I was just going to say I ask unanimous consent to give the Senator from New Mexico some additional minutes if he would need them.

Mr. DOMENICI. Mr. President, I do not need anything. The only thing is, did the distinguished chairman of the Finance Committee, Senator ROTH, speak?

Mr. MCCAIN. No.

Mr. DOMENICI. I am wondering if he would like to speak.

That is the reason I raised this, I say to the Senator, but they are going to send for him.

He spoke earlier in the day.

Mr. President, I do not need but just a few moments. I was not privileged to hear Senator MCCain and those who proffered this amendment. But let me first say that whatever they said about the status of the way we through the Federal Government are funding medical doctors' education, both straight medical school and for specialties, whatever they said about how egregious it is, they are probably right.

The point is that what they seek to do is not going to help a bit because what has actually happened is that we are paying for medical education out of the Medicare fund, and we have been doing it for a long time. That is sort of a way for you to fund medical education, and if nobody knows about it, it doesn't count very much because it is coming out of what was always a very big trust fund. As a consequence, medical education is costing a huge amount of money and the biggest player—so everybody will understand this issue of who is going to decide how many doctors we have, right now the biggest player is the Federal Government. We are the ones putting huge amounts of money into the teaching hospitals that permit them to teach as many doctors either general medicine, their first years through, or their specialties.

Obviously, we are proud that that system has yielded the best doctors in the world, I do not think there is any doubt about that, including the best specialists in the world. But the cost is enormous, something like $100,000 a doctor. And let me repeat, we, the taxpayers, through this mechanism are paying for that. So in a sense we already are the switch that is going to determine how many doctors we have and how many we do not have. And now all of a sudden in the budget debates there is a recognition that we cannot afford to spend as much as we have been spending.

So the experts from the various committees and staffers—and I only regret to say I am not on the committee with jurisdiction. I was there negotiating with our distinguished leader, but the

conclusion was we have to save some money on this Federal expenditure producing these doctors in particular since there are too many being produced, at least more than we ought to be paying for. Maybe that is the way I ought to say it. If they want to produce more and somebody wants to pay more money, that is the marketplace, good luck. But we are the marketplace substantially now, the taxpayers.

So nobody wants to cut the subsidy. The AMA does not want us to cut the subsidy. The schools that are great schools do not want us to cut the subsidy. So to save money somebody came up with an idea to start a pilot project and see if in New York you said to the schools produce less doctors, we give you less money, and of the money saved, you get half and we get half.

As this budget worked its way through the Congress, through the conference and debates, somebody said if you are going to try the pilot in New York, try it all over the country. So what we have is language in a budget deal that has already been voted in that says try this everywhere in the country and see what we get out of it.

The end product, Mr. President and fellow Senators, is that the Congressional Budget Office estimates we will spend $230 million less this way than if we did not do it this way. So essentially, whether one likes the idea or not, the alternatives are very simple. One, if you take it out, as Senator MCCAIN is recommending, you spend more money.

Could I have an additional minute, 2 minutes?

You do what Senator MCCAIN is asking us to do and you spend $230 million more according to the Congressional Budget Office. I have no reason to discount that information.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senator from New Mexico be granted 5 additional minutes.

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

Mr. DOMENICI. I thank the Senator.

So one option is to take it out and lose $230 million which the budget process has not found anywhere, and Senator MCCAIN and his supporters are not finding anywhere. So it is essentially breaking the budget by $230 million, which means when the time has all expired, I will make a point of order that it violates the Budget Act and the Senators can vote up or down do they want to violate the Budget Act or not. If they do, we would lose $230 million, and that is their call collectively, and we need 60 votes to do it.

One should ask, if the McCain amendment succeeds, where are we? The interesting thing is if the McCain amendment passes, we are right back to where we were before with the Federal subsidy program in place. We haven't reduced it significantly—a little bit, but we are still in there subsidizing just as we have been with a little bit less money.

What we really ought to do is decide how we are going to change this. If we are putting too much money into the education of doctors at every level including specialists, we ought to put less in, and that is what we do not have the intestinal fortitude to do. And I guarantee you if a committee that has jurisdiction came to the floor with a proposal that said we are going to reduce the subsidy significantly so we don't spend as much money, thus you teaching hospitals get less, there would be a huge uproar and every Senator who has a major medical hospital and educational institution that produces medical doctors will be here talking—I see my friend from New York. He would be here certainly, and so would Senator MOYNIHAN—saying it is the end of the world, it is the end of medicine as we know it. We did not do this.

I frankly believe in the long run we have to do it. We cannot have so much capacity paid for by the Government. In the long run the private sector can pay anything they want and families can pay if they want. But the Federal Government to be the catalyst for producing more doctors than anybody thinks we need is just kind of absurd.

So on the one hand I thank Senator MCCAIN and his supporters for bringing this issue to the Senate. And maybe, win or lose, he will have prompted us to do something we ought to really do about this program, and I submit it is not to do what we have done in the budget. I do not have any alternative but to support it today and say, if we take that out, we lose a substantial amount of money. Nonetheless, Senator MCCAIN and those supporting him will have had an educational exercise here and I think I have contributed to it.

Mr. D'AMATO. May I make an inquiry?

Mr. DOMENICI. Sure.

Mr. D'AMATO. Did the Senator raise the point of order?

Mr. DOMENICI. No. I will when the time is up. You can't until the time has expired. If I had any time——

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. DOMENICI. The Senator wants to speak in opposition?

Mr. D'AMATO. Yes.

Mr. DOMENICI. I will give the Senator the remaining minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. D'AMATO. Mr. President, I have heard the Senator from New Mexico, and I agree with him. I also think that the Senator from Arizona does us a great service by saying, look, this may not be the methodology, the best method of paying for the training of our doctors, but, having said that, that is the system that exists. The legislation that the Senator's amendment would affect is designed, maybe imperfectly, to begin to reduce those expenditures, those moneys that come out of the Treasury.

Let me say this to you: It is not fair to say that we are paying for doctors that are not going to be in training and, indeed, again, the proposal that the administration has put forth and that the committee has expanded that goes beyond New York and now nationwide, those dollars will be used to provide adjustment assistance, because as these hospitals downsize, they are going to have to hire additional staff doctors, nurse practitioners, physician assistants and other personnel to replace the residents who now treat Medicare patients.

So this is a canard to simply say we are giving you money not to train doctors. It is transition and, in the fullness of time, will save the taxpayers, depending upon who is doing the scoring, as much as $350 million. You can't knock a program on one hand and say you are paying all this money and we should reduce it, and when you come up with a methodology to reduce it then say, ''Oh, no, that's not the right methodology.''

Show us a way in which you do that and don't throw the teaching hospitals into chaos. This is the manner that I would suggest, as imperfect as it may be, that the committee came up with. For those reasons, I hope that we will refrain from piling on and supporting the McCain amendment which does not help the situation.

The PRESIDING OFFICER. All time in opposition has expired. The Senator from Arizona has 6 minutes remaining.

Mr. MCCAIN. Mr. President, I will be glad to give 2 additional minutes to the Senator from New York if he would like.

Mr. D'AMATO. Mr. President, I thank the Senator for his generosity. I think I have made our point, but the Senator couldn't be more gracious in providing us that opportunity.

Again, I do hope we can find a better way to fund this, because I don't think people know that the Federal Government put so much money into teacher training. If there is a better way to fund it and finance it, I think we should look for that.

Mr. DOMENICI. Will the Senator yield me 30 seconds?

Mr. MCCAIN. I yield 30 seconds to the Senator from New Mexico.

Mr. DOMENICI. I made a mistake, Mr. President, in giving you the estimate of what this will cost the budget. I gave you $230 million. The Congressional Budget Office has now looked at the whole country, because this applies to the whole country, and their estimate now is, so everyone will know, if the MCCAIN amendment is adopted, the budget will be, in the first 5 years, $390 million short. That is, that much will be added to the deficit and, over 10 years, believe it or not, it is $1.9 billion. I yield the floor.

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

The PRESIDING OFFICER. The Senator from Arizona has 5 minutes 20 seconds remaining.

Mr. MCCAIN. I yield myself 1 minute, and I will then yield the Senator from Texas the remaining time.

Mr. President, the Senator from New Mexico asked where would we be if my amendment is adopted? We would not be in the business of paying people not to do things. We would not be, through central planning and pure socialism, deciding what the supply of doctors in this country is when there are 46 million Americans that do not receive health or medical care in America today. That is an outrage and an insult.

We spend our time fighting on the floor of this Senate about appropriating more money to take care of health care for kids, more money to take care of health care for elderly Americans. How in the world are we going to do that if we don't have enough doctors? The fact is that the Senator from New Mexico asked where would we be? At least we would not be in the bizarre and incredible situation where we are paying schools not to do anything.

We tried this with the agriculture program, Mr. President. We tried it before, paying people not to grow crops. It doesn't work. You don't adjust people's behavior by doing such things and, believe me, this amendment, this provision—I allow myself additional 30 seconds—I want to point out again the process that this went through. Never a word of debate on the floor of the U.S. Senate on the Balanced Budget Act. I don't know what in the world this has to do with balancing the budget, but what it had to do with was a provision that was stuck in on the House side and, in less than 24 hours, we had to examine a 1,000 page document which clearly nobody on this floor today, with the exception of the Senator from New Mexico, had a chance to examine or debate. This is not the right way to legislate. This is not the right way to conduct our business in America.

I yield my remaining time to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 3 minutes 30 seconds.

Mrs. HUTCHISON. Mr. President, I will just inform the Senator from Arizona that I will be happy to yield back a minute of my time since he so generously has given me the last time.

Mr. President, let me just say that I am a supporter of medical education. I have supported every amendment that has come through here, and I have sponsored amendments that add to the medical schools' part of Medicare funding. I want medical schools to be funded. But, Mr. President, this is not the way to do it. In fact, the University of Texas, which is a school that has one of the best medical schools in the whole United States, has said this is bogus, and they have refused to take the extra funds in this way not to train medical doctors. They are not in the business of not training medical doctors, and they have refused this money because this is the wrong way to go.

Only in Washington would we address the issue of an oversupply of doctors by funding not teaching doctors. Some would say, if this were a debate to increase spending not to educate lawyers, maybe it would be worthwhile. But, in fact, we are not going to do anything so silly as to pay not to train doctors or lawyers or any other professionals in this country. This is not the way to address the issue of oversupply. The issue of oversupply is real.

The issue of training doctors is very important. In fact, I would like to increase funding. I wish that we could substitute what we would save here and put it into other parts of Medicare funding, perhaps rural medical education, which is suffering greatly.

I believe in teaching hospitals. I do not believe in paying hospitals not to teach, and I hope we can correct that inequity. I hope we can legislate in a responsible way. I hope that we can put our money into Medicare, into medical education, into training doctors, into rural health care where we need the money, but I do not want to spend one dime not to train doctors with added funds. It doesn't pass the smell test, and I am proud to say that the University of Texas, from my home State, is not taking these dollars because they believe this is bogus. They need money to train doctors in the best way, but this is not the best way.

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

The PRESIDING OFFICER. The Senator from Arizona has 30 seconds remaining.

Mr. MCCAIN. Mr. President, I just will comment that I was very interested in hearing the statement of the Senator from Texas that indeed there is a university in America that has decided they don't need to be paid not to train doctors. Of course, I put a further credibility test on this argument that somehow teaching hospitals across America have to have this huge subsidy not to train doctors. I hope more schools and universities will follow the example of the University of Texas.

The PRESIDING OFFICER. All time has expired on amendment No. 1091. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, can I have 10 seconds before I make my motion? I, too, hope all the hospitals do that. If they do, we will save $390 million and over 10 years we will save $1.9 billion. I think that would be an exciting end product.

Mr. President, the McCain amendment increases mandatory spending and is scored against the subcommittee's allocation. This additional spending would cause the underlying bill to exceed the subcommittee's allocation. Therefore, I raise a point of order against the amendment pursuant to section 302(f) of the Budget Act.

MOTION TO WAIVE THE BUDGET ACT

Mr. MCCAIN. Mr. President, I move to waive the budget point of order pursuant to section 904 of the Budget Act, and 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. MCCAIN. Mr. President, I ask unanimous consent that the yeas and nays be delayed until the managers of the bill decide the most appropriate time. There are important hearings going on at this time, and I don't think that they wish to have it interrupted. So I ask unanimous consent that, pending the decision of the managers of the bill and the leaders, that the yeas and nays be set aside.

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

Under the previous agreement, there is now 20 minutes equally divided on the issue to waive the Budget Act. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I yield back my time.

Mr. DOMENICI. I yield back any time I have on the motion.

The PRESIDING OFFICER. All time has been yielded back then on the motion to waive the budget point of order.

Mr. DOMENICI. Have the yeas and nays been ordered on the motion?

The PRESIDING OFFICER. Yes, they have.

Mr. MCCAIN. Mr. President, I am astounded and very pleased to note that the FY 1998 Labor/HHS appropriations bill is nearly devoid of any pork-barrel language, at least in the bill itself. After careful scrutiny of the measure, I have found only one section of the bill which is clearly pork. That is section 506, which contains the language on Buy America set-asides that appears to be standard practice in this year's appropriations bills.

Other than these Buy America provisions, which I continue to strenuously oppose, I can find no other egregious examples of pork-barrel spending in the bill language. For this restraint, I thank the subcommittee chairman, Senator SPECTER, and the members of the Appropriations Committee.

Unfortunately, the report does contain a number of earmarks of funds for location-specific, unauthorized, or simply wasteful projects. And it contains, of course, language that is intended to have essentially the same effect as an earmark; by this, I mean the use of words like ''encourage'', ''urge'', and ''carefully consider'' in connection with references to particular institutions, projects, or proposals that the committee would obviously like the relevant agencies to fund. These are not earmarks, but I am sure the programs which the committee encourages or urges the agencies to support will receive special consideration.

I would like to submit for the RECORD the full list of objectionable provisions in the bill and report, but would take a few moments of the Senate's time to note just a few of the more interesting earmarks in the bill:

Report language directs OSHA not to enforce methylene chloride regulations

because small employers in the furniture stripping and foam manufacturing and fabrication industries are concerned about the cost of compliance.

The report earmarks $326,000 for the Central Montana Head Start Program to secure donations of surplus property.

The report earmarks $1 million for the Very Special Arts Festival in Los Angeles.

The report earmarks $500,000 for the native Hawaiian education council and island councils.

As I noted, the report language contains a multitude of expressions of support, short of earmarks, for particular projects. A few examples:

Encourages the Department of Labor to expedite consideration of a request by the Iacocca Institute for funding to create a work force development education curricula.

Encourages full and fair consideration of proposals by the Cabot Westside Clinic and Samuel U. Rodgers Health Center in Kansas City, MO.

Urges consideration of a proposal by the North Dakota State College of Science in Wahpeton, ND, to conduct a consolidation of instructional facilities for allied health programs into one site in a rural area.

Urges the Centers for Disease Control to work with native Hawaiians to explore whether utilizing indigenous Hawaiian healing methods may impact the incidences of diabetes and asthma.

Encourages consideration of a proposal to establish a dedicated Human Islet Processing and Distribution Center by the Miami VA Medical Center, Jackson Memorial Hospital, and the University of Miami Diabetes Research Institute.

Urges National Institutes of Environmental Health Sciences to study the health aspects of volcanic emissions.

Urges NIA to consider providing assistance to the West Virginia University's Year 2000 International Conference on Rural Aging.

Urges full consideration of a proposal by the Birmingham Alliance for the Mentally Ill Crisis Intervention Task Force in Jefferson County, AL.

Urges consideration of a proposal by the Institute for Responsible Fatherhood and Family Revitalization in Cleveland, OH, to replicate its program, and sets aside $300,000 for this project.

Urges consideration of a proposal from the Women's Institute for a Secure Retirement for pension counseling.

Urges $800,000 to be provided to assist in cataloging and preserving Pennsylvania's library of anthracite coal region.

Urges the Department of Education to provide $27 million in funding to 18 different colleges and universities for unspecified purposes.

Again, this report contains far fewer earmarks than any other appropriations report considered by the Senate this year. By my count, the total of the report language earmarks is approximately $35 million. Compared to the more than $10 billion in pork-barrel spending in the 10 previously approved bills, this is not a large sum.

But the problem with pork-barreling is that the average American does think that $35 million is a large sum. In fact, most Americans think that $35 million is quite a lot of money. I certainly do.

And the fact is that this is $35 million that was taken from the American people in the form of taxes. And now we, the representatives of the people, are earmarking these funds for special interest projects that do not necessarily reflect the needs or priorities of all or even a majority of the American people.

Mr. President, that is why pork-barrel spending is wrong. And that is part of the reason the American people hold the Congress is such low regard.

Again, my thanks to Senator SPECTER for exhibiting remarkable restraint in the spending priorities in this bill. I hope others will take his example to heart as we prepare to consider conference reports on the fiscal year 1998 appropriations measures.

I ask unanimous consent that a list of objectionable provisions in the bill be printed in the RECORD.

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

OBJECTIONABLE PROVISIONS IN THE FISCAL YEAR 1998 LABOR-HHS APPROPRIATIONS BILL AND REPORT

BILL LANGUAGE

Section 506. Buy-America provisions (contained in almost all appropriations measures this year)

REPORT LANGUAGE

Earmarks

$1 million for a manufacturing technology training demonstration project in Mississippi which will educate technically competent new entrants into the work force and retrain the existing work force to adapt to technological innovation.

Funding for consideration for a multi-State implementation of models, such as the New Mexico Retail Association's Program for youth opportunities in retailing.

$3 million for the Samoan/Asian Pacific Island job training program in Hawaii.

$200,000 to the Vermont Department of Employment and Training to aid in the development of a high skills training consortia and a pilot project to begin training in targeted areas.

Language directing OSHA not to enforce methylene chloride regulations (except in certain circumstances) because small employers in the furniture stripping and foam manufacturing and fabrication industries are concerned about the cost of compliance and the assurance of the availability of OSHA compliance assistance.

$3.5 million for the Native Hawaiian Health Care Program.

$1.75 million to Hawaii for medical care for Hansen's disease patients in the State. The Committee has provided funding for the payment to Hawaii as a separate line item rather than part of the overall appropriations for Hansen's disease.

$2.045 million for the State of Hawaii for medical care and treatment in its hospital and clinic facilities ($295,000 above the administration request).

Funding for a community based intervention project for diabetes prevention in Gallup, New Mexico.

Funding to assist in the conversion of the Savannah River site cancer registry and the South Carolina State cancer registry into a single statewide registry.

Language noting that Alaska be treated favorably in the allocation of the increase provided for substance abuse centers.

Funding for a three year extension for the Temple University Hospital Ventilator Rehabilitation Unit.

Funding to continue the existing grant to the National Indian Council on Aging that increases Indian elder awareness and participation in the public policy issues that have direct impact on all of the Indian country.

$326,000 for the Central Montana Head Start Program to secure donations of surplus property.

$1 million for a Charlotte-Mecklenburg schools prekindergarten initiative for start-up costs and renovations.

Language stating that priority should be placed on supporting projects such as the House of Mercy in Des Moines, Iowa to promote self sufficient and independent living for runaway and homeless youth.

$130,000 should be made available to colleges and universities that have enrolled American Indian and/or Alaska Natives in masters degree programs in social work.

$260,000 for the National Asian Pacific Center on Aging to link the Asian Pacific aging community with other services and organizations.

An increase to the North Philadelphia Cancer Awareness and Prevention Program.

$1.4 million (unrequested) for the Bethune Memorial Fine Arts Center in Florida.

$4.25 million grant to the John F. Kennedy Center for the Performing Arts.

$1 million for the Very Special Arts Festival in Los Angeles, CA.

$500,000 for the University of Hawaii Center on the Family.

$500,000 for research on technology to be used by children with disabilities. The Committee believes that the University of Northern Iowa would be best suited to do this research.

$1.5 million for the Readline Program. The Committee notes that the Greater Washington Educational Telecommunications Association is well-suited to handle this research.

$4.2 million for the Hawaiian higher education program.

$500,000 for the University of Hawaii at Hilo Native Languages College.

$500,000 for the Native Hawaiian education council and island councils.

$7.1 million for family-based education centers.

Words of encouragement and support

Encourages support from discretionary funds, to the Kauai Cooperative Extension Service to train dislocated sugarcane workers.

Requests that the Secretary consider funding for next fiscal year for at risk youth in Rhode Island and Delaware.

Encourages the Department to expedite consideration of a request by the Iacocca Institute for funding to create a work force development education curricula.

Urges full and fair consideration of a proposal by the Eisenhower Foundation to employ welfare recipients in high tech industries.

Recommends funding for a native Hawaiian initiative which provides tutoring for high risk youth residing in rural communities.

Urges that $5 million be provided in Job Training Partnership Act to be used for adults in Hawaii and Alaska Community Colleges.

Encourages full and fair consideration of proposals by the Cabot Westside Clinic and Samuel U. Rodgers Health Center in Kansas City, MO.

Encourages utilization of the expertise and resources of the universities in the Pacific region in providing training, technical assistance and program evaluation in Hawaii to address the health needs of Hawaii's underserved.

Encourages full and fair consideration of a proposal to provide rural clinical experiences to eligible residents of the States of Washington, Alaska, Montana, and Idaho.

Encourages full and fair consideration of a proposal by the Connecticut Children's Medical Center.

Encourages full and fair consideration of a proposal by the University of South Alabama to initiate the Southwest Alabama Network for Education and Telemedicine.

Urges consideration of a proposal by the State of Vermont to conduct a telemedicine demonstration project.

Urges the HRSA to focus attention on the shortage of emergency and medical services for children in Alaska and Hawaii.

Urges support for the efforts of the National Organization of Concerned Black Men, Inc. Of Philadelphia, PA to enhance the involvement of African American men in family planning, pregnancy prevention, parenting skills and fatherhood responsibility.

Urges consideration of a proposal by the McLaughlin Research Institute of Great Falls, MT to undertake biomedical research.

Urges consideration of a proposal by the North Dakota State College of Science in Wahpeton, ND to conduct a consolidation of instructional facilities for allied health programs into one site in a rural area.

Urges expeditious consideration of a proposal by the Carolinas Health Care System of North Carolina to establish the Carolinas Community Health Institute.

Urges consideration of a proposal by the Sacred Heart Hospital in Allentown, PA to optimize the delivery of health care services to the underserved in the region.

Urges consideration of a proposal by the Lehigh Valley (Pennsylvania) Hospital and Health Network's effort to construct a center which provides geriatric care, adolescent health services and general prevention services.

Urges consideration of a proposal by the Associates in Medicine Program at Columbia University in New York City to provide medical care to inner-city neighborhoods.

Urges strong consideration of a proposal by the University of Alabama at Birmingham for construction of an outpatient facilities at a genetic counseling, patient care, and research center.

Encourages consideration of support for research by the Thomas Jefferson University Center for Biomedical Research in collaboration with the Delaware Valley College involving research on plant-delivered oral vaccines.

Urges careful consideration to a one-time reprogramming request from funds provided for immunization activities that would allow construction of a new infectious disease laboratory project.

Urges the CDC to work with Native Hawaiians to explore whether utilizing indigenous Hawaiian healing methods may impact the incidences of diabetes and asthma.

Encourages the CDC to work with NINR and NIEHS to determine the environmental, physical, and mental effects of volcanic emissions in Hawaii.

Encourages the CDC to support MALAMA, a partnership program which addresses the prenatal needs of minorities in rural Hawaii.

Encourages the CDC to support an extension of a project at the University of New Mexico involving fetal alcohol syndrome.

Encourages the Director of the CDC to consider supporting the efforts by Newark, NJ to combat teen pregnancy, low birth weight babies, and infant mortality.

Encourages continued research in the area of cancer in minorities such as that done at the Hawaii Cancer Center.

Encourages the NIDDK to develop a targeted diabetes prevention and treatment program and encourages the CDC to work with native American, native Hawaiian and native Alaskan groups for this program.

Encourages consideration of a proposal to establish a dedicated Human Islet Processing and Distribution Center by the Miami VA Medical Center, Jackson Memorial Hospital, and the University of Miami Diabetes Research Institute.

Encourages the creation of a position for a senior program officer with specific responsibility for the coordination of the NIH-wide Parkinson's research program.

Encourages the NIAID to continue working with the Jeffrey Modell Foundation on both research and public education endeavors.

Encourages the NIAID to give consideration to research conducted at the Public Health Research Institute on infectious diseases.

Encourages the NICHD to give consideration to projects to create community-based centers designed to strengthen families in multi cultural environments.

Urges the NIEHS to continue to collaborate with NINR to study the health aspects of volcanic emissions in Hawaii.

Recommends the advancement of establishing a center focusing on natural marine toxins. Notes the unique work being done at a Miami NIEHS center.

Urges the NIA to consider providing assistance to the West Virginia University's Center on Aging' year 2000 International Conference on Rural Aging.

Encourages the NIA to work with organizations such as the National Asian Pacific Center on Aging to provide for the underserved and isolated senior groups.

Encourages the NINR to ensure that research efforts extend to the health care needs of racial and ethnic populations, such as, native Hawaiians.

Encourages NIDA to work with existing native American organizations to increase the effectiveness of sobriety programs.

Encourages the National Institute of Mental Health to initiate a workshop and consider supporting an additional service delivery research center to eliminate the stigma associated with seeking mental health services in rural areas.

Strongly urges the NIH to consider a proposal from the University of Colorado Health Sciences Center regarding the collocation of the cancer center research and clinical facilities in Aurora, CO.

Encourages consideration be given to support the Florida based Batchelor Children's Research Center to develop a children's biomedical facility in Miami.

Urges consideration of a proposal by the School of Pharmacy at the University of Montana.

Requests that the National Center for Research Resources recognize the University of Alaska as a minority school for the purposes of qualifying for support under its Research Centers in Minority Institutions Program.

Requests that consideration be given to a request for Federal funds by the Children's Hospital and Medical Center of Seattle for its large medical laboratory equipment needs.

Encourages consideration be given to providing funding for the University of Miami's International Center for Health Research's work on diseases transported from air travelers and migration from Latin America and the Caribbean.

Encourages the Director of the NIH to give consideration to a proposal by the Seattle Indian Health Board's American Indian Family Practice Residency Program. This involves a 3-year program that recruits and trains family practice physicians into service to American Indian and Native Alaskan populations.

Urges full consideration of a proposal by the Birmingham Alliance for the Mentally Ill Crisis Intervention Task Force of Jefferson County, AL.

Urges the funding of training projects that foster cultural competencies, a diverse work force, collaboration among disciplines, and that promote the use on interdisciplinary service delivery models especially in rural areas such as Hawaii.

Urges consideration of a proposal by St. Louis 2004, a group located in St. Louis MO, to provide expanded coverage to uninsured individuals.

Urges consideration of a proposal by the National Asian Pacific Center on Aging to increase Indian elder awareness.

Recommends that HCFA provide additional funds for a demonstration project to address the access, delivery system, and financing issues related to predual eligible and dual eligible minority adults.

Urges consideration of a proposal by the Wills Eye Hospital in Philadelphia to establish a demonstration project in opthamology.

Language encouraging the Administration for Children and Families to develop a demonstration project to evaluate the effectiveness of a family-centered model for the treatment of child-sexual abuse like the one operated in Louisville, KY.

Urges consideration of proposal by the Institute for Responsible Fatherhood and Family Revitalization in Cleveland to replicate its program, and sets aside $300,000 for this purpose.

Encourages the use of $350,000 for the Alaska Federation of Natives to conduct a study an further approaches to implement recommendations of the Alaska Natives Commission.

Urges the native Hawaiian grantee to coordinate with the Lunalilo Home in Hawaii regarding the continuing to tailor nutrition services that are appropriate to the circumstances associated with the served population.

Urges consideration to a proposal from the Women's Institute for a Secure Retirement for pension counseling.

Urges the Secretary on Aging to provide $350,000 for each of the national resource centers serving native American elders in fiscal year 1998.

Encourages full consideration of support by the Office of Public Health and Science for a partnership between the University of Miami and Florida State University.

Encourages assistance in the planning of a new children's hospital in the Bronx.

Encourages sustaining a demonstration project at the Meharry Medical College of Nashville, TN.

Urges that consideration be given in the awarding of technology grants to school districts such as the Houston Independent School District.

Requests reconsideration of the determination that three school districts, which previously received too much federal aid, must pay it back to the Department of Education. Two in Texas and one in New Jersey.

Requests better funding for the Centennial School District in Warminster, PA.

Urges the Dept. Of Education to work to rectify a problem that the Portsmouth School District in Rhode Island is having with attaining impact aid payments.

Urges the Department to initiate discussions on a new facility for the Fort Belknap Reservation in north central Montana.

Asks the Department of Education to approve a grant application by the Seattle School District for funding under the Magnet Schools Assistance Program.

Urges the Dept. Of Education to provide $500,000 for workshops in aquaculture/education for high school students and teachers in Hawaii.

Favors the expansion of Native Hawaiian agriculture partnerships and stresses that the Hawaii Institute of Tropical Agriculture and Human Resources is especially suited to assist in the expansion of this program.

Urges that assistance should be made available for a partnership between Partners in Development (a Hawaii nonprofit corporation) and an appropriate nonprofit organization with expertise in sustainable waste treatment methods.

Urges the Dept. Of Education to provide $1.8 million for children with disabilities, particularly in the Mississippi River Delta.

Urges the Department to provide $1 million to support assisted living programs at The Good Shepherd Rehabilitation Hospital in Lehigh County, PA.

Urges the Department to use $1.5 million for a demonstration program to develop work force skills for audio visual communications. The Educational Communications Foundation should carry out this project.

Urges the Dept to provide $1 million for a competition among post secondary institutions. Pennsylvania Institute of Technology would be well suited to administer such a competition.

Urges the director of the Institute of Museum and Library Services to provide $1 million for an Internet demonstration project to be done by the University of Montana and Montana State University.

Urges $1 million for a digitalized card catalog for the New York Public Library.

Urges funds be provided for museums in Philadelphia, Baltimore, and Boston. The Committee urges $4 million for such programs.

Urges $800,000 be provided to assist in cataloging and preserving Pennsylvania's library of anthracite coal region.

Urges the Social Security Administration of North Carolina to maintain a physical presence in the office in Statesville, NC for a minimum of 2 days.

Urges the Department of Education to provide the following:

$1 million to Prairie View A&M University in Texas for incoming college freshmen who are at risk of not finishing college.

$1 million to The Vermont Science and Education Center in St. Albans, VT.

$2 million to the Community College in Onslow County, NC and the University of North Carolina at Wilmington.

$2 million for the Empire State College in New York and Rutgers University in New Jersey.

$180,000 to North Dakota State University.

$1 million to a consortium of Kansas universities.

$1 million to Bryant College in Smithfield, RI.

$300,000 for the University of New Mexico.

$2 million to Missouri State University.

$500,000 to the Advanced Technical Center in Mexico, MO.

$2 million to the Pennsylvania Telecommunications Exchange Network.

$1 million for a joint venture between the Newport News Public Schools System and the city of Newport News.

$1 million to the University of Pennsylvania.

$1 million for science enrichment for 9th and 10th grade minority girls.

$3 million to several Iowa school districts.

$5 million for the State of Washington Office of the Superintendent of Public Instruction.

$2 million for the Pennsylvania Consortium for Higher Education.

$1 million to the National Science Center Foundation in Augusta, GA.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

SMALL BUSINESS REAUTHORIZATION ACT OF 1997

Mr. BOND. Mr. President, with sincere thanks to my colleague from Washington, I ask unanimous consent that the Senate proceed to the consideration of S. 1139.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1139) to reauthorize the programs of the Small Business Administration, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1124

Mr. BOND. Mr. President, on behalf of myself and Senator KERRY, I have an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mr. Missouri [Mr. BOND], for himself and Mr. KERRY, proposes an amendment numbered 1124.

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

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

(The text of the amendment is located in today's RECORD under ''Amendments Submitted.'')

Mr. BOND. Mr. President, I rise today in support of S. 1139, the Small Business Reauthorization Act of 1997. This bill is the product of the hard work of the members of the Committee on Small Business. In particular, Senator JOHN KERRY, the committee's ranking member, has been extremely helpful and supportive in our joint efforts to produce this legislation.

The Small Business Reauthorization Act of 1997 reauthorizes most of the credit and noncredit programs at the Small Business Administration. On June 26, 1997, the committee conducted a markup of this bill and voted 18 to 0 to report the bill favorably to the full Senate.

In addition to reauthorizing the SBA programs that we are most familiar with, S. 1139 addresses two significant issues: Federal contract bundling and the HUBZone Program.

The bundling of Federal Government contracts requirements is a trend that is increasing in the Federal procurement system. Small business owners have testified before the Committee on Small Business about the negative impact contract bundling is having on their ability to bid on Government contracts. The manager's amendment to the bill includes an amended version of the contract bundling section that was worked out in close consultation with Senator THOMPSON and Senator GLENN, the chairman and ranking member of the Committee on Governmental Affairs.

The manager's amendment clears up any misunderstanding over what is a bundled contract. The legislation makes clear that a bundled contract solicitation is one in which ''two or more procurement requirements for goods or services previously provided or performed under separate smaller contracts'' are consolidated into one larger, bundled contract. This language covers contracts that were previously performed by a small business and those that were suitable for award to small business concerns.

The amended contract bundling section builds on the authority of the Small Business Administration to challenge a Federal agency's decision to consolidate or bundle two or more contracts into a large contract. In 1989, Congress gave specific authority to SBA's procurement center representatives to challenge a decision to bundle multiple contract actions. Importantly, under the 1989 law, the SBA Administrator was given the authority to appeal a decision to bundle contract actions directly to a Cabinet Secretary or agency head if the SBA representative and the contracting agency are not able to resolve their differences. The manager's amendment to S. 1139 adds some additional features and procedures, and today's legislation does not weaken or displace the fundamental authority of SBA.

I thank both Senator THOMPSON and Senator GLENN and their staffs for their cooperation in helping us to address certain issues within the jurisdiction of the Governmental Affairs Committee relating to the Federal procurement system and governmentwide acquisition policy. I believe the contract bundling section included in the manager's amendment will help our efforts to be fair to small businesses by limiting contract bundling where it is unnecessary and unjustified.

S. 1139 also includes the full text of S. 208, the HUBZone Act of 1997, in the form in which it was approved by a unanimous 18 to 0 committee vote. This initiative is designed to stimulate economic development in America's most disadvantaged urban and rural communities and make welfare to work a reality.

The HUBZone provisions will make it easier for small businesses located in and hiring employees from economically distressed regions across the country to obtain Government contracts. The measure will benefit entire communities by creating meaningful incentives for small businesses to operate and provide employment within our Nation's most disadvantaged inner-city neighborhoods and rural areas.

To be eligible for special Federal contract consideration, a business must be small, must be located in a historically underutilized business zone [HUBZone], and must hire not less than 35 percent of its work force from a HUBZone. For these distressed areas, HUBZones would result in the immediate infusion of sorely needed capital as more and more businesses—both startups and existing enterprises—relocate into HUBZone areas in order to improve their chances of receiving Federal contract awards.

Importantly, the HUBZone Program will help accomplish an important objective of welfare reform by providing jobs for individuals who want to move from welfare to work in the very neighborhoods where many public aid recipients currently live.

The Small Business Reauthorization Act of 1997 is the culmination of hearings held by the Committee on Small Business beginning in early 1995, and continuing into June 1996, just prior to the committee markup. The bill includes new authorization ceilings for the credit programs, including the 7(a) Business Loan Program, the Small Business Investment Company [SBIC] Program, and the 504 Certified Development Company Program. In addition, the bill makes the Microloan Program permanent, while extending the guaranteed loan pilot for 3 years.

S. 1139 will make important changes in the SBIC Program to permit manageable program growth while strengthening SBA's oversight of the program. The bill gives SBA the option to make 5 year leverage commitments, which would conform the program to typical investment strategy patterns. In addition, the bill permits SBA to use fees collected from SBICs for licensing and examinations to offset the agency's costs to perform these necessary functions.

The bill also sets fees to be paid by borrowers and lenders under the 504 Development Company Program. These fees are paid in lieu of Congress appropriating public funds to compensate for the Government's loss exposure as determined by the credit subsidy rate. S. 1139 provides that the fees paid by the borrowers will be reduced should the credit subsidy rate decline.

The committee's report addresses some of the operational problems confronting the popular 7(a) Guaranteed Business Loan Program. Since I became chairman of the Committee on Small Business over 2½ years ago, the credit subsidy rate, which determines the level of Government loss exposure for loans guaranteed under this program, has fluctuated widely. Information and calculations which determine the subsidy rate are often not provided to Congress, the Congressional Budget Office [CBO], or the public. SBA and the Office of Management and Budget must do a more thorough and accurate job in determining subsidy rate estimates. With this improved flow of documentation, CBO needs to become much more engaged early in the process when SBA and OMB make initial subsidy rate estimates in order that Congress can be assured that the annual estimates submitted with each fiscal year's budget request are accurate and reflect that best available data and assumptions.

S. 1139 recognizes the growing contributions women-owned small businesses are making in our economy. Testimony before the Committee on Small Business has highlighted the importance of business loans and venture capital to ensure the growth of women-owned businesses. Additionally, testimony and evidence brought to the attention of the committee also indicates the failure of the Federal Government to meet the annual 5 percent goal for awarding prime contracts to women-owned small businesses. In fact, over the past 2 fiscal years, the volume of these contracts has decreased.

The Small Business Reauthorization Act of 1997 strengthens the role of key Federal organizations that are supposed to help women business owners: SBA's Office of Women's Business Ownership, the National Women's Business Council, and the Interagency Committee on Women's Business Enterprise.

The bill expands the list of Federal agencies and departments that serve on the Interagency Committee, and each agency's designee to the committee is required to report directly to the agency head on the committee's activities.

The bill seeks to reinvigorate the role of the Women's Business Council, which is designed to advise Congress and the executive branch, by involving more closely the Senate and House of Representatives in the activities of the council. The number of members on the council is expanded to 14 members from 9 members, with attention placed on rural as well as urban representation on the council.

Most significantly, the bill adopts the text of S. 888, the Women's Business Centers Act of 1997, introduced by Senator DOMENICI and of which I was a principal cosponsor, along with Senator KERRY. The bill increases the program authorization level for creating new Women's Business Centers to $8 million per year from $4 million per year. In addition, it will permit grantees receiving funds under the program to remain in the program for 5 years, an increase of two years over the existing program. In adopting this program, the committee recognized there are many states with Women's Business Center sites, and the expanded program is designed to give SBA the flexibility to fund sites in those states.

The bill recognizes the central role played by SBA's Office of Women's Business Ownership in overseeing and coordinating Government support for women-owned small businesses. In addition to overseeing the expanded Women's Business Centers grant program, the OWBO and staff in each district and branch office within SBA serve critical roles in focusing on the problems confronted by women business owners.

The bill recognizes the expanding role of the Small Business Development Center program by increasing its responsibilities to assist small businesses to understand better how to deal with regulatory questions and problems. In addition, the bill provides increases in the base funding levels for SBDCs and sets a minimum floor for Federal funding of $500,000 annually for each SBDC.

S. 1139 also extends other important SBA programs, such as SCORE, which provides counseling opportunities for small businesses by retired executives, the Small Business Technology Transfer [STTR] Program, the Small Business Competitiveness Demonstration Program, the Preferred Surety Bond Program, and SBA's cosponsorship authority.

Mr. President, this is an important bill for all our small businesses in the United States, and I urge my colleagues' strong support for its final passage.

Mr. KERRY. Mr. President, I rise in support of the passage of the Small Business Reauthorization Act of 1997. With the passage of this bill the Senate will show its support for the very important work of the U.S. Small Business Administration. Each year SBA programs assist more than 1 million American small businesses through direct loans, loan guarantees, business counseling and training, and procurement assistance. Following a series of hearings this spring, the Committee on Small Business voted unanimously for the provisions contained in this bill on earlier this summer. There is much in this bill that we can all be proud of and happy to support. In addition to the continued support of such SBA programs as the 504 Community Development Company and 7(a) Guaranteed Business Loan Programs, the Committee has elevated the SBA's Microloan Program from demonstration to permanent status and introduced new provisions that will benefit small businesses: the HUBZone Act and the Microloan Welfare-to-Work pilot project.

Title I includes the authorization levels for the various programs being reauthorized in this bill. Title II addresses the Microloan, Small Business Investment Company, and Certified Development Company programs. Title III deals with a very important sector of small businesses, women's business enterprises. Included in this section is a provision increasing the authorization for women's business centers. Title IV addresses the Small Business Competitiveness Demonstration Program and a critical issue for small businesses: procurement opportunities. Title V contains provisions supporting the Small Business Technology Transfer (STTR) Program, Small Business Development Centers, and the pilot preferred surety bond guarantee program. Finally, Title VI creates a new

SBA program, the HUBZone Program that extends contracting opportunites to small businesses located in the poorer areas of our country.

Mr. President, it is a fact that small business owners often are not served by traditional lending services. SBA operates several programs designed to fill this lending void and extend assistance to this critical segment of the American economy. From the Microloan Program which makes loans only in amounts of less than $25,000 to the 504 program where loan guarantees can be as high as $1,250,000, SBA programs meet a critical need for our country's entrepreneurs. Accordingly, I am pleased with the support the committee has shown by authorizing adequate funding levels for most SBA programs. The 7(a), 504, Small Business Investment Company, Delta and SCORE programs were all authorized at or above the administration's requests. All of these programs are critical to the continued effectiveness of the Small Business Administration and for the future of small business development in our country.

The SBA's Microloan Program has been a tremendous success since its inception in 1991. Since its authorization, this program has provided technical assistance and made over 5,800 loans totaling over $60 million to small businesses in our country. The Microloan Program authorizes intermediary lenders to provide loans under $25,000 to small businesses and to provide the business owners with technical assistance on how to run their business more effectively. There are 103 Microloan intermediaries located in 46 of our 50 States, including 5 in my home State of Massachusetts. Forty-three percent of microloans go to women-owned businesses, 39 percent to minority-owned businesses, and 11 percent to veteran-owned businesses.

The results could not be more stunning. The Microloan Program has been so successful that there has only been one default of a loan to an intermediary in the years it has been in operation. Because of its demonstrated success, the committee chose to elevate the Microloan Program from demonstration status to a permanent part of the SBA portfolio of programs and to authorize $28 million per year for each of the next 3 years for the essential technical assistance grants. After listening to the testimonies of witnesses on the importance of technical assistance to microloan borrowers, it is clear that the support of the direct loan portion of the program requires supporting the technical assistance portion. The borrowers will not be able to utilize the direct loans properly without first learning how to manage their businesses. I am pleased that the Microloan Program is receiving support from the committee and hope that we will continue to support the important technical assistance component in the future.

Another section of this bill will assist many small businesses nationwide. The Women's Business Center provision was originally introduced by Senator DOMENICI and cosponsored by Chairman BOND and myself along with all the Democratic members of the Small Business Committee. Section 306 makes the Women's Business Center program permanent, doubling the funding for the program to $8 million dollars for each of the next 3 years, and extends eligibility for awardees from 3 to 5 years. Women-owned businesses comprise one-third of all American companies, contribute more than $1.5 trillion dollars to the U.S. economy and employ more people than Fortune 500 companies. The changes made by this bill will better enable organizations, such as the Center for Women & Enterprise, Inc., in Boston, to continue offering the services that help women-owned businesses thrive.

This bill also reauthorizes the Small Business Technology Transfer [STTR] Program for 6 more years. In July, I had the opportunity to cohost with the Small Business Administration a conference on STTR in Cambridge, MA, with representatives of my State's high-technology small business companies. These businesspeople expressed their belief that the STTR Program has been an unqualified success in meeting the goals established for it by Congress 5 years ago: to ensure that the federally funded research conducted in America's nonprofit institutions is given an outlet through small businesses to be turned into commercial products. That commercialization increases the American job base, helps our economy, and allows American businesses to compete with overseas rivals. I was proud to be the sponsor of the original legislation reauthorizing the STTR Program for 6 more years and I'm very happy that it has been included in this bill.

Many sections of the Small Business Reauthorization Act establish new levels of flexibility for the SBA to administer their programs. For example, investment restrictions on Small Business Investment Companies [SBIC's] have been relaxed to allow greater investment in the SBICs by commercial banks. SBIC's will also now be allowed to make quarterly distributions to its investors. This may not sound important to many people, but allowing quarterly distributions as opposed to yearly or biyearly makes it easier for the SBIC's investors to meet their quarterly tax requirements. Therefore, an investment in an SBIC is a more attractive investment. Attracting more investment helps the SBIC help more small businesses.

The committee has given SBA more authority in the selling of debentures. Instead of requiring a sale every 3 months, SBA now must sell only every 6 months but can hold sales earlier if adequate demand exists. This change is also aimed at making the SBA's assets more attractive to investors and therefore, at attracting more favorable market prices. Microloan lenders are also given more flexible rules for their loan loss reserves. After a Microloan lender has been in the program for at least 5 years, they will be allowed to carry a loan loss reserve equal to the greater of 10 percent or twice that lender's historical loan loss rate. This provision frees up more resources for many lenders to make more loans and provide a greater boost to the economy. All of these changes have been undertaken in an effort to allow the SBA to run in a more businesslike, market-responsive manner. I am pleased to support these changes and look forward to the progress that SBA will show in the coming years.

A new program authorized through this bill is the Welfare-to-Work Microloan Pilot Program. I originally introduced this legislation to build on the successes of the Microloan Program by providing additional training and support for some of today's welfare recipients so that they may be tomorrow's business owners. The bill authorizes $4, $5, and $6 million over each of the next 3 fiscal years for this purpose. At a hearing on the Microloan Program last month, members of the committee heard testimony that demonstrated how it is possible for welfare recipients to become successful entrepreneurs given the proper technical assistance training. At that same hearing, Mr. John Else of the Institute of Social and Economic Development in Iowa told the committee about the remarkable success rate they have with their Microloan clients. These clients, mostly welfare recipients and other low-income people, had a 70-percent success rate which is an astounding contrast to the high failure rate for startup businesses. So the committee believes the goals of the Welfare-to-Work Pilot Program are attainable. I believe it is time that we give welfare recipients across the country the opportunity to succeed by expanding the mission and scope of the Microloan Program.

Finally, I thank the chairman of the Senate Small Business Committee, Senator BOND, for his efforts throughout the reauthorization process that have resulted in a very productive and effective bill. His support for SBA programs is demonstrated through his willingness to make sure that the effectiveness of these programs continues by adequately funding them. A provision included in the reauthorization bill which was initiated by the chairman and which I cosponsored after the chairman agreed to certain improvements, is the historically underutilized business zone or HUBZone bill. Its stated purpose of assisting companies in economically depressed areas is a worthy goal that gained widespread support on the committee. Through HUBZones, more contracting opportunities will be available in the poorest areas of our country. This is definitely another strike against impoverished regions and a further opportunity for American small businesses. I am pleased that is was included in the committee bill.

Mr. President, our Nation's small businesses are the backbone of our economy. By supporting the Small Business Reauthorization Act, my colleagues have demonstrated their support for our Nation's small businesses and their commitment to our future.

Mr. COVERDELL. Mr. President, as the Senate considers the Small Business Reauthorization Act of 1997, S. 1139, I rise to express my thanks to Senator BOND for his leadership on behalf of small business. As many of us have stated in the Senate, small businesses today face the daunting task each day of meeting their payrolls, providing a quality work environment for their employees, and remaining competitive. All the while, they strive to comply with a myriad of regulations and struggle to satisfy the tax burden government imposes upon them.

The Committee on Small Business held a hearing earlier this year regarding women-owned business. The committee members heard testimony that, in 1996, women-owned businesses employed 1 out of every 4 workers, totaling 18.5 million employees. Last year, these businesses accounted for an estimated $2.3 trillion in sales. Increasingly, women are becoming small business owners and according to the National Foundation of Women Business Owners, the growth of these women-owned small businesses outpaced overall business growth nearly 2 to 1. In Georgia alone, there are 143,045 women-owned businesses, both full and part-time. Women are a vital force in our economy, and we need to do more to remove the obstacles that are in their way.

This leads me to think about Carolyn Stradley, a truly remarkable Georgian from Marietta. She offered testimony before the Small Business Committee where she described her experience as an entrepreneur. From humble beginnings, she started and built her own paving business over many significant obstacles. Unfortunately, chief among these obstacles was, and continues to be, the Federal Government.

I believe support for women-owned small businesses is important. Such entrepreneurship has provided a vital means for many to break the cycle of poverty created and sustained by the welfare state. As we strive for welfare reform, small businesses and entrepreneurship provide an important avenue for many.

Mr. President, at this point in my statement, I would like to take the opportunity also to thank Senator BOND for his cooperation and sensitivity to the concerns of women-owned small businesses. This legislation before us authorizes the National Women's Business Council with the resources it needs to help women entrepreneurs. I was pleased to have worked with my good friend and fellow Georgian, Senator MAX CLELAND, in committee to ensure the Council received this critical support.

Mr. President, I ask unanimous consent that a letter from Ms. Carolyn Stradley be printed in the RECORD.

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

C&S PAVING, INC.,
Marietta, GA, July 29, 1997.

Hon. PAUL COVERDELL,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR COVERDELL: Thank you so much for your support of the National Women's Business Council. I truly appreciate your efforts.

As you know, women entrepreneurs rely on the Council to get a ''seat at the table'' in the decision making process. The Council has successfully raised the profile of women business owners and taken our views to the Senate, House and Administration. In addition, the Council has helped us build an infrastructure to support women's entrepreneurship and the growth of women owned enterprises. Until women business owners are fully integrated into the process, the role of the National Women's Business Council is critical to our growth and survival.

As a result of your advocacy, the Council received an increased budget authorization for fiscal year 1998. In addition, the amendment offered by you and Senator Cleland during the Small Business Committee markup of the Small Business Reauthorization bill granted the Council a research budget of $200,000. With these additional funds, the Council can continue to be an effective voice for women entrepreneurs within the federal government and engage in seriously needed research on women business owners.

It has been a pleasure working with Morris Goff. We have greatly appreciated his hard work and counsel throughout this process. Once again, thank you for your leadership on this issue. I knew we could count on you.

Sincerely,

CAROLYN STRADLEY,
President.

Mr. COVERDELL. Mr. President, I also thank Chairman BOND for including S. 925, the Women's Small Business Programs Act of 1997 that I introduced earlier this year, in the Small Business Reauthorization Act of 1997. My proposal will expand the pool of resources available to women-owned small businesses and would allow women business development centers to enter into contracts with other Federal agencies and departments to provide specific assistance to small business concerns.

Far too often our Government serves as a roadblock to small business men and women. Taxes are too high, regulations are too complex, the costs of doing business are through the roof. It is time we did something to help our Nation's working women.

Mr. CLELAND. Mr. President, I am proud to offer my support for the Small Business Administration reauthorization. I am extremely proud to be a part of the Small Business Committee and, I appreciate the work of my chairman and the ranking member for their hard work and for working together to resolve all of the outstanding differences on the details of the bill. I also thank so many of the staff for their hard work.

Mr. President, there are several things I want to highlight in this legislation. First, I want to offer my strong support for the Welfare-to-Work Microloan Pilot Program. Many times, good men and women have come to this floor in support of programs and opportunities that aspired to do great things for those who needed it most. Some of those initiatives have gone on to become great public endeavors. I am proud to support such an endeavor, one that I believe will inspire and offer hope to Americans that truly want to break the cycle of poverty and build a business of their own. This program puts our money where our mouths are. It provides upfront technical assistance for business planning, loan application assistance, and development of sound business skills for people who we can provide a ladder of opportunity rather than just the same old welfare system. If we want to stand strong behind the notion that public assistance should be a hand up, not a hand out, we must pro-actively seek out ways to provide meaningful job opportunities for welfare recipients. This program is a step in the right direction.

This program targets traditionally under-served Americans and gives them tools they can use to, not only take themselves off of the welfare rolls, but provide job opportunities in areas of the country that are desperate for job growth. This legislation has been tried and shown great promise. With 2.8 million Americans moving off of welfare, the potential for this program is obvious. It's the kind of investment that can return much, much more than what we put in. Let me add just a few more points. The average microloan to an individual is $10,800, not a lot of money by Washington standards, but to the man or woman who just wants an opportunity to change the direction of their life and that of their loved ones, it may make all the difference in the world.

I also offer my support for the SBA's Small Business Technology Transfer Pilot Program. This important program builds on past successes of further advancing increased commercialization of federally funded research projects.

Finally, Mr. President, I want to say how proud I am of the National Women's Business Council and the work that they have done. I am honored to have worked with Senator COVERDELL and thank him for helping to obtain funding for this important organization and the work that they do on behalf of women. I further add that Anita Drummond on the minority staff and Suey Howe on the majority side were particularly helpful in this effort and should be commended for a job well done.

All in all, there are many provisions in this legislation that I am proud to have had a part in crafting. I look forward to even more success on a bipartisan basis from within the committee, from the SBA and from the small business community in tackling the problems facing small businesses. I look

forward to the work ahead. I thank my colleagues and I thank the chair.

Mr. DOMENICI. Mr. President, I submit for the RECORD a cost estimate prepared on August 8, 1997 by the Congressional Budget Office for S. 1139, the Small Business Reauthorization Act of 1997, which was reported on August 19, 1997. The report of the Committee on Small Business states that the committee does not agree with the CBO estimate and therefore the committee did not include the CBO estimate in its report. The Congress and the Budget Committees must rely on independent cost estimates from the Congressional Budget Office for reported legislation. From time to time, I too have disagreed with CBO cost estimates. I ask unanimous consent to print in the RECORD the official CBO estimate for S. 1139.

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

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

SMALL BUSINESS REAUTHORIZATION ACT OF 1997

Summary: The bill would authorize appropriations for fiscal years 1998 through 2000 for the Small Business Administration (SBA) and would make a number of changes to SBA loan programs and programs establishing preferences for government contracting.

Assuming appropriation of the necessary amounts, CBO estimates that enacting this legislation would result in new discretionary spending of at least $4.4 billion over the 1998–2002 period. Of this total, $570 million is from amounts specifically authorized in the bill for SBA programs—primarily for administrative expenses. The remaining $3.8 billion would be primarily for the subsidy costs of SBA loan programs.

The costs include $13 million over the 1998–2002 period for other federal agencies to carry out existing federal procurement programs reauthorized by the bill. Implementing the HUBZone program that the bill would create would also increase costs to other federal agencies. While we cannot precisely estimate the impact of the new program at this time, its costs could be at least several million dollars annually.

CBO estimates that enacting the bill also would result in an increase in direct spending of $1 million in fiscal year 1998 and $5 million over the 1998–2002 period. Because the bill would affect direct spending, pay-as-you-go procedures would apply.

The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) of 1995 and would impose no costs on state, local, or tribal governments.

Description of the bill's major provisions: Title I would establish maximum levels for small business loans to be made by the SBA in 1998, 1999, and 2000. It also would authorize appropriations for the Service Corps of Retired Executives (SCORE), technical assistance grants to microloan recipients, and certain activities of the Small Business Development Centers (SBDCs). Title I also would authorize such sums as may be necessary for the disaster loan program and for administrative expenses necessary to carry out the Small Business Act and the Small Business Investment Act.

Title II would establish a Welfare-to-Work Microloan Pilot Program and would authorize the appropriation of $12 million of the 1998–2000 period for the SBA to carry out the program. The title also would convert the direct microloan program from a demonstration program to a permanent program and would extend the authorization for the microloan guarantee program through fiscal year 2000. (The microloan program provides technical assistance and loans ranging from $100 to $25,000 to very small businesses.) In addition, Title II would modify several SBA guaranteed loan programs and would allow the SBA to charge fees to certain borrowers.

Title III would authorize the appropriation of $1.2 million over the 1998–2000 period for the operations of the Interagency Committee on Women's Business Enterprise and the National Women's Business Council. The title would require the National Women's Business Council to conduct two studies on federal procurement practices and would authorize the appropriation of $200,000 to carry out the studies. In addition, the title would authorize appropriations of $8 million per year for grants to Women's Business Centers.

Title IV would extend the authorization for the Small Business Competitive Demonstration Program and the Small Business Participation in Dredging Program through fiscal year 2000. The title also would modify the Small Business Procurement Opportunities Program to require federal agencies to review their attainment of small business participation goals and the effects of contract bundling on small businesses.

Title V would extend the Small Business Technology Transfer (STTR) Program through fiscal year 2003. Title V also would authorize the appropriation of $2 million in each of fiscal years 1998 through 2000 for the SBA to assist small businesses in certain states in securing Small Business Innovation Research and STTR awards. In addition, this title would make numerous changes to the SBDC program and would authorize the appropriation of $460 million over the 1998–2002 period for the SBDC program.

Title VI would create a new program, to be administered by the SBA, to provide federal contracting set-aside and preferences to qualified small businesses located in designated, economically distressed, urban and rural communities, or HUBZones. The bill would establish goals for awarding a percentage of all prime federal government contracts (beginning at 1 percent in 1999 and increasing to 3 percent in 2003 and subsequent years) to eligible HUBZone businesses. Title VI would authorize appropriations totaling $15 million for fiscal years 1998 through 2000 for SBA to carry out this program.

Estimated cost to the Federal Government: The estimated budgetary impact of implementing most of the bill's provisions is shown in Table 1. Estimated additional outlays total $4.4 billion over the 1998–2002 period. Nearly all of that amount is for SBA spending that is subject to appropriation. In addition, implementing the bill would increase other federal agencies' contracting costs to comply with the HUBZone provisions (Title VI), but CBO cannot estimate those additional costs with precision at this time.

Basis of estimate: For the purposes of this estimate, CBO assumes that the bill will be enacted by the end of fiscal year 1997 and that both the authorized and additional necessary amounts will be appropriated by the start of each fiscal year. Outlay estimates are based on historical spending rates for existing or similar programs.

Spending subject to appropriation

Most of the bill's budgetary effects would come from reauthorizing existing SBA programs (primarily for the subsidy costs of direct and guaranteed loans). The estimated amounts would be subject to appropriation action.

Loan programs

The bill would permit the SBA to make direct loans totaling $60 million in each of fiscal years 1998 through 2000. It would permit the SBA to (1) guarantee business loans totaling about $18 billion in 1998, $20 billion in 1999, and $23 billion in 2000, (2) make direct loans totaling $60 million in each of fiscal years 1998 through 2000, and (3) make an indefinite amount of disaster loans over the 1998–2000 period. Table 2 shows the loan levels authorized by the bill for SBA's business and disaster loans as well as the estimated subsidy cost and administrative expenses for those loans.

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF THE SMALL BUSINESS REAUTHORIZATION ACT OF 1997

	By fiscal years in millions of dollars—					
	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATION[1]						
Spending Under Current Law:						
Budget Authority[2]	873	0	0	0	0	0
Estimated Outlays	820	299	65	21	9	0
Proposed Changes:						
Specified Authorization Level	0	151	157	163	103	103
Estimated Authorization Level	0	1,226	1,274	1,327	13	13
Total Authorization Level	0	1,377	1,431	1,490	116	116
Estimated Outlays	0	871	1,276	1,444	583	189
Spending Under The Bill:						
Authorization Level[2]	873	1,377	1,431	1,490	116	116
Estimated Outlays	820	1,171	1,341	1,465	592	189
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	0	1	1	1	1	1
Estimated Outlays	0	1	1	1	1	1

[1] All but approximately $15 million of the estimated amounts are for projected spending by the SBA. In addition to the amounts shown in the table, CBO expects that Title VI (HUBZone program) would impose significant costs on agencies other than the SBA, but we cannot estimate those costs at this time.

[2] The 1997 level is the amount appropriated for that year.

The costs of this legislation fall within budget functions 370 (housing and commerce credit) and 450 (community and regional development).

TABLE 2.—SBA LOAN LEVELS, SUBSIDY COSTS, AND ADMINISTRATIVE COSTS

	By fiscal years, in millions of dollars—				
	1998	1999	2000	2001	2002
AUTHORIZED LOAN LEVELS					
Guaranteed and Direct Business Loans	18,200	19,950	22,650	0	0
Disaster Loans	1,543	1,543	1,543	0	0
LOAN SUBSIDY COSTS					
Guaranteed and Direct Business Loans:					
Estimated Authorization Level	350	380	421	0	0
Estimated Outlays	225	348	390	133	8
Disaster Loans:					
Estiamted Authorization Level	459	459	459	0	0
Estimated Outlays	230	413	459	230	46
LOAN ADMINISTRATION COSTS					
Guaranteed and Direct Business Loans:					
Estimated Authorization Level	94	97	100	0	0
Estimated Outlays	94	97	100	0	0
Disaster Loans:					
Estimated Authorization Level	164	169	174	0	0
Estimated Outlays	164	169	174	0	0

The Federal Credit Reform Act of 1990 requires appropriation of the subsidy costs and administrative costs for operating credit programs. (The subsidy cost is the estimated long-term cost to the government of a direct loan or loan guarantee, calculated on a net present value basis, excluding administrative costs.) The bill does not provide an explicit authorization for either the subsidy or administrative costs for the guaranteed, direct, or disaster loans.

Based on information from the SBA and on historical data for these loan programs, CBO estimates that the subsidy costs of guarantees for the authorized levels of business loans would be $344 million in 1998, $374 million in 1999, and $415 million in 2000. We estimate that the subsidy costs of the direct business loans would be $6 million for each of fiscal years 1998 through 2000. Based on recent administrative costs for the SBA's loan programs, CBO estimates that the administrative costs for the business loan programs would be about $94 million in fiscal year 1998, $97 million in fiscal year 1999, and $100 million in fiscal year 2000.

The estimated subsidy rates for business loans and guarantees range from 0.5 percent to 8.1 percent, but most are at 2 percent or less and the average for this estimate is 1.9 percent. The estimated subsidy rate for disaster loans is about 30 percent.

Assuming that demand for SBA's disaster loans over the next three years will be at the average historical rate for the past six years, CBO projects that the SBA would make disaster loans totaling about $1.5 billion in each fiscal year over the 1998–2000 period. CBO estimates that the subsidy costs of these loans would be $459 million in each fiscal year and that the administrative costs for the disaster loan program would be about $164 million in 1998, $169 million in 1999, and $174 million in 2000.

SURETY BONDS

The bill would authorize the SBA to guarantee up to $2 billion in surety bonds for small businesses in each of the fiscal years 1998, 1999, and 2000. Such guarantees are not considered loan guarantees under the definition in the Federal Credit Reform Act of 1990, and annual appropriations are required only to cover the net cash losses to the program within a given year. Based on information from the SBA, CBO estimates that the authorized level of activity would result in outlays of $4 million each year over the 1998–2000 period.

GOVERNMENT CONTRACTING PROGRAMS

The legislation would modify a number of government contracting programs administered by the SBA that provide set-asides or other incentives for small businesses competing for government procurement contracts. The costs to the SBA to administer these programs are generally small or insignificant but the programs result in additional costs to the Office of Federal Procurement Policy (OFPP) and various federal agencies.

Small Business Competitive Demonstration Program. The bill would reauthorize the Small Business Competitive Demonstration Program through fiscal year 2000. This program requires 10 federal agencies to establish contracting goals for small businesses in certain industries. CBO estimates that extending this program would cost each of the 10 participating agencies and the SBA less than $100,000 a year to report and compile the required data, assuming appropriation of the necessary amounts. Hence, we estimate a total annual cost of about $1 million for each year that the program is extended.

Small Business Participation in Dredging Program. Based on information from the Army Corps of Engineers, CBO estimates that extending the Small Business Participation in Dredging Program would cost less than $500,000 annually over the 1998–2000 period.

STTR Progam. The bill would extend this program's expiration date from 1998 through 2000. The STTR program requires federal agencies with annual appropriations for extramural research of more than $1 billion to set aside a specified percentage of their extramural research budget for cooperative research between small businesses and a federal laboratory or nonprofit research center. The costs of the STTR program to the participating agencies consist primarily of personnel, overhead, printing, and mailing expenses. Based on information from the affected agencies, CBO estimates that the costs of administering the awards would be about $1 million a year over the 1998–2000 period, assuming appropriation of the necessary amounts.

Small Business Procurement Opportunities Program. The bill would require federal agencies to follow certain procedures when bundling procurement contracts. Based on information from the OFPP, the SBA, and several other federal agencies, CBO estimates that the government would incur costs of about $2.5 million in fiscal year 1998 and $1.5 million a year in 1999 and 2000 to follow the procedures established by the bill. The costs to the federal government would be slightly higher in fiscal year 1998 because each federal agency would incur expenses to modify its reporting systems in order to track information on contract building.

HUBzone Program. The contracting goals and requirements that would be established by Title VI would apply to specified federal agencies, which make over 90 percent of all federal contract obligations (as of 1996). Assuming the federal agencies would attempt to meet the government-wide contracting goals establishing in the bill, and assuming appropriation of the amounts necessary to meet the increase in costs, implementing the HUBZone program would significantly increase discretionary spending. Such costs could total tens of millions of dollars each year, but CBO cannot estimate such costs precisely. The additional costs would stem from both additional administrative responsibilities for the SBA and other federal agencies, and increased use of sole-source contracting.

Based on information from the SBA, we estimate that implementing the HUBZone program would cost the SBA $6 million in fiscal year 1998 and $12 million in each subsequent year, assuming appropriation of the necessary amounts. Thus, implementing the HUBZone program would result in new discretionary spending by the SBA of $54 million over the 1998–2002 period. Of this amount, $15 million is specifically authorized in the bill for SBA to implement the program. In addition to the authorized amounts, CBO estimates that SBA would require another $39 million over the 1998–2002 period to carry out the HUBZone program.

The other federal agencies affected by Title VI would have additional administrative costs for reviewing contracts, reprogramming computer systems, and reporting to the SBA. However, CBO cannot estimate how much those new responsibilities may increase spending because we do not have sufficient data to project how many contracts would be awarded under the HUBZone program or what administrative resources would be required to carry out the program.

The HUBZone program would raise the government-wide goal for awarding contracts to small businesses from 20 percent to 23 percent of all prime federal contracts, which would likely increase the incidence of sole-source contracting. Federal contract obligations total almost $200 billion a year, of which about 19 percent is provided through sole-source contracts. Although CBO cannot project a specific increase in sole-source contracting, any increase resulting from the HUBZone program would result in new federal costs because the lack of competition often results in a higher price for the product or service. While we cannot estimate precise costs for the likely increase in sole-source contracting under the HUBZone program, such costs could total at least several million dollars annually.

Other programs

The bill would provide specific authorizations of appropriations for SBDCs, SCORE,

the Welfare-to-Work Microloan Program, and various women's business programs. CBO estimates that these programs would result in spending by the SBA of $555 million over the next five years.

In addition, the bill would authorize such sums as may be necessary to cover the SBA's costs of carrying out the Small Business Act and the Small Business Investment Company Act. CBO estimates that the general administrative costs to carry out these acts would be $149 million in fiscal year 1998, $154 million in fiscal year 1999, and $158 million in fiscal year 2000, assuming appropriation of the necessary amounts. (The estimate of general administrative costs excludes the program-specific administrative expenses for business and disaster loans.)

Direct spending

The bill would authorize the SBA to spend without further authorization the Small Business Investment Company (SBIC) examination fees currently collected by the agency but not available for spending unless authorized in advance in an appropriation act. Based on information from the SBA, CBO estimates that the agency would collect and spend about $1 million annually in examination fees.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 2007. CBO estimates that enacting the bill would increase direct spending by $1 million a year because SBA would be able to spend SBIC examination fees without appropriation action.

Estimated impact on State, local, and tribal governments: The bill contains no intergovernmental mandates as defined in UMRA, and would not impose any costs on State, local, or tribal governments. The bill would, however, authorize additional grant funds for State and local governments. It would authorize $2 million annually (for fiscal years 1998 through 2000) to create a pilot program that would provide grants to eligible states to assist small businesses located in the state. The bill would also authorize an increase in funding of $5 million in fiscal year 1999 and $10 million thereafter for the Small Business Development Center Program. The program provides grants to state and local governments, public and private institutions of higher education, and state-chartered development corporations to establish and operate small business development centers.

Estimated impact on the private sector: This bill would impose no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Rachel Forward and Lisa Daley. Impact on State, Local, and Tribal Governments: Marc Nicole.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

Mr. BOND. Mr. President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 1124) was agreed to.

Ms. SNOWE. Mr. President, I rise today to support a critically important piece of legislation affecting small businesses across our Nation—S. 1139, the Small Business Reauthorization Act of 1997. I would like to begin by thanking Chairman BOND and ranking member KERRY for their leadership and perseverance on this bill. We would not be here today considering S. 1139 if it were not for their dedication to the small business community.

As a Senator from Maine, a State whose future economic well-being is dependent on small business enterprise, I am extremely supportive of the role the Small Business Administration [SBA] plays in promoting small business development and growth. The Small Business Committee, of which I am a member, held five hearings this past year on SBA's finance, noncredit, and Microloan programs. As a direct result of testimony given during those hearings by small businesses, the SBA and various industry organizations, the committee drafted a comprehensive bill that reauthorizes and improves upon even the most successful of SBA's programs.

I am particularly pleased that the committee accepted an amendment that I offered regarding the Small Business Development Center [SBDC] Program. The SBDC Program is a public-private partnership that leverages Federal dollars with State, local, university, and private resources to provide one-stop management and technical assistance to small businesses.

My amendment increases the SBDC minimum Federal contribution so that no State will receive less than $500,000. This will ensure that small State SBDC's will continue to be able to provide quality business management assistance, which is essential to the future successes of America's small businesses. If entrepreneurs are not sufficiently prepared with the financial, managerial, and technical knowledge needed to own and operate a business, then our Nation's future businesses have failed before they have been given the opportunity to succeed.

One of the many reasons I support the SBDC program is because it serves as a successful example of what can be achieved when the private sector, the educational community and Federal, State and local governments work together. In fact, the SBDC program generates more in tax revenues that it costs to run the program itself. For example, in my home State of Maine, $6.15 in new Federal, State and local tax revenues is generated for every $1.00 invested in our state's SBDC. Nationally, the return is $4.53.

While my amendment provides only a modest funding increase at the Federal level, the additional resources provided to a small State like Maine will have a disproportionately large and positive impact on Maine's economy. And I thank Chairman BOND for including my amendment in the Small Business Reauthorization Act.

I would also like to thank Chairman BOND for his leadership on S. 208, the HUBZone Act of 1997, because the revitalization and community development of economically distressed regions with significant unemployment is a critical challenge confronting this Congress. It is essential that we discover ways to stimulate business and residential activity within these economically and socially distressed communities, which is why I believe that it is so important that the HUBZone Act was incorporated into the Small Business Reauthorization Act.

The HUBZone Act will provide Federal contracting opportunities to small businesses located in historically impoverished urban and rural areas known as HUBZones. This bill will create a new class of small businesses that employ at least 35 percent of its workforce from a HUBZone eligible for Federal Government contract preferences. The purpose of the bill is to create incentives for small businesses to locate and operate in our country's most economically disadvantaged inner-cities and rural counties. At the same time, these businesses will foster job creation and community development in these economically underutilized areas.

In Maine, Washington County with an extremely high unemployment rate of 12.5 percent—7.6 percent above the national average—will qualify as a HUBZone. Qualified small businesses located in this county will not only receive Federal contracting set-asides but also will play a vital role in revitalizing this distressed area by encouraging job creation.

Additionally, because of an amendment Senator ENZI and I offered, both Aroostook and Somerset Counties with a 10.4 percent and 9 percent unemployment, respectively, will qualify as rural HUBZones. The Enzi-Snowe amendment establishes that economically distressed regions with extremely high unemployment rates will quality as HUBZones and receive much-needed relief. We must take action to stimulate business activity within these areas that face high unemployment rates and I believe that the HUBZone Act of 1997 does just this.

The Small Business Reauthorization Act also includes another important piece of legislation, the Welfare-to-Work Microloan Pilot Program Act of 1997, of which I am an original cosponsor. This innovative pilot program will provide grants to community-based organizations, known as Microloan intermediaries, to help welfare recipients start their own small businesses. These intermediaries will provide technical assistance to potential small entrepreneurs who are on public assistance.

This program is unique because it will provide up-front business assistance before a participant receives a loan. The future entrepreneur will learn basic business skills—how to develop a business plan, start a business and apply for small loans.

In addition to this technical assistance, program participants will receive assistance with the high cost of child care and transportation, both of which are directly related to program participation. If a mother is unable to afford to put her child in day care or if she does not have the money to get to the

training sessions, she simply will not go.

The combination of business training and child care and transportation assistance will assure greater success for the participants receiving public assistance. This approach has been successfully piloted in several state programs. Iowa, for example, has a success rate of 70 percent in contrast to a national small business failure rate average of 80 percent. I believe that these programs are successful because they target the true cause of the high failure rate of small businesses—lack of business education.

Small businesses are playing an increasingly important role in America's future prosperity, and they should play a vital role in any effort to revitalize our urban and rural communities and to solve the long-term problem of getting individuals off, and keeping them off, public assistance. This is exactly why I am a cosponsor of the HUBZone Act and an original cosponsor of the Welfare-to-Work Microloan Pilot Program. And, that is why I strongly support the Small Business Reauthorization Act of 1997 and encourage my distinguished colleagues to join me in supporting this critically important bill.

Mr. WELLSTONE. Mr. President, I am extremely pleased that we are passing this bill to reauthorize Small Business Administration programs. I commend Senators BOND and KERRY, the chairman and ranking member of the Small Business Committee, respectively, for their work. It is an excellent bill, providing adequate loan-guaranty authorization levels for SBA's two principle credit programs—the 7(a) and the 504 programs. The bill also expands and makes permanent the microloan demonstration program, which is extremely important. All three programs are popular and successful in Minnesota. Our committee held a number of hearings this year to prepare for this reauthorization bill, and as usual we have worked in a productive, bipartisan way.

Our committee passed a very good bill, highlights of which I will mention momentarily. I would first like to note, however, two items which I am grateful could be included in the managers' amendment. The first is a provision clarifying SBA's policy regarding collateral in the 504 Program.

The 504 Program is an excellent program. It operates through collaboration between certified development companies (CDCs), private lenders and small business borrowers. 504 loans are for larger projects than SBA's 7(a) guaranteed loans. They generally are for property, plant and equipment purchases. It is the only SBA program with job-creation and economic development as its explicit primary objective. I am proud to point out that Minnesota CDCs made 359 loans worth $122 million last year, tops in the nation for the third or fourth year in a row.

I appreciate steps that were taken by SBA officials in a recent policy guidance on this matter of collateral. That policy guidance assures certified development companies that collateral is only one factor evaluated in the credit determination of a small business in the program. Furthermore, the guidance establishes that collateral in addition to a subordinate lien position on the property being financed will be required only on a case-by-case basis as determined by the Administrator.

The provision now included in this bill relating to collateral simply codifies that SBA policy guidance in statute. I thank the bill's managers for including the provision at my request in their amendment. As I mentioned to my colleagues on the committee during our markup of the bill, it is occasionally necessary for Small Business Committee to save SBA from itself when it comes to policy proposals concerning its loan programs. Not too many years ago, SBA wanted to eliminate all subsidy and appropriation for the 7(a) program. We on the committee and in Congress were right in preventing them from doing so.

Subsidy rate questions in the 504 Program remain somewhat unresolved. The simple fact is that demand for the 504 program has been down significantly this year. It is down even after we discount for the burst of activity last September, just before new fees went into effect, putting many deals that normally would have been done this year into last year's volume. I am pleased to say that the program's subsidy rate, which a witness from Minnesota told our committee earlier this year is ''out of whack,'' is now finally being seriously examined by the Administration despite the existence for some time of evidence that it has been based on methodology or calculations that keep the subsidy rate too high. That matters because it appears that the new fees which we have had to impose on borrowers and lenders, required by the high subsidy rate, suppressed demand for the program, exactly as both the Chairman and I said we feared might happen.

That is the main reason for the amendment, which would keep collateral for 504 deals valued at market value. That is rather than at liquidation value, as had at one point been suggested by some within the Administration. The amendment does not change current SBA policy. Rather, it prevents a suggested change, which in my view would certainly have led to a further weakening of the 504 loan guaranty program.

Here is the issue. Under current SBA policy, in a project valued at $1 million, 90 percent of the value of a 504 project can be financed by a CDC and a bank together in the form of loans. The remaining 10 percent is required to be provided as equity by the assisted small business. Loan collateral is limited ''generally to the assets being financed.'' This allows the program to offer attractive, 90-percent loan-to-value financing. It seems like a good deal, and it is, for borrowers and lenders.

But it's also a good deal for taxpayers because this program creates jobs with no appropriation. That's why I want to keep that policy working the way it is. If we had allowed the Administration to change that policy, by switching to a ''liquidation value'' approach for collateral, as had been suggested by some within the Administration, then assisted small business people could have been required to provide up to $300,000 of their own equity as collateral, on top of the $100,000 equity already required. When demand for this program already is being suppressed by high fees brought on by high subsidy rates—whether justified or not—this new blow to the program could have seriously harmed it. The National Association of Development Companies, which represents CDC's around the country, told some of us it felt the program could have been ''destroyed.'' So I am pleased we could address this concern in the bill.

The second provision I would like to mention immediately is a matter upon which I am pleased to have collaborated with Senator ABRAHAM. The managers also have included this provision in their amendment. It will allow microloan intermediaries to use up to 25 percent of the grants provided to them by SBA for the provision of technical assistance to provide such technical assistance to prospective borrowers—that is, not only small enterprises which are already borrowers, but to prospective borrowers, as well. I appreciate the inclusion of this provision, which allows needed flexibility on the part of microloan intermediaries. Minnesota has four microlending intermediaries, and staff from those organizations have told me how important it is that they be allowed sometimes to counsel and assist potential entrepreneurs prior to the time they are ready to become an actual borrower. In fact the very purpose of the technical assistance during this period is to allow the businessperson to reach the point in his or her business where credit is needed and he or she might become a borrower in the program.

The bill reauthorizes most SBA programs for an additional 3 years. The loan guaranty authorization levels are adequate in my judgment. In the case of both the 7(a) and 504 program, they exceed industry requests. The loan authorization level for the microloan program meets the Administration's request, although I had hoped to achieve a higher level for technical assistance grant funding. As I mentioned before, the microloan program nonetheless is expanded and made permanent in this bill, steps which are justified by the program's very beneficial performance. As an original cosponsor of the legislation which first created the program, I am proud that Minnesotans who utilize it are among the nation's leaders. The very small firms which receive very

small loans through the microloan program often have a big impact in their communities.

The bill will allow SBA programs to continue to be among the most popular and effective business programs operated by the federal government. I know they are popular and well used in Minnesota, where I am also proud to point out that we have one of the finest SBA district offices in the country, if not the finest. The bill also addresses a concern which many small businesses across the country have brought to our attention. That is the issue of Federal Government bundling of procurement contracts. The bill takes steps to help ensure that small firms can compete for Federal contracts, and that the Government's use of bundling is strictly warranted when it occurs.

Mr. President, I hope the House of Representatives also will act soon on their version of the bill, and I look forward to voting for passage of a conference report so the bill can be sent to the President. Thank you.

Mr. BOND. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, as amended; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (S. 1139), as amended, was read the third time and passed, as follows:

S. 1139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Small Business Reauthorization Act of 1997''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on October 1, 1997.

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by striking subsections (c) through (q) and inserting the following:

''(c) FISCAL YEAR 1998.—

''(1) PROGRAM LEVELS.—The following program levels are authorized for fiscal year 1998:

''(A) For the programs authorized by this Act, the Administration is authorized to make—

''(i) $28,000,000 in technical assistance grants, as provided in section 7(m); and

''(ii) $60,000,000 in loans, as provided in section 7(m).

''(B) For the programs authorized by this Act, the Administration is authorized to make $17,040,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

''(i) $13,000,000,000 in general business loans as provided in section 7(a);

''(ii) $3,000,000,000 in financings as provided in section 7(a)(13) of this Act and section 504 of the Small Business Investment Act of 1958;

''(iii) $1,000,000,000 in loans as provided in section 7(a)(21); and

''(iv) $40,000,000 in loans as provided in section 7(m).

''(C) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

''(i) $600,000,000 in purchases of participating securities; and

''(ii) $500,000,000 in guarantees of debentures.

''(D) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000, of which not more than $650,000,000 may be in bonds approved pursuant to section 411(a)(3) of that Act.

''(E) The Administration is authorized to make grants or enter into cooperative agreements—

''(i) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $4,000,000; and

''(ii) for activities of small business development centers pursuant to section 21(c)(3)(G), $15,000,000, to remain available until expended.

''(2) ADDITIONAL AUTHORIZATIONS.—

''(A) There are authorized to be appropriated to the Administration for fiscal year 1998 such sums as may be necessary to carry out this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

''(B) Notwithstanding subparagraph (A), for fiscal year 1998—

''(i) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under subsection (l)(2)(A) is fully funded; and

''(ii) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than $1,250,000.

''(d) FISCAL YEAR 1999.—

''(1) PROGRAM LEVELS.—The following program levels are authorized for fiscal year 1999:

''(A) For the programs authorized by this Act, the Administration is authorized to make—

''(i) $28,000,000 in technical assistance grants as provided in section 7(m); and

''(ii) $60,000,000 in loans, as provided in section 7(m).

''(B) For the programs authorized by this Act, the Administration is authorized to make $18,540,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

''(i) $14,000,000,000 in general business loans as provided in section 7(a);

''(ii) $3,500,000,000 in financings as provided in section 7(a)(13) of this Act and section 504 of the Small Business Investment Act of 1958;

''(iii) $1,000,000,000 in loans as provided in section 7(a)(21); and

''(iv) $40,000,000 in loans as provided in section 7(m).

''(C) For the programs authorized by title III of the Small Business Investment Act of

1958, the Administration is authorized to make—

''(i) $700,000,000 in purchases of participating securities; and

''(ii) $650,000,000 in guarantees of debentures.

''(D) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000, of which not more than $650,000,000 may be in bonds approved pursuant to section 411(a)(3) of that Act.

''(E) The Administration is authorized to make grants or enter cooperative agreements—

''(i) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $4,500,000; and

''(ii) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $15,000,000, to remain available until expended.

''(2) ADDITIONAL AUTHORIZATIONS.—

''(A) There are authorized to be appropriated to the Administration for fiscal year 1999 such sums as may be necessary to carry out this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

''(B) Notwithstanding subparagraph (A), for fiscal year 1999—

''(i) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under subsection (n)(2)(A) is fully funded; and

''(ii) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than $1,250,000.

''(e) FISCAL YEAR 2000.—

''(1) PROGRAM LEVELS.—The following program levels are authorized for fiscal year 2000:

''(A) For the programs authorized by this Act, the Administration is authorized to make—

''(i) $28,000,000 in technical assistance grants as provided in section 7(m); and

''(ii) $60,000,000 in direct loans, as provided in section 7(m).

''(B) For the programs authorized by this Act, the Administration is authorized to make $21,040,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

''(i) $15,500,000,000 in general business loans as provided in section 7(a);

''(ii) $4,500,000,000 in financings as provided in section 7(a)(13) of this Act and section 504 of the Small Business Investment Act of 1958;

''(iii) $1,000,000,000 in loans as provided in section 7(a)(21); and

''(iv) $40,000,000 in loans as provided in section 7(m).

''(C) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

''(i) $850,000,000 in purchases of participating securities; and

''(ii) $700,000,000 in guarantees of debentures.

''(D) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000, of which not more than $650,000,000 may be in bonds approved pursuant to section 411(a)(3) of that Act.

''(E) The Administration is authorized to make grants or enter cooperative agreements—

''(i) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $5,000,000; and

''(ii) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $15,000,000, to remain available until expended.

''(2) ADDITIONAL AUTHORIZATIONS.—

''(A) There are authorized to be appropriated to the Administration for fiscal year 2000 such sums as may be necessary to carry out this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

''(B) Notwithstanding subparagraph (A), for fiscal year 2000—

''(i) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under subsection (p)(2)(A) is fully funded; and

''(ii) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than $1,250,000.''.

TITLE II—FINANCIAL ASSISTANCE

Subtitle A—Microloan Program

SEC. 201. MICROLOAN PROGRAM.

(a) LOAN LIMITS.—Section 7(m)(3)(C) of the Small Business Act (15 U.S.C. 636(m)(3)(C)) is amended by striking ''$2,500,000'' and inserting ''$3,500,000''.

(b) LOAN LOSS RESERVE FUND.—Section 7(m)(3)(D) of the Small Business Act (15 U.S.C. 636(m)(3)(D)) is amended by striking clauses (i) and (ii), and inserting the following:

''(i) during the initial 5 years of the intermediary's participation in the program under this subsection, at a level equal to not more than 15 percent of the outstanding balance of the notes receivable owed to the intermediary; and

''(ii) in each year of participation thereafter, at a level equal to not more than the greater of—

''(I) 2 times an amount reflecting the total losses of the intermediary as a result of participation in the program under this subsection, as determined by the Administrator on a case-by-case basis; or

''(II) 10 percent of the outstanding balance of the notes receivable owed to the intermediary.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in the subsection heading, by striking ''DEMONSTRATION'';

(2) by striking ''Demonstration'' each place that term appears;

(3) by striking ''demonstration'' each place that term appears; and

(4) in paragraph (12), by striking ''during fiscal years 1995 through 1997'' and inserting ''during fiscal years 1998 through 2000''.

(d) TECHNICAL ASSISTANCE GRANTS.—Section 7(m)(4)(E) of the Small Business Act (15 U.S.C. 636(m)(4)(E)) is amended—

(1) by inserting ''(i)'' before ''Each intermediary'';

(2) by striking ''15'' and inserting ''25'';

(3) by adding at the end of the paragraph ''(ii) The intermediary may expend up to 25 percent of the funds received under paragraph (1)(B)(ii) to enter into third party contracts for the provision of technical assistance''.

SEC. 202. WELFARE-TO-WORK MICROLOAN PILOT PROGRAM.

(a) PROGRAM ESTABLISHMENT.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(A)—

(A) in clause (ii), by striking ''and'' at the end;

(B) in clause (iii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(iv) to establish a welfare-to-work microloan pilot program, which shall be administered by the Administration, in order to—

''(I) test the feasibility of supplementing the technical assistance grants provided under clauses (ii) and (iii) of subparagraph (B) to individuals who are receiving assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), or under any comparable State-funded means-tested program of assistance for low-income individuals, in order to adequately assist those individuals in—

''(aa) establishing small businesses; and

''(bb) eliminating their dependence on that assistance;

''(II) permit the grants described in subclause (I) to be used to provide intensive management, marketing and technical assistance as well as to pay or reimburse a portion of child care and transportation costs of individuals described in subclause (I) who become microborrowers;

''(III) eliminate barriers to microborrowers in establishing child care businesses; and

''(IV) evaluate the effectiveness of assistance provided under this clause in helping individuals described in subclause (I) to eliminate their dependence on assistance described in that subclause and become employed in their own business;'';

(2) in paragraph (4), by adding at the end the following:

''(F) SUPPLEMENTAL GRANTS.—

''(i) IN GENERAL.—In addition to grants under subparagraphs (A) and (C) and paragraph (5), the Administration may select from participating intermediaries and recipients of grants under paragraph (5), not more than 20 entities in fiscal year 1998, 25 entities in fiscal year 1999, and 30 entities in fiscal year 2000, each of whom may receive annually a supplemental grant in an amount not to exceed $200,000 for the purpose of providing additional technical assistance and related services to borrowers who are receiving assistance described in paragraph (1)(A)(iv)(I) at the time they initially apply for assistance under the program.

''(ii) INAPPLICABILITY OF CONTRIBUTION REQUIREMENTS.—The contribution requirements of subparagraphs (B) and (C)(i)(II) do not apply to any grant made under this subparagraph.

''(iii) CHILD CARE AND TRANSPORTATION COSTS.—Any grant made under this subparagraph may be used to pay or reimburse a portion of the costs of child care and transportation incurred by a borrower under the welfare-to-work microloan pilot program under paragraph (1)(A)(iv).'';

(3) in paragraph (6), by adding at the end the following:

''(E) ESTABLISHMENT OF CHILD CARE ESTABLISHMENTS.—In addition to other eligible small business concerns, borrowers under

any program under this subsection may include individuals who will use the loan proceeds to establish for-profit or nonprofit child care establishments.'';

(4) in paragraph (9)—

(A) by striking the paragraph designation and paragraph heading and inserting the following:

''(9) GRANTS FOR MANAGEMENT, MARKETING, TECHNICAL ASSISTANCE, AND RELATED SERVICES.—''; and

(B) by adding at the end the following:

''(C) WELFARE-TO-WORK MICROLOAN PILOT PROGRAM.—Of amounts made available to carry out the welfare-to-work microloan pilot program under paragraph (1)(A)(iv) in any fiscal year, the Administration may use not more than 5 percent to provide technical assistance, either directly or through contractors, to welfare-to-work microloan pilot program grantees, to ensure that, as grantees, they have the knowledge, skills, and understanding of microlending and welfare-to-work transition, and other related issues, to operate a successful welfare-to-work microloan pilot program.''; and

(5) by adding at the end the following:

''(13) EVALUATION OF WELFARE-TO-WORK MICROLOAN PILOT PROGRAM.—On January 31, 1999, and annually thereafter, the Administration shall submit to the Committees on Small Business of the House of Representatives and the Senate a report on the welfare-to-work microloan pilot program authorized under paragraph (1)(A)(iv), which report shall include, with respect to the preceding fiscal year, an analysis of the progress and effectiveness of the program during that fiscal year, and data relating to—

''(A) the number and location of each grantee under the program;

''(B) the amount of each grant;

''(C) the number of individuals who received assistance under each grant, including separate data relating to—

''(i) the number of individuals who received training;

''(ii) the number of individuals who received transportation assistance; and

''(iii) the number of individuals who received child care assistance (including the number of children assisted);

''(D) the type and amount of loan and grant assistance received by borrowers under the program;

''(E) the number of businesses that were started with assistance provided under the program that are operational and the number of jobs created by each business;

''(F) the number of individuals receiving training under the program who, after receiving assistance under the program—

''(i) are employed in their own businesses; and

''(ii) are not receiving public assistance for themselves or their children;

''(G) whether and to what extent each grant was used to defray the transportation and child care costs of borrowers; and

''(H) any recommendations for legislative changes to improve program operations.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the welfare-to-work microloan pilot program under section 7(m)(1)(A)(iv) of the Small Business Act (as added by this section)—

(1) $3,000,000 for fiscal year 1998;

(2) $4,000,000 for fiscal year 1999; and

(3) $5,000,000 for fiscal year 2000.

Subtitle B—Small Business Investment Company Program

SEC. 211. 5-YEAR COMMITMENTS FOR SBICs AT OPTION OF ADMINISTRATOR.

Section 20(a)(2) of the Small Business Act (15 U.S.C. 631 note) is amended in the last sentence by striking ''the following fiscal year'' and inserting ''any 1 or more of the 4 subsequent fiscal years''.

SEC. 212. FEES.

Section 301 of the Small Business Investment Act of 1958 (15 U.S.C. 681) is amended by adding the following:

''(e) FEES.—

''(1) IN GENERAL.—The Administration may prescribe fees to be paid by each applicant for a license to operate as a small business investment company under this Act.

''(2) USE OF AMOUNTS.—Amounts collected pursuant to this subsection shall be—

''(A) deposited in the account for salaries and expenses of the Administration; and

''(B) available without further appropriation solely to cover contracting and other administrative costs related to licensing.''.

SEC. 213. SMALL BUSINESS INVESTMENT COMPANY PROGRAM REFORM.

(a) BANK INVESTMENTS.—Section 302(b) of the Small Business Investment Act of 1958 (15 U.S.C. 682(b)) is amended by striking ''1956,'' and all that follows before the period and inserting the following: ''1956, any national bank, or any member bank of the Federal Reserve System or nonmember insured bank to the extent permitted under applicable State law, may invest in any 1 or more small business investment companies, or in any entity established to invest solely in small business investment companies, except that in no event shall the total amount of such investments of any such bank exceed 5 percent of the capital and surplus of the bank''.

(b) INDEXING FOR LEVERAGE.—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by adding at the end the following:

''(D)(i) The dollar amounts in subparagraphs (A), (B), and (C) shall be adjusted annually to reflect increases in the Consumer Price Index established by the Bureau of Labor Statistics of the Department of Labor.

''(ii) The initial adjustments made under this subparagraph after the date of enactment of the Small Business Reauthorization Act of 1997 shall reflect only increases from March 31, 1993.''; and

(B) by striking paragraph (4) and inserting the following:

''(4) MAXIMUM AGGREGATE AMOUNT OF LEVERAGE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the aggregate amount of outstanding leverage issued to any company or companies that are commonly controlled (as determined by the Administrator) may not exceed $90,000,000, as adjusted annually for increases in the Consumer Price Index.

''(B) EXCEPTIONS.—The Administrator may, on a case-by-case basis—

''(i) approve an amount of leverage that exceeds the amount described in subparagraph (A) for companies under common control; and

''(ii) impose such additional terms and conditions as the Administrator determines to be appropriate to minimize the risk of loss to the Administration in the event of default.

''(C) APPLICABILITY OF OTHER PROVISIONS.—Any leverage that is issued to a company or companies commonly controlled in an amount that exceeds $90,000,000, whether as a result of an increase in the Consumer Price Index or a decision of the Administrator, is subject to subsection (d).''; and

(2) by striking subsection (d) and inserting the following:

''(d) REQUIRED CERTIFICATIONS.—

''(1) IN GENERAL.—The Administrator shall require each licensee, as a condition of approval of an application for leverage, to certify in writing—

''(A) for licensees with leverage less than or equal to $90,000,000, that not less than 20 percent of the licensee's aggregate dollar amount of financings will be provided to smaller enterprises; and

''(B) for licensees with leverage in excess of $90,000,000, that, in addition to satisfying the requirements of subparagraph (A), 100 percent of the licensee's aggregate dollar amount of financings made in whole or in part with leverage in excess of $90,000,000 will be provided to smaller enterprises as defined in section 103(12).

''(2) MULTIPLE LICENSEES.—Multiple licensees under common control (as determined by the Administrator) shall be considered to be a single licensee for purposes of determining both the applicability of and compliance with the investment percentage requirements of this subsection.''.

(c) TAX DISTRIBUTIONS.—Section 303(g)(8) of the Small Business Investment Act of 1958 (15 U.S.C. 683(g)(8)) is amended by adding at the end the following: ''A company may also elect to make a distribution under this paragraph at the end of any calendar quarter based on a quarterly estimate of the maximum tax liability. If a company makes 1 or more quarterly distributions for a calendar year, and the aggregate amount of those distributions exceeds the maximum amount that the company could have distributed based on a single annual computation, any subsequent distribution by the company under this paragraph shall be reduced by an amount equal to the excess amount distributed.''.

(d) LEVERAGE FEE.—Section 303(i) of the Small Business Investment Act of 1958 (15 U.S.C. 683(i)) is amended by striking '', payable upon'' and all that follows before the period and inserting the following: ''in the following manner: 1 percent upon the date on which the Administration enters into any commitment for such leverage with the licensee, and the balance of 2 percent (or 3 percent if no commitment has been entered into by the Administration) on the date on which the leverage is drawn by the licensee''.

(e) PERIODIC ISSUANCE OF GUARANTEES AND TRUST CERTIFICATES.—Section 320 of the Small Business Investment Act of 1958 (15 U.S.C. 687m) is amended by striking ''three months'' and inserting ''6 months''.

SEC. 214. EXAMINATION FEES.

Section 310(b) of the Small Business Investment Act of 1958 (15 U.S.C. 687b(b)) is amended by inserting after the first sentence the following: ''Fees collected under this subsection shall be deposited in the account for salaries and expenses of the Administration, and shall be available without further appropriation solely to cover the costs of examinations and other program oversight activities.''.

Subtitle C—Certified Development Company Program

SEC. 221. LOANS FOR PLANT ACQUISITION, CONSTRUCTION, CONVERSION, AND EXPANSION.

Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) The proceeds of any such loan shall be used solely by the borrower to assist 1 or more identifiable small business concerns and for a sound business purpose approved by the Administration.'';

(2) in paragraph (3), by adding at the end the following:

''(D) SELLER FINANCING.—Seller-provided financing may be used to meet the requirements of subparagraph (B), if the seller subordinates the interest of the seller in the property to the debenture guaranteed by the Administration.

''(E) COLLATERAL REQUIREMENTS.—Adequacy of collateral provided by the small business shall be one factor evaluated in the credit determination. Collateral provided by the small business concern generally will include a subordinate lien position on the property being financed, and additional collateral may be required in a case-by-case basis, as determined by the Administration.''; and

(3) by adding at the end the following:

''(5) Except as provided in paragraph (4), not to exceed 25 percent of the project may be leased by the assisted small business, if—

''(A) the assisted small business is required to occupy permanently and use not less than 75 percent of the space in the project after the execution of any leases authorized in this paragraph; and

''(B) each tenant is engaged a business that enhances the operations of the assisted small business.''.

SEC. 222. DEVELOPMENT COMPANY DEBENTURES.

Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(1) in subsection (b)(7), by striking subparagraph (A) and inserting the following:

''(A) assesses and collects a fee, which shall be payable by the borrower, in an amount established annually by the Administration, which amount shall not exceed the lesser of—

''(i) 0.9375 percent per year of the outstanding balance of the loan; and

''(ii) the minimum amount necessary to reduce the cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of purchasing and guaranteeing debentures under this Act to zero; and''; and

(2) in subsection (f), by striking ''1997'' and inserting ''2000''.

SEC. 223. PREMIER CERTIFIED LENDERS PROGRAM.

(a) IN GENERAL.—Section 508 of the Small Business Investment Act of 1958 (15 U.S.C. 697e) is amended—

(1) in subsection (a), by striking ''not more than 15'';

(2) in subsection (b)(2), by striking subparagraphs (A) and (B) and inserting the following:

''(A) is an active certified development company in good standing and has been an active participant in the accredited lenders program during the entire 12-month period preceding the date on which the company submits an application under paragraph (1), except that the Administration may waive this requirement if the company is qualified to participate in the accredited lenders program;

''(B) has a history of—

''(i) submitting to the Administration adequately analyzed debenture guarantee application packages; and

''(ii) of properly closing section 504 loans and servicing its loan portfolio; and'';

(3) by striking subsection (c) and inserting the following:

''(c) LOSS RESERVE.—

''(1) ESTABLISHMENT.—A company designated as a premier certified lender shall establish a loss reserve for financing approved pursuant to this section.

''(2) AMOUNT.—The amount of the loss reserve shall be based upon the greater of—

''(A) the historic loss rate on debentures issued by such company; or

''(B) 10 percent of the amount of the company's exposure as determined under subsection (b)(2)(C).

''(3) ASSETS.—The loss reserve shall be comprised of any combination of the following types of assets:

''(A) segregated funds on deposit in an account or accounts with a federally insured depository institution or institutions selected by the company, subject to a collateral assignment in favor of, and in a format acceptable to, the Administration; or

''(B) irrevocable letter or letters of credit, with a collateral assignment in favor of, and a commercially reasonable format acceptable to, the Administration.

''(4) CONTRIBUTIONS.—The company shall make contributions to the loss reserve, either cash or letters of credit as provided above, in the following amounts and at the following intervals:

''(A) 50 percent when a debenture is closed;

''(B) 25 percent additional not later than 1 year after a debenture is closed; and

''(C) 25 percent additional not later than 2 years after a debenture is closed.

''(5) REPLENISHMENT.—If a loss has been sustained by the Administration, any portion of the loss reserve, and other funds provided by the premier company as necessary, may be used to reimburse the Administration for the company's 10 percent share of the loss as provided in subsection (b)(2)(C). If the company utilizes the reserve, within 30 days it shall replace an equivalent amount of funds.

''(6) DISBURSEMENTS.—The Administration shall allow the certified development company to withdraw from the loss reserve amounts attributable to any debenture which has been repaid.'';

(4) in subsection (f), by striking ''State or local'' and inserting ''certified'';

(5) in subsection (g), by striking the subsection heading and inserting the following:

''(g) EFFECT OF SUSPENSION OR REVOCATION.—'';

(6) by striking subsection (h) and inserting the following:

''(h) PROGRAM GOALS.—Each certified development company participating in the program under this section shall establish a goal of processing a minimum of not less than 50 percent of the loan applications for assistance under section 504 pursuant to the program authorized under this section.''; and

(7) in subsection (i), by striking ''other lenders'' and inserting ''other lenders, specifically comparing default rates and recovery rates on liquidations''.

(b) REGULATIONS.—The Administrator of the Small Business Administration shall—

(1) not later than 120 days after the date of enactment of this Act, promulgate regulations to carry out the amendments made by subsection (a); and

(2) not later than 150 days after the date of enactment of this Act, issue program guidelines and fully implement the amendments made by subsection (a).

(c) PROGRAM EXTENSION.—Section 217(b) of the Small Business Reauthorization and Amendments Act of 1994 (15 U.S.C. 697e note) is amended by striking ''October 1, 1997'' and inserting ''October 1, 2000''.

TITLE III—WOMEN'S BUSINESS ENTERPRISES

SEC. 301. INTERAGENCY COMMITTEE PARTICIPATION.

Section 403 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) in subsection (a)(1), by adding at the end the following:

''(K) The Department of Education.

''(L) The Environmental Protection Agency.

''(M) The Department of Energy.

''(N) The Administrator of the Office of Procurement Policy.

''(O) The National Aeronautics and Space Administration.'';

(2) in subsection (a)(2)(A)—

(A) by striking ''and Amendments Act of 1994'' and inserting ''Act of 1997''; and

(B) by inserting before the final period '', and who shall report directly to the head of the agency on the status of the activities of the Interagency Committee'';

(3) in subsection (a)(2)(B), by inserting before the final period the following: ''and shall report directly to the Administrator on the status of the activities on the Interagency Committee and shall serve as the Interagency Committee Liaison to the National Women's Business Council established under section 405''; and

(4) in subsection (b), by striking ''and Amendments Act of 1994'' and inserting ''Act of 1997''.

SEC. 302. REPORTS.

Section 404 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by inserting '', through the Small Business Administration,'' after ''transmit'';

(2) by striking paragraph (1) and redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(3) in paragraph (1), as redesignated, by inserting before the semicolon the following: '', including a status report on the progress of the Interagency Committee in meeting its responsibilities and duties under section 402(a)''.

SEC. 303. COUNCIL DUTIES.

Section 406 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) in subsection (c), by inserting after ''Administrator'' the following: ''(through the Assistant Administrator for the Office of Women's Business Ownership)''; and

(2) in subsection (d)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(6) submit to the President and to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives, an annual report containing—

''(A) a detailed description of the activities of the council, including a status report on the Council's progress toward meeting its duties outlined in subsections (a) and (d) of section 406;

''(B) the findings, conclusions, and recommendations of the Council; and

''(C) the Council's recommendations for such legislation and administrative actions as the Council considers appropriate to promote the development of small business concerns owned and controlled by women.

''(e) SUBMISSION OF REPORTS.—The annual report required by subsection (d) shall be submitted not later than 90 days after the end of each fiscal year.''.

SEC. 304. COUNCIL MEMBERSHIP.

Section 407 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) in subsection (a), by striking ''and Amendments Act of 1994'' and inserting ''Act of 1997'';

(2) in subsection (b)—

(A) by striking ''and Amendments Act of 1994'' and inserting ''Act of 1997'';

(B) by inserting after ''the Administrator shall'' the following: '', after receiving the recommendations of the Chair and the Ranking Member of the Minority of the Committees on Small Business of the House of Representatives and the Senate, '';

(C) by striking ''9'' and inserting ''14'';

(D) in paragraph (1), by striking ''2'' and inserting ''3'';

(E) in paragraph (2)—

(i) by striking ''2'' and inserting ''3''; and

(ii) by striking ''and'' at the end;

(F) in paragraph (3)—

(i) by striking ''5'' and inserting ''6'';

(ii) by striking ''national''; and

(iii) by striking the period at the end and inserting the following: '', including representatives of Women's Business Center sites; and''; and

(G) by adding at the end the following:

''(4) 2 shall be representatives of businesses or educational institutions having an interest in women's entrepreneurship.''; and

(3) in subsection (c), by inserting ''(including both urban and rural areas)'' after ''geographic''.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

Section 409 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking ''1995 through 1997'' and inserting ''1998 through 2000''; and

(2) by striking ''$350,000'' and inserting ''$400,000''.

SEC. 306. WOMEN'S BUSINESS CENTERS.

(a) IN GENERAL.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended to read as follows:

''SEC. 29. WOMEN'S BUSINESS CENTERS.

''(a) DEFINITIONS.—In this section—

''(1) the term 'small business concern owned and controlled by women', either startup or existing, includes any small business concern—

''(A) that is not less than 51 percent owned by 1 or more women; and

''(B) the management and daily business operations of which are controlled by 1 or more women; and

''(2) the term 'women's business center site' means the location of—

''(A) a women's business center; or

''(B) 1 or more women's business centers, established in conjunction with another women's business center in another location within a State or region—

''(i) that reach a distinct population that would otherwise not be served;

''(ii) whose services are targeted to women; and

''(iii) whose scope, function, and activities are similar to those of the primary women's business center or centers in conjunction with which it was established.

''(b) AUTHORITY.—The Administration may provide financial assistance to private organizations to conduct 5-year projects for the benefit of small business concerns owned and controlled by women. The projects shall provide—

''(1) financial assistance, including training and counseling in how to apply for and secure business credit and investment capital, preparing and presenting financial statements, and managing cash flow and other financial operations of a business concern;

''(2) management assistance, including training and counseling in how to plan, organize, staff, direct, and control each major activity and function of a small business concern; and

''(3) marketing assistance, including training and counseling in identifying and segmenting domestic and international market opportunities, preparing and executing marketing plans, developing pricing strategies, locating contract opportunities, negotiating contracts, and utilizing varying public relations and advertising techniques.

''(c) CONDITIONS OF PARTICIPATION.—

''(1) NON-FEDERAL CONTRIBUTIONS.—As a condition of receiving financial assistance authorized by this section, the recipient organization shall agree to obtain, after its application has been approved and notice of award has been issued, cash contributions from non-Federal sources as follows:

''(A) in the first, second, and third years, 1 non-Federal dollar for each 2 Federal dollars;

''(B) in the fourth year, 1 non-Federal dollar for each Federal dollar; and

''(C) in the fifth year, 2 non-Federal dollars for each Federal dollar.

''(2) FORM OF NON-FEDERAL CONTRIBUTIONS.—Not more than one-half of the non-Federal sector matching assistance may be in the form of in-kind contributions which are budget line items only, including but not limited to office equipment and office space.

''(3) FORM OF FEDERAL CONTRIBUTIONS.—The financial assistance authorized pursuant to this section may be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement. The Administration may disburse up to 25 percent of each year's Federal share awarded to a recipient organization after notice of the award has been issued and before the non-Federal sector matching funds are obtained.

''(4) FAILURE TO OBTAIN PRIVATE FUNDING.—If any recipient of assistance fails to obtain the required non-Federal contribution during any project, it shall not be eligible thereafter for advance disbursements pursuant to paragraph (3) during the remainder of that project, or for any other project for which it is or may be funded by the Administration, and prior to approving assistance to such organization for any other projects, the Administration shall specifically determine whether the Administration believes that the recipient will be able to obtain the requisite non-Federal funding and enter a written finding setting forth the reasons for making such determination.

''(d) CONTRACT AUTHORITY.—A women's business center may enter into a contract with a Federal department or agency to provide specific assistance to women and other underserved small business concerns. Performance of such contract should not hinder the women's business centers in carrying out the terms of the grant received by the women's business centers from the Administration.

''(e) SUBMISSION OF 5-YEAR PLAN.—Each applicant organization initially shall submit a 5-year plan to the Administration on proposed fundraising and training activities, and a recipient organization may receive financial assistance under this program for a maximum of 5 years per women's business center site.

''(f) CRITERIA.—The Administration shall evaluate and rank applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. The criteria shall include—

''(1) the experience of the applicant in conducting programs or ongoing efforts designed to impart or upgrade the business skills of women business owners or potential owners;

''(2) the present ability of the applicant to commence a project within a minimum amount of time;

''(3) the ability of the applicant to provide training and services to a representative number of women who are both socially and economically disadvantaged; and

''(4) the location for the women's business center site proposed by the applicant.

''(g) OFFICE OF WOMEN'S BUSINESS OWNERSHIP.—There is established within the Administration an Office of Women's Business Ownership, which shall be responsible for the administration of the Administration's programs for the development of women's business enterprises (as that term is defined in section 408 of the Women's Business Ownership Act of 1988). The Office of Women's Business Ownership shall be administered by an Assistant Administrator, who shall be appointed by the Administrator.

''(h) REPORT.—The Administrator shall prepare and submit an annual report to the Committees on Small Business of the House of Representatives and the Senate on the effectiveness of all projects conducted under the authority of this section. Such report shall provide information concerning—

''(1) the number of individuals receiving assistance;

''(2) the number of startup business concerns formed;

''(3) the gross receipts of assisted concerns;

''(4) increases or decreases in profits of assisted concerns; and

''(5) the employment increases or decreases of assisted concerns.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $8,000,000 per year to carry out the projects authorized by this section. Amounts appropriated pursuant to this subsection are to be used exclusively for grant awards and not for costs incurred by the Administration for the management and administration of the program. Notwithstanding any other provision of law, the Administration may use such expedited acquisition methods as it deems appropriate, through the Assistant Administrator of the Office of Women's Business Ownership, to achieve the purposes of this section, except that the Administration shall ensure that all eligible sources are provided a reasonable opportunity to submit proposals.''.

(b) APPLICABILITY.—Any organization conducting a 3-year project under section 29 of the Small Business Act (15 U.S.C. 656) on the day before the date of enactment of this Act, may extend the term of that project to a total term of 5 years and receive financial assistance in accordance with section 29(c) of the Small Business Act (as amended by this title) subject to procedures established by the Administrator in coordination with the Office of Women's Business Ownership established under section 29 of the Small Business Act (15 U.S.C. 656) (as amended by this title).

SEC. 307. OFFICE OF WOMEN'S BUSINESS OWNERSHIP.

Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following:

''(i) ASSISTANT ADMINISTRATOR FOR THE OFFICE OF WOMEN'S BUSINESS OWNERSHIP.—

''(1) QUALIFICATION.—The Assistant Administrator for the Office of Women's Business Ownership (hereafter in this section referred to as the 'Assistant Administrator') shall serve without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates, but at a rate of pay not to exceed the maximum of pay payable for a position at GS–17 of the General Schedule.

''(2) RESPONSIBILITIES AND DUTIES.—

''(A) RESPONSIBILITIES.—The responsibilities of the Assistant Administrator shall be to administer the programs and services of the Office of Women's Business Ownership established to assist women entrepreneurs in the areas of—

''(i) starting and operating a small business;

''(ii) development of management and technical skills;

''(iii) seeking Federal procurement opportunities; and

''(iv) increasing the opportunity for access to capital.

''(B) DUTIES.—Duties of the position of the Assistant Administrator shall include—

''(i) administering and managing the Women's Business Centers program;

''(ii) recommending the annual administrative and program budgets for the Office of Women's Business Ownership (including the budget for the Women's Business Centers);

''(iii) establishing appropriate funding levels therefore;

''(iv) reviewing the annual budgets submitted by each applicant for the Women's Business Center program;

''(v) selecting applicants to participate in this program;

''(vi) implementing this section;

''(vii) maintaining a clearinghouse to provide for the dissemination and exchange of information between Women's Business Centers;

''(viii) conducting program examinations of recipients of grants under this section;

''(ix) serving as the vice chairperson of the Interagency Committee on Women's Business Enterprise;

''(x) serving as liaison for the National Women's Business Council; and

''(xi) advising the Administrator on appointments to the Women's Business Council.

''(3) CONSULTATION REQUIREMENTS.—In carrying out the responsibilities and duties described in this subsection, the Assistant Administrator shall confer with and seek the advice of the Administration officials in areas served by the Women's Business Centers.

''(j) PROGRAM EXAMINATION.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Administration shall develop and implement an annual programmatic and financial examination of each Women's Business Center established pursuant to this section.

''(2) EXTENSION OF CONTRACTS.—In extending or renewing a contract with a Women's Business Center, the Administration shall consider the results of the examination conducted pursuant to paragraph (1).

''(k) CONTRACT AUTHORITY.—The authority of the Administration to enter into contracts shall be in effect for each fiscal year only to the extent and in the amounts as are provided in advance in appropriations Acts. After the Administration has entered a contract, either as a grant or a cooperative agreement, with any applicant under this section, it shall not suspend, terminate, or fail to renew or extend any such contract unless the Administration provides the applicant with written notification setting forth the reasons therefore and affording the applicant an opportunity for a hearing, appeal, or other administrative proceeding under chapter 5 of title 5, United States Code.''.

SEC. 308. NATIONAL WOMEN'S BUSINESS COUNCIL PROCUREMENT PROJECT.

(a) IN GENERAL.—The Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by adding at the end the following:

''SEC. 410. NATIONAL WOMEN'S BUSINESS COUNCIL PROCUREMENT PROJECT.

''(a) PROCUREMENT PROJECT.—

''(1) FEDERAL PROCUREMENT STUDY.—

''(A) IN GENERAL.—The Council shall conduct a study on the award of Federal prime contracts and subcontracts to women-owned businesses, which study shall include—

''(i) an analysis of data collected by Federal agencies on contract awards to women-owned businesses;

''(ii) a determination of the degree to which individual Federal agencies are in compliance with the 5 percent women-owned business procurement goal established by section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1));

''(iii) a determination of the types and amounts of Federal contracts characteristically awarded to women-owned businesses; and

''(iv) other relevant information relating to participation of women-owned businesses in Federal procurement.

''(B) SUBMISSION OF RESULTS.—Not later than October 1, 1999, the Council shall submit to the Committees on Small Business of the House of Representatives and the Senate, and to the President, the results of the study conducted under subparagraph (A).

''(2) BEST PRACTICES REPORT.—Not later than March 1, 2000, the Council shall submit to the Committees on Small Business of the House of Representatives and the Senate, and to the President, a report, which shall include—

''(A) an analysis of the most successful practices in attracting women-owned businesses as prime contractors and subcontractors by—

''(i) Federal agencies (as supported by findings from the study required under subsection (a)(1)) in Federal procurement awards; and

''(ii) the private sector; and

''(B) recommendations for policy changes in Federal procurement practices, including an increase in the Federal procurement goal for women-owned businesses, in order to maximize the number of women-owned businesses performing Federal contracts.

''(b) CONTRACTING AUTHORITY.—In carrying out this section, the Council may contract with 1 or more public or private entities.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, not to exceed $200,000, to remain available until expended through fiscal year 2000.''.

TITLE IV—COMPETITIVENESS PROGRAM AND PROCUREMENT OPPORTUNITIES

Subtitle A—Small Business Competitiveness Program

SEC. 401. PROGRAM TERM.

Section 711(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by striking ''1997'' and inserting ''2000''.

SEC. 402. MONITORING AGENCY PERFORMANCE.

Section 712(d)(1) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended to read as follows:

''(1) Participating agencies shall monitor the attainment of their small business participation goals on an annual basis. An annual review by each participating agency shall be completed not later than January 31 of each year, based on the data for the preceding fiscal year, from October 1 through September 30.''.

SEC. 403. REPORTS TO CONGRESS.

Section 716(a) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended—

(1) by striking ''1996'' and inserting ''2000'';

(2) by striking ''for Federal Procurement Policy'' and inserting ''of the Small Business Administration''; and

(3) by striking ''Government Operations'' and inserting ''Government Reform and Oversight''.

SEC. 404. SMALL BUSINESS PARTICIPATION IN DREDGING.

Section 722(a) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by striking ''1996'' and inserting ''2000''.

Subtitle B—Small Business Procurement Opportunities Program

SEC. 411. CONTRACT BUNDLING.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end the following:

''(j) In complying with the statement of congressional policy expressed in subsection (a), relating to fostering the participation of small business concerns in the contracting opportunities of the Government, each Federal agency, to the maximum extent practicable, shall—

''(1) comply with congressional intent to foster the participation of small business concerns as prime contractors, subcontractors, and suppliers;

''(2) structure its contracting requirements to facilitate competition by and among small business concerns, taking all reasonable steps to eliminate obstacles to their participation; and

''(3) avoid unnecessary and unjustified bundling of contract requirements that precludes small business participation in procurements as prime contractors.''.

SEC. 412. DEFINITION OF CONTRACT BUNDLING.

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

''(o) DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.—In this Act—

''(1) The term 'bundling of contract requirements' means consolidating two or more procurement requirements for goods or services previously provided or performed under separate smaller contracts into a solicitation of offers for a single contract that is likely to be unsuitable for award to a small-business concern due to—

''(A) the diversity, size, or specialized nature of the elements of the performance specified;

''(B) the aggregate dollar value of the anticipated award;

''(C) the geographical dispersion of the contract performance sites; or

''(D) any combination of the factors described in subparagraphs (A), (B), and (C).

''(2) The term 'separate smaller contract', with respect to a bundling of contract requirements, means a contract that has been performed by one or more small business concerns or was suitable for award to one or more small business concerns.

''(3) The term 'bundled contract' means a contract that is entered into to meet requirements that are consolidated in a bundling of contract requirements.''.

SEC. 413. ASSESSING PROPOSED CONTRACT BUNDLING.

(a) IN GENERAL.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended by inserting after subsection (d) the following new subsection (e):

''(e) PROCUREMENT STRATEGIES; CONTRACT BUNDLING.—

''(1) IN GENERAL.—To the maximum extent practicable, procurement strategies used by the various agencies having contracting authority shall facilitate the maximum participation of small business concerns as prime contractors, subcontractors, and suppliers.

''(2) MARKET RESEARCH.—

''(A) IN GENERAL.—Before proceeding with an acquisition strategy that could lead to a contract containing consolidated procurement requirements, the head of an agency shall conduct market research to determine whether consolidation of the requirements is necessary and justified.

''(B) FACTORS.—For purposes of subparagraph (A), consolidation of the requirements may be determined as being necessary and justified if, as compared to the benefits that would be derived from contracting to meet those requirements if not consolidated, the Federal Government would derive from the consolidation measurably substantial benefits, including any combination of benefits that, in combination, are measurably substantial. Benefits described in the preceding sentence may include the following:

''(i) Cost savings.

''(ii) Quality improvements.

''(iii) Reduction in acquisition cycle times.

''(iv) Better terms and conditions.

''(v) Any other benefits.

''(C) REDUCTION OF COSTS NOT DETERMINATIVE.—The reduction of administrative or personnel costs alone shall not be a justification for bundling of contract requirements unless the cost savings are expected to be substantial in relation to the dollar value of the procurement requirements to be consolidated.

''(3) STRATEGY SPECIFICATIONS.—If the head of a contracting agency determines that a proposed procurement strategy for a procurement involves a substantial bundling of contract requirements, the proposed procurement strategy shall—

''(A) identify specifically the benefits anticipated to be derived from the bundling of contract requirements;

''(B) set forth an assessment of the specific impediments to participation by small business concerns as prime contractors that result from the bundling of contract requirements and specify actions designed to maximize small business participation as subcontractors (including suppliers) at various tiers under the contract or contracts that are awarded to meet the requirements; and

''(C) include a specific determination that the anticipated benefits of the proposed bundled contract justify its use.

''(4) CONTRACT TEAMING.—In the case of a solicitation of offers for a bundled contract that is issued by the head of an agency, a small-business concern may submit an offer that provides for use of a particular team of subcontractors for the performance of the contract. The head of the agency shall evaluate the offer in the same manner as other offers, with due consideration to the capabilities of all of the proposed subcontractors. When a small business concern teams under this paragraph, it shall not affect its status as a small business concern for any other purpose.''.

(b) ADMINISTRATION REVIEW.—The third sentence of subsection (a) of such section is amended—

(1) by inserting after ''discrete construction projects,'' the following: ''or the solicitation involves an unnecessary or unjustified bundling of contract requirements, as determined by the Administration,'';

(2) by striking out ''or (4)'' and inserting in lieu thereof ''(4)''; and

(3) by inserting before the period at the end the following: '', or (5) why the agency has determined that the bundled contract (as defined in section 3(o)) is necessary and justified''.

(c) RESPONSIBILITIES OF AGENCY SMALL BUSINESS ADVOCATES.—Subsection (k) of such section is amended—

(1) by redesignating paragraphs (5) through (9) as paragraphs (6) through (10), respectively; and

(2) by inserting after paragraph (4) the following:

''(5) identify proposed solicitations that involve significant bundling of contract requirements, and work with the agency acquisition officials and the Administration to revise the procurement strategies for such proposed solicitations where appropriate to increase the probability of participation by small businesses as prime contractors, or to facilitate small business participation as subcontractors and suppliers, if a solicitation for a bundled contract is to be issued;''.

SEC. 414. REPORTING OF BUNDLED CONTRACT OPPORTUNITIES.

(a) DATA COLLECTION REQUIRED.—The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4)(A)) shall be modified to collect data regarding bundling of contract requirements when the contracting officer anticipates that the resulting contract price, including all options, is expected to exceed $5,000,000. The data shall reflect a determination made by the contracting officer regarding whether a particular solicitation constitutes a contract bundling.

(b) DEFINITIONS.—In this section, the term ''bundling of contract requirements'' has the meaning given that term in section 3(o) of the Small Business Act (15 U.S.C. 632(o)) (as added by section 412 of this title).

SEC. 415. EVALUATING SUBCONTRACT PARTICIPATION IN AWARDING CONTRACTS.

Section 8(d)(4) of the Small Business Act (15 U.S.C. 637(d)(4)) is amended by adding at the end the following:

''(G) The following factors shall be designated by the Federal agency as significant factors for purposes of evaluating offers for a bundled contract where the head of the agency determines that the contract offers a significant opportunity for subcontracting:

''(i) A factor that is based on the rate provided under the subcontracting plan for small business participation in the performance of the contract.

''(ii) For the evaluation of past performance of an offeror, a factor that is based on the extent to which the offeror attained applicable goals for small business participation in the performance of contracts.''.

SEC. 416. IMPROVED NOTICE OF SUBCONTRACTING OPPORTUNITIES.

(a) USE OF THE COMMERCE BUSINESS DAILY AUTHORIZED.—Section 8 of the Small Business Act (15 U.S.C. 637) is amended by adding at the end the following:

''(k) NOTICES OF SUBCONTRACTING OPPORTUNITIES.—

''(1) IN GENERAL.—Notices of subcontracting opportunities may be submitted for publication in the Commerce Business Daily by—

''(A) a business concern awarded a contract by an executive agency subject to subsection (e)(1)(C); and

''(B) a business concern which is a subcontractor or supplier (at any tier) to such contractor having a subcontracting opportunity in excess of $10,000.

''(2) CONTENT OF NOTICE.—The notice of a subcontracting opportunity shall include—

''(A) a description of the business opportunity that is comparable to the description specified in paragraphs (1), (2), (3), and (4) of subsection (f); and

''(B) the due date for receipt of offers.''.

(b) REGULATIONS REQUIRED.—The Federal Acquisition Regulation shall be amended to provide uniform implementation of the amendments made by this section.

(c) CONFORMING AMENDMENT.—Section 8(e)(1)(C) of the Small Business Act (15 U.S.C. 637(e)(1)(C)) is amended by striking ''$25,000'' each place that term appears and inserting ''$100,000''.

SEC. 417. DEADLINES FOR ISSUANCE OF REGULATIONS.

(a) PROPOSED REGULATIONS.—Proposed amendments to the Federal Acquisition Regulation or proposed Small Business Administration regulations under this subtitle and the amendments made by this subtitle shall be published not later than 120 days after the date of enactment of this Act for the purpose of obtaining public comment pursuant to section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b), or chapter 5 of title 5, United States Code, as appropriate. The public shall be afforded not less than 60 days to submit comments.

(b) FINAL REGULATIONS.—Final regulations shall be published not later than 270 days after the date of enactment of this Act. The effective date for such final regulations shall be not less than 30 days after the date of publication.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAM.

(a) REQUIRED EXPENDITURES.—Section 9(n) of the Small Business Act (15 U.S.C. 638(n)) is amended by striking paragraph (1) and inserting the following:

''(1) REQUIRED EXPENDITURE AMOUNTS.—With respect to fiscal years 1998, 1999, 2000, 2001, 2002, or 2003, each Federal agency that has an extramural budget for research, or research and development, in excess of $1,000,000,000 for that fiscal year, is authorized to expend with small business concerns not less than 0.15 percent of that extramural budget specifically in connection with STTR programs that meet the requirements of this section and any policy directives and regulations issued under this section.''.

(b) PILOT PROGRAM.—

(1) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

''(s) PILOT PROGRAM.—

''(1) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term 'eligible State' means a State—

''(A) if the total value of contracts awarded to the State during fiscal year 1995 under this section was less than $5,000,000; and

''(B) that certifies to the Federal agency described in paragraph (2) that the State will, upon receipt of assistance under this subsection, provide matching funds from non-Federal sources in an amount that is not less than 50 percent of the amount provided under this subsection.

''(2) PROGRAM AUTHORITY.—Of amounts made available to carry out this section for fiscal year 1998, 1999, or 2000, the Administrator may expend with eligible States not more than $2,000,000 in each such fiscal year in order to increase the participation of small business concerns located in those States in the programs under this section.

''(3) AMOUNT OF ASSISTANCE.—The amount of assistance provided to an eligible State under this subsection in any fiscal year—

''(A) shall be equal to twice the total amount of matching funds from non-Federal sources provided by the State; and

''(B) shall not exceed $100,000.

''(4) USE OF ASSISTANCE.—Assistance provided to an eligible State under this subsection shall be used by the State, in consultation with State and local departments and agencies, for programs and activities to increase the participation of small business concerns located in the State in the programs under this section, including—

''(A) the establishment of quantifiable performance goals, including goals relating to—

''(i) the number of program awards under this section made to small business concerns in the State; and

''(ii) the total amount of Federal research and development contracts awarded to small business concerns in the State;

''(B) the provision of competition outreach support to small business concerns in the State that are involved in research and development; and

''(C) the development and dissemination of educational and promotional information relating to the programs under this section to small business concerns in the State.''.

(2) REPEAL.—Effective October 1, 2000, section 9(s) of the Small Business Act (as added by paragraph (1) of this subsection) is repealed.

SEC. 502. SMALL BUSINESS DEVELOPMENT CENTERS.

(a) IN GENERAL.—Section 21(a) of the Small Business Act (15 U.S.C. 648(a)) is amended—

(1) in paragraph (1)—

(A) by inserting ''any women's business center operating pursuant to section 29,'' after ''credit or finance corporation,'';

(B) by inserting ''or a women's business center operating pursuant to section 29'' after ''other than an institution of higher education''; and

(C) by inserting ''and women's business centers operating pursuant to section 29'' after ''utilize institutions of higher education'';

(2) in paragraph (3)—

(A) by striking '', but with'' and all that follows through ''parties.'' and inserting the following: ''for the delivery of programs and services to the Small Business community. Such programs and services shall be jointly developed, negotiated, and agreed upon, with full participation of both parties, pursuant to an executed cooperative agreement between the Small Business Development Center applicant and the Administration.''; and

(B) by adding at the end the following:

''(C) On an annual basis, the Small Business Development Center shall review and coordinate public and private partnerships and cosponsorships with the Administration for the purpose of more efficiently leveraging available resources on a National and a State basis.'';

(3) in paragraph (4)(C)—

(A) by striking clause (i) and inserting the following:

''(i) IN GENERAL.—

''(I) GRANT AMOUNT.—Subject to subclause (II), the amount of a grant received by a State under this section shall be equal to the greater of $500,000, or the sum of—

''(aa) the State's pro rata share of the national program, based upon the population of the State as compared to the total population of the United States; and

''(bb) $300,000 in fiscal year 1998, $400,000 in fiscal year 1999, and $500,000 in each fiscal year thereafter.

''(II) PRO RATA REDUCTIONS.—If the amount made available to carry out this section for any fiscal year is insufficient to carry out subclause (I), the Administration shall make pro rata reductions in the amounts otherwise payable to States under this clause.''; and

(B) in clause (iii), by striking ''(iii)'' and all that follows through ''1997.'' and inserting the following:

''(iii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the national program under this section—

''(I) $85,000,000 for fiscal year 1998;

''(II) $90,000,000 for fiscal year 1999; and

''(III) $95,000,000 for fiscal year 2000 and each fiscal year thereafter.''; and

(4) in paragraph (6)—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) in subparagraph (B), by striking the comma at the end and inserting ''; and''; and

(C) inserting after subparagraph (B) the following:

''(C) with outreach, development, and enhancement of minority-owned small business startups or expansions, veteran-owned small business startups or expansions, and women-owned small business startups or expansions, in communities impacted by base closings or military or corporate downsizing, or in rural or underserved communities;''.

(b) SBDC SERVICES.—Section 21(c) of the Small Business Act (15 U.S.C. 648(c)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking ''businesses;'' and inserting ''businesses, including—

''(i) working with individuals to increase awareness of basic credit practices and credit requirements;

''(ii) working with individuals to development business plans, financial packages, credit applications, and contract proposals;

''(iii) working with the Administration to develop and provide informational tools for use in working with individuals on pre-business startup planning, existing business expansion, and export planning; and

''(iv) working with individuals referred by the local offices of the Administration and Administration participating lenders;'';

(B) in each of subparagraphs (B), (C), (D), (E), (F), (G), (M), (N), (O), (Q), and (R) by moving each margin two ems to the right;

(C) in subparagraph (C), by inserting ''and the Administration'' after ''Center'';

(D) by striking subparagraph (H), and inserting the following:

''(H) working with the technical and environmental compliance assistance programs established in each State under section 507 of the Clean Air Act Amendments of 1970, or State pollution prevention programs to notify small businesses through outreach programs of regulations that affect small businesses and making counseling, conferences, and materials available on methods of compliance;'';

(E) in subparagraph (Q), by striking ''and'' at the end;

(F) in subparagraph (R), by striking the period at the end and inserting ''; and''; and

(G) by inserting after subparagraph (R) the following:

''(S) providing counseling and technology development when necessary to help small businesses find solutions for complying with environmental, energy, health, safety, and other Federal, State, and local regulation including cooperating with the technical and environmental compliance assistance programs established in each State under section 507 of the Clean Air Act Amendments of 1970 or State pollution prevention programs in the provision of counseling and technology development to help small businesses find solutions for complying with environmental regulations.'';

(2) in paragraph (5)—

(A) by moving the margin 2 ems to the right;

(B) by striking ''paragraph (a)(1)'' and inserting ''subsection (a)(1)'';

(C) by striking ''which ever'' and inserting ''whichever''; and

(D) by striking ''last,,'' and inserting ''last,'';

(3) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively; and

(4) in paragraph (3), in the undesignated material following subparagraph (S) (as added by this subsection), by striking ''A small'' and inserting the following:

''(4) A small''.

(c) COMPETITIVE AWARDS.—Section 21(l) of the Small Business Act (15 U.S.C. 648(l)) is amended by adding at the end the following: ''If any contract under this section with an entity that is in compliance with this section is not renewed or extended, any award of a contract under this section to another entity shall be made on a competitive basis.''.

(d) PROHIBITION ON CERTAIN FEES.—Section 21 of the Small Business Act (15 U.S.C. 648) is amended by adding at the end the following:

''(m) PROHIBITION ON CERTAIN FEES.—A small business development center shall not impose or otherwise collect a fee or other compensation in connection with the provision of counseling services under this section.''.

SEC. 503. PILOT PREFERRED SURETY BOND GUARANTEE PROGRAM EXTENSION.

Section 207 of the Small Business Administration Reauthorization and Amendment Act of 1988 (15 U.S.C. 694b note) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2000''.

SEC. 504. EXTENSION OF COSPONSORSHIP AUTHORITY.

Section 401(a)(2) of the Small Business Administration Reauthorization and Amendments Act of 1994 (15 U.S.C. 637 note) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2000''.

SEC. 505. ASSET SALES.

In connection with the Administration's implementation of a program to sell to the private sector loans and other assets held by the Administration, the Administration shall provide to the Committees on Small Business in the Senate and House of Representatives a copy of the draft and final plans describing the sale and the anticipated benefits resulting from such sale.

SEC. 506. SMALL BUSINESS EXPORT PROMOTION.

(a) IN GENERAL.—Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (Q), by striking ''and'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(3) by inserting after subparagraph (R) the following:

''(S) providing small business owners with access to a wide variety of export-related information by establishing on-line computer linkages between small business development centers and an international trade data information network with ties to the Export Assistance Center program.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out section 21(c)(3)(S) of the Small Business Act (15 U.S.C. 648(c)(3)(S)), as added by this section, $1,500,000 for each fiscal years 1998 and 1999.

SEC. 507. DEFENSE LOAN AND TECHNICAL ASSISTANCE PROGRAM.

(a) DELTA PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Administrator of the Small Business Administration may administer the Defense Loan and Technical Assistance program in accordance with the authority and requirements of this section.

(2) EXPIRATION OF AUTHORITY.—The authority of the Administrator to carry out the DELTA program under paragraph (1) shall terminate when the funds referred to in subsection (g)(1) have been expended.

(3) DELTA PROGRAM DEFINED.—In this section, the terms ''Defense Loan and Technical Assistance program'' and ''DELTA program'' mean the Defense Loan and Technical Assistance program that has been established by a memorandum of understanding entered into by the Administrator and the Secretary of Defense on June 26, 1995.

(b) ASSISTANCE.—

(1) AUTHORITY.—Under the DELTA program, the Administrator may assist small business concerns that are economically dependent on defense expenditures to acquire dual-use capabilities.

(2) FORMS OF ASSISTANCE.—Forms of assistance authorized under paragraph (1) are as follows:

(A) LOAN GUARANTEES.—Loan guarantees under the terms and conditions specified under this section and other applicable law.

(B) NONFINANCIAL ASSISTANCE.—Other forms of assistance that are not financial.

(c) ADMINISTRATION OF PROGRAM.—In the administration of the DELTA program under this section, the Administrator shall—

(1) process applications for DELTA program loan guarantees;

(2) guarantee repayment of the resulting loans in accordance with this section; and

(3) take such other actions as are necessary to administer the program.

(d) SELECTION AND ELIGIBILITY REQUIREMENTS FOR DELTA LOAN GUARANTEES.—

(1) IN GENERAL.—The selection criteria and eligibility requirements set forth in this subsection shall be applied in the selection of small business concerns to receive loan guarantees under the DELTA program.

(2) SELECTION CRITERIA.—The criteria used for the selection of a small business concern to receive a loan guarantee under this section are as follows:

(A) The selection criteria established under the memorandum of understanding referred to in subsection (a)(3).

(B) The extent to which the loans to be guaranteed would support the retention of defense workers whose employment would otherwise be permanently or temporarily terminated as a result of reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

(C) The extent to which the loans to be guaranteed would stimulate job creation and new economic activities in communities most adversely affected by reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

(D) The extent to which the loans to be guaranteed would be used to acquire (or permit the use of other funds to acquire) capital equipment to modernize or expand the facilities of the borrower to enable the borrower to remain in the national technology and industrial base available to the Department of Defense.

(3) ELIGIBILITY REQUIREMENTS.—To be eligible for a loan guarantee under the DELTA program, a borrower must demonstrate to the satisfaction of the Administrator that, during any 1 of the 5 preceding operating years of the borrower, not less than 25 percent of the value of the borrower's sales were derived from—

(A) contracts with the Department of Defense or the defense-related activities of the Department of Energy; or

(B) subcontracts in support of defense-related prime contracts.

(e) MAXIMUM AMOUNT OF LOAN PRINCIPAL.—The maximum amount of loan principal for which the Administrator may provide a guarantee under this section during a fiscal year may not exceed $1,250,000.

(f) LOAN GUARANTY RATE.—The maximum allowable guarantee percentage for loans guaranteed under this section may not exceed 80 percent.

(g) FUNDING.—

(1) IN GENERAL.—The funds that have been made available for loan guarantees under the DELTA program and have been transferred from the Department of Defense to the Small Business Administration before the date of the enactment of this Act shall be used for carrying out the DELTA program under this section.

(2) CONTINUED AVAILABILITY OF EXISTING FUNDS.—The funds made available under the second proviso under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'' in Public Law 103–335 (108 Stat. 2613) shall be available until expended—

(A) to cover the costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees issued under this section; and

(B) to cover the reasonable costs of the administration of the loan guarantees.

TITLE VI—HUBZONE PROGRAM

SEC. 601. SHORT TITLE.

This title may be cited as the ''HUBZone Act of 1997''.

SEC. 602. HISTORICALLY UNDERUTILIZED BUSINESS ZONES.

(a) DEFINITIONS.—Section 3 of the Small Business Act (15 U.S.C. 632) (as amended by section 412 of this Act) is amended by adding at the end the following:

''(p) DEFINITIONS RELATING TO HUBZONES.—In this Act:

''(1) HISTORICALLY UNDERUTILIZED BUSINESS ZONE.—The term 'historically underutilized business zone' means any area located within 1 or more—

''(A) qualified census tracts;

''(B) qualified nonmetropolitan counties; or

''(C) lands within the external boundaries of an Indian reservation.

''(2) HUBZONE.—The term 'HUBZone' means a historically underutilized business zone.

''(3) HUBZONE SMALL BUSINESS CONCERN.—The term 'HUBZone small business concern' means a small business concern—

''(A) that is owned and controlled by 1 or more persons, each of whom is a United States citizen; and

''(B) the principal office of which is located in a HUBZone; or

''(4) QUALIFIED AREAS.—

''(A) QUALIFIED CENSUS TRACT.—The term 'qualified census tract' has the meaning given that term in section 42(d)(5)(C)(i)(I) of the Internal Revenue Code of 1986.

''(B) QUALIFIED NONMETROPOLITAN COUNTY.—The term 'qualified nonmetropolitan county' means any county—

''(i) that, based on the most recent data available from the Bureau of the Census of the Department of Commerce—

''(I) is not located in a metropolitan statistical area (as that term is defined in section 143(k)(2)(B) of the Internal Revenue Code of 1986); and

''(II) in which the median household income is less than 80 percent of the nonmetropolitan State median household income; or

''(ii) that, based on the most recent data available from the Secretary of Labor, has an unemployment rate that is not less than 140 percent of the statewide average unemployment rate for the State in which the county is located.

''(5) QUALIFIED HUBZONE SMALL BUSINESS CONCERN.—

''(A) IN GENERAL.—A HUBZone small business concern is 'qualified', if—

''(i) the small business concern has certified in writing to the Administrator (or the Administrator otherwise determines, based on information submitted to the Administrator by the small business concern, or based on certification procedures, which shall be established by the Administration by regulation) that—

''(I) it is a HUBZone small business concern;

''(II) not less than 35 percent of the employees of the small business concern reside in a HUBZone, and the small business concern will attempt to maintain this employment percentage during the performance of any contract awarded to the small business concern on the basis of a preference provided under section 31(b); and

''(III) with respect to any subcontract entered into by the small business concern pursuant to a contract awarded to the small business concern under section 31, the small business concern will ensure that—

''(aa) in the case of a contract for services (except construction), not less than 50 percent of the cost of contract performance incurred for personnel will be expended for its employees or for employees of other HUBZone small business concerns; and

''(bb) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), not less than 50 percent of the cost of manufacturing the supplies (not including the cost of materials) will be incurred in connection with the performance of the contract in a HUBZone by 1 or more HUBZone small business concerns; and

''(ii) no certification made or information provided by the small business concern under clause (i) has been, in accordance with the procedures established under section 31(c)(1)—

''(I) successfully challenged by an interested party; or

''(II) otherwise determined by the Administrator to be materially false.

''(B) CHANGE IN PERCENTAGES.—The Administrator may utilize a percentage other than the percentage specified in under subclause (IV) or (V) of subparagraph (A)(i), if the Administrator determines that such action is necessary to reflect conventional industry practices among small business concerns that are below the numerical size standard for businesses in that industry category.

''(C) CONSTRUCTION AND OTHER CONTRACTS.—The Administrator shall promulgate final regulations imposing requirements that are similar to those specified in subclauses (IV) and (V) of subparagraph (A)(i) on contracts for general and specialty construction, and on contracts for any other industry category that would not otherwise be subject to those requirements. The percentage applicable to any such requirement shall be determined in accordance with subparagraph (B).

''(D) LIST OF QUALIFIED SMALL BUSINESS CONCERNS.—The Administrator shall establish and maintain a list of qualified HUBZone small business concerns, which list shall, to the extent practicable—

''(i) include the name, address, and type of business with respect to each such small business concern;

''(ii) be updated by the Administrator not less than annually; and

''(iii) be provided upon request to any Federal agency or other entity.''.

(b) FEDERAL CONTRACTING.—

(1) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(A) by redesignating section 31 as section 32; and

(B) by inserting after section 30 the following:

''SEC. 31. HUBZONE PROGRAM.

''(a) IN GENERAL.—There is established within the Administration a program to be carried out by the Administrator to provide for Federal contracting assistance to qualified HUBZone small business concerns in accordance with this section.

''(b) ELIGIBLE CONTRACTS.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'contracting officer' has the meaning given that term in section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5)); and

''(B) the terms 'executive agency' and 'full and open competition' have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

''(2) REQUIREMENTS.—Subject to paragraph (3), a contract opportunity offered for award pursuant to this section shall be awarded on the basis of competition restricted to qualified HUBZone small business concerns, if there is a reasonable expectation that not less than 2 qualified HUBZone small business concerns will submit offers and that award can be made at a fair market price.

''(3) ALTERNATE AUTHORITY.—Notwithstanding any other provision of law, a contracting officer may award sole source contracts under this section to any qualified HUBZone small business concern, if—

''(A) the qualified HUBZone small business concern is determined to be a responsible contractor with respect to performance of such contract opportunity;

''(B) the anticipated award price of the contract (including options) will not exceed—

''(i) $5,000,000, in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; or

''(ii) $3,000,000, in the case of all other contract opportunities; and

''(C) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price.

''(4) PRICE EVALUATION PREFERENCE IN FULL AND OPEN COMPETITIONS.—In any case in which a contract is to be awarded on the basis of full and open competition, the price offered by a small business concern shall be deemed as being lower than the price offered by another offeror (other than another small business concern), if the price offered by the qualified HUBZone small business concern is not more than 10 percent higher than the price offered by the otherwise lowest, responsive, and responsible offeror.

''(5) RELATIONSHIP TO OTHER CONTRACTING PREFERENCES.—

''(A) SUBORDINATE RELATIONSHIP.—A procurement may not be made from a source on the basis of a preference provided in paragraph (2), (3), or (4), if the procurement would otherwise be made from a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O'Day Act.

''(B) PARITY RELATIONSHIP.—The provisions of paragraphs (2), (3), and (4) shall not limit the discretion of a contracting officer to let any procurement contract to the Administration under section 8(a). Notwithstanding section 8(a), the Administration may not appeal an adverse decision of any contracting officer declining to let a procurement contract to the Administration, if the procurement is made to a qualified HUBZone small business concern on the basis of a preference under paragraph (2), (3), or (4).

''(c) ENFORCEMENT; PENALTIES.—

''(1) VERIFICATION OF ELIGIBILITY.—In carrying out this section, the Administrator shall establish procedures relating to—

''(A) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this section (including a challenge, filed by an interested party, relating to the veracity of a certification made or information provided to the Administration by a small business concern under section 3(p)(5)); and

''(B) verification by the Administrator of the accuracy of any certification made or information provided to the Administration by a small business concern under section 3(p)(5).

''(2) EXAMINATIONS.—The procedures established under paragraph (1) may provide for program examinations (including random program examinations) by the Administrator of any small business concern making a certification or providing information to the Administrator under section 3(p)(5).

''(3) PROVISION OF DATA.—Upon the request of the Administrator, the Secretary of Labor, the Secretary of Housing and Urban Development, and the Secretary of the Interior (or the Assistant Secretary for Indian Affairs), shall promptly provide to the Administrator such information as the Administrator determines to be necessary to carry out this subsection.

''(4) PENALTIES.—In addition to the penalties described in section 16(d), any small business concern that is determined by the Administrator to have misrepresented the status of that concern as a 'HUBZone small business concern' for purposes of this section, shall be subject to—

''(A) section 1001 of title 18, United States Code; and

''(B) sections 3729 through 3733 of title 31, United States Code.''.

(2) INITIAL LIMITED APPLICABILITY.—During the period beginning on the date of enactment of this Act and ending on September 30, 2000, section 31 of the Small Business Act (as added by paragraph (1) of this subsection) shall apply only to procurements by—

(A) the Department of Defense;

(B) the Department of Agriculture;

(C) the Department of Health and Human Services;

(D) the Department of Transportation;

(E) the Department of Energy;

(F) the Department of Housing and Urban Development;

(G) the Environmental Protection Agency;

(H) the National Aeronautics and Space Administration;

(I) the General Services Administration; and

(J) the Department of Veterans Affairs.

SEC. 603. TECHNICAL AND CONFORMING AMENDMENTS TO THE SMALL BUSINESS ACT.

(a) PERFORMANCE OF CONTRACTS.—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking '',, small business concerns owned and controlled by socially and economically disadvantaged individuals'' and inserting '', qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals''; and

(B) in the second sentence, by inserting ''qualified HUBZone small business concerns,'' after ''small business concerns,'';

(2) in paragraph (3)—

(A) by inserting ''qualified HUBZone small business concerns,'' after ''small business concerns,'' each place that term appears; and

(B) by adding at the end the following:

''(F) In this contract, the term 'qualified HUBZone small business concern' has the meaning given that term in section 3(p) of the Small Business Act.'';

(3) in paragraph (4)(E), by striking ''small business concerns and'' and inserting ''small business concerns, qualified HUBZone small business concerns, and'';

(4) in paragraph (6), by inserting ''qualified HUBZone small business concerns,'' after ''small business concerns,'' each place that term appears; and

(5) in paragraph (10), by inserting ''qualified HUBZone small business concerns,'' after ''small business concerns,''.

(b) AWARDS OF CONTRACTS.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) in subsection (g)(1)—

(A) by inserting ''qualified HUBZone small business concerns,'' after ''small business concerns,'' each place that term appears;

(B) in the second sentence, by striking ''20 percent'' and inserting ''23 percent''; and

(C) by inserting after the second sentence the following: ''The Governmentwide goal for participation by qualified HUBZone small business concerns shall be established at not less than 1 percent of the total value of all prime contract awards for fiscal year 1999, not less than 1.5 percent of the total value of all prime contract awards for fiscal year 2000, not less than 2 percent of the total value of all prime contract awards for fiscal year 2001, not less than 2.5 percent of the total value of all prime contract awards for fiscal year 2002, and not less than 3 percent of the total value of all prime contract awards for fiscal year 2003 and each fiscal year thereafter.'';

(2) in subsection (g)(2)—

(A) in the first sentence, by striking '',, by small business concerns owned and controlled by socially and economically disadvantaged individuals'' and inserting '', by qualified HUBZone small business concerns, by small business concerns owned and controlled by socially and economically disadvantaged individuals'';

(B) in the second sentence, by inserting ''qualified HUBZone small business concerns,'' after ''small business concerns,''; and

(C) in the fourth sentence, by striking ''by small business concerns owned and controlled by socially and economically disadvantaged individuals and participation by small business concerns owned and controlled by women'' and inserting ''by qualified HUBZone small business concerns, by small business concerns owned and controlled by socially and economically disadvantaged individuals, and by small business concerns owned and controlled by women''; and

(3) in subsection (h), by inserting ''qualified HUBZone small business concerns,'' after ''small business concerns,'' each place that term appears.

(c) OFFENSES AND PENALTIES.—Section 16 of the Small Business Act (15 U.S.C. 645) is amended—

(1) in subsection (d)(1)—

(A) by inserting '', a 'qualified HUBZone small business concern','' after '''small business concern',''; and

(B) in subparagraph (A), by striking ''section 9 or 15'' and inserting ''section 9, 15, or 31''; and

(2) in subsection (e), by inserting '', a 'HUBZone small business concern','' after '''small business concern',''.

SEC. 604. OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Section 2323 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by inserting before the semicolon the following: '', and qualified HUBZone small business concerns (as that term is defined in section 3(p) of the Small Business Act)''; and

(2) in subsection (f)(1), by inserting ''or as a qualified HUBZone small business concern (as that term is defined in section 3(p) of the Small Business Act)'' after ''(as described in subsection (a))''.

(b) FEDERAL HOME LOAN BANK ACT.—Section 21A(b)(13) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(13)) is amended—

(1) by striking ''concerns and small'' and inserting ''concerns, small''; and

(2) by inserting '', and qualified HUBZone small business concerns (as that term is defined in section 3(p) of the Small Business Act)'' after ''disadvantaged individuals''.

(c) SMALL BUSINESS ECONOMIC POLICY ACT OF 1980.—Section 303(e) of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631b(e)) is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) qualified HUBZone small business concern (as that term is defined in section 3(p) of the Small Business Act).''.

(d) SMALL BUSINESS INVESTMENT ACT OF 1958.—Section 411(c)(3)(B) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(c)(3)(B)) is amended by inserting before

the semicolon the following: '', or to a qualified HUBZone small business concern, as that term is defined in section 3(p) of the Small Business Act''.

(e) TITLE 31, UNITED STATES CODE.—

(1) CONTRACTS FOR COLLECTION SERVICES.—Section 3718(b) of title 31, United States Code, is amended—

(A) in paragraph (1)(B), by inserting ''and law firms that are qualified HUBZone small business concerns (as that term is defined in section 3(p) of the Small Business Act)'' after ''disadvantaged individuals''; and

(B) in paragraph (3)—

(i) in the first sentence, by inserting before the period ''and law firms that are qualified HUBZone small business concerns'';

(ii) in subparagraph (A), by striking ''and'' at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(C) the term 'qualified HUBZone small business concern' has the meaning given that term in section 3(p) of the Small Business Act.''.

(2) PAYMENTS TO LOCAL GOVERNMENTS.—Section 6701(f) of title 31, United States Code, is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''and'' at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(C) qualified HUBZone small business concerns.''; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking ''and'' at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(C) the term 'qualified HUBZone small business concern' has the meaning given that term in section 3(p) of the Small Business Act (15 U.S.C. 632(o)).''.

(3) REGULATIONS.—Section 7505(c) of title 31, United States Code, is amended by striking ''small business concerns and'' and inserting ''small business concerns, qualified HUBZone small business concerns, and''.

(f) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—

(1) ENUMERATION OF INCLUDED FUNCTIONS.—Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)) is amended—

(A) in paragraph (11), by inserting ''qualified HUBZone small business concerns (as that term is defined in section 3(p) of the Small Business Act),'' after ''small businesses,''; and

(B) in paragraph (12), by inserting ''qualified HUBZone small business concerns (as that term is defined in section 3(p) of the Small Business Act (15 U.S.C. 632(o)),'' after ''small businesses,''.

(2) PROCUREMENT DATA.—Section 502 of the Women's Business Ownership Act of 1988 (41 U.S.C. 417a) is amended—

(A) in subsection (a)—

(i) in the first sentence, by inserting ''the number of qualified HUBZone small business concerns,'' after ''Procurement Policy''; and

(ii) by inserting a comma after ''women''; and

(B) in subsection (b), by inserting after ''section 204 of this Act'' the following: '', and the term 'qualified HUBZone small business concern' has the meaning given that term in section 3(p) of the Small Business Act (15 U.S.C. 632(o)).''.

(g) ENERGY POLICY ACT OF 1992.—Section 3021 of the Energy Policy Act of 1992 (42 U.S.C. 13556) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''or'';

(B) in paragraph (3), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(4) qualified HUBZone small business concerns.''; and

(2) in subsection (b), by adding at the end the following:

''(3) The term 'qualified HUBZone small business concern' has the meaning given that term in section 3(p) of the Small Business Act (15 U.S.C. 632(o)).''.

(h) TITLE 49, UNITED STATES CODE.—

(1) PROJECT GRANT APPLICATION APPROVAL CONDITIONED ON ASSURANCES ABOUT AIRPORT OPERATION.—Section 47107(e) of title 49, United States Code, is amended—

(A) in paragraph (1), by inserting before the period ''or qualified HUBZone small business concerns (as that term is defined in section 3(p) of the Small Business Act)'';

(B) in paragraph (4)(B), by inserting before the period ''or as a qualified HUBZone small business concern (as that term is defined in section 3(p) of the Small Business Act)''; and

(C) in paragraph (6), by inserting ''or a qualified HUBZone small business concern (as that term is defined in section 3(p) of the Small Business Act)'' after ''disadvantaged individual''.

(2) MINORITY AND DISADVANTAGED BUSINESS PARTICIPATION.—Section 47113 of title 49, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking the period at the end and inserting a semicolon;

(ii) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(3) the term 'qualified HUBZone small business concern' has the meaning given that term in section 3(p) of the Small Business Act (15 U.S.C. 632(o)).''; and

(B) in subsection (b), by inserting before the period ''or qualified HUBZone small business concerns''.

SEC. 605. REGULATIONS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall publish in the Federal Register such final regulations as may be necessary to carry out this title and the amendments made by this title.

(b) FEDERAL ACQUISITION REGULATION.—Not later than 180 days after the date on which final regulations are published under subsection (a), the Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation in order to ensure consistency between the Federal Acquisition Regulation, this title and the amendments made by this title, and the final regulations published under subsection (a).

SEC. 606. REPORT.

Not later than March 1, 2000, the Administrator of the Small Business Administration shall submit to the Committees on Small Business of the House of Representatives and the Senate a report on the implementation of the HUBZone program established under section 31 of the Small Business Act (as amended by this title) and the degree to which the HUBZone program has resulted in increased employment opportunities and an increased level of investment in HUBZones (as that term is defined in section 3(p) of the Small Business Act, as added by this title).

SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) (as amended by section 101 of this Act) is amended—

(1) in subsection (c), by adding at the end the following:

''(3) HUBZONE PROGRAM.—There are authorized to be appropriated to the Administration to carry out the program under section 31, $5,000,000 for fiscal year 1998.'';

(2) in subsection (d), by adding at the end the following:

''(3) HUBZONE PROGRAM.—There are authorized to be appropriated to the Administration to carry out the program under section 31, $5,000,000 for fiscal year 1999.''; and

(3) in subsection (e), by adding at the end the following:

''(3) HUBZONE PROGRAM.—There are authorized to be appropriated to the Administration to carry out the program under section 31, $5,000,000 for fiscal year 2000.''.

Mr. BOND. I thank the Chair, and I express my gratitude to the distinguished Senator from Washington. 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. GORTON. 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. GORTON. Mr. President, what is the order of business?

The PRESIDING OFFICER. The agreement was reached with respect to amendment No. 1122.

Mr. GORTON. Mr. President, that agreement was in error. It was a mistake on the part of Senator SPECTER. I ask unanimous consent that the agreement be switched to amendment 1076.

The PRESIDING OFFICER. Is there objection?

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

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

Mr. GORTON. Mr. President, I withdraw my previous request for unanimous consent, and I now ask unanimous consent that the debate limitation with respect to amendment No. 1122 be vitiated, and that there now be 60 minutes for debate prior to a motion to table amendment No. 1076. I further ask unanimous consent that following the expiration or yielding back of time, the amendment be temporarily laid aside, the Senate then proceed to vote on the McCain motion to waive with respect to amendment No. 1091, to be immediately followed by a vote on a motion to table the Gorton amendment No. 1076.

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

Mr. GORTON. Speaking on behalf of the majority leader, I now give notice

that it looks as though there will be two stacked votes after the debate on this amendment; therefore, in proximately 1 hour.

AMENDMENT NO. 1076, AS MODIFIED

Mr. GORTON. Mr. President, what is the subject matter before the Senate?

The PRESIDING OFFICER. Amendment No. 1076 is the pending question.

Mr. GORTON. Mr. President, just a few short weeks ago, Congress and the President of the United States agreed to provide $48 billion over the course of the next 10 years as an incentive to States to provide health care coverage to uninsured, low-income children. To receive this incentive, States must expand eligibility levels to children living in families whose incomes are up to 200 percent of the Federal poverty level.

Mr. President, this provided a real anomaly, a true injustice, with respect to the State of Washington, and to varying extents to the States of Hawaii, Minnesota, Rhode Island, Tennessee, and Vermont as well. In the case of each of these States, though I must speak most specifically to my own, State legislatures had already expanded the eligibility for Medicare to children in families with incomes up to roughly 200 percent of the poverty level.

Most of the other States, the States that were designed to be incentivized, have mandatory levels of 100 to 133 percent of the poverty level in incomes and, therefore, in many cases would get these incentives for a very significant expansion of Medicare eligible children for these Kidcare programs.

The net result, however, was that for States like the State of Washington, the fact that they had been more generous, more progressive, more liberal, whatever one wishes to call it on their own, resulted in a dramatic penalty. Our taxpayers, of course, will contribute to this expansion. We will, of course, be providing Kidcare to exactly the same group of children that all other States will be providing under the Kidcare amendment, but we will not be eligible for the incentive.

Mr. President, if that were allowed to stand, it would be a dramatic lesson to every 1 of the 50 States of the United States in dealing with every program for which there is Federal assistance—every program—the expansion of which is debated here, to make absolutely certain that they did not expand those programs themselves, because if they just waited, they would get more money from the Federal Government to do so; and if they went ahead on their own, they would be penalized.

That is exactly what has happened to us here. Our argument for more equitable treatment met with the approval of Members of the Senate when we were debating this issue, and our States were at least in part compensated for the work that they had already done. With the exception I think of a single State in the group of five that I have named, that benefit disappeared in the ultimate conference committee report.

Justice would require, it seems to me, Mr. President, that each of these States be made whole, receive the same Federal subsidy for all of its children who live in families between the previous Federal requirement at 100 to 133 percent and the 200 percent. Because of opposition, however, we do not ask that in this amendment.

All this amendment does is to say that the allocation that is made to all States, on the basis of the number of eligible children, be available for the State of Washington and for these other States to use to the extent that we have children living in families at less than 200 percent of the poverty level who are of course eligible under our law but did not avail themselves of the opportunity to become insured.

In other words, like the other States, we will get the incentive only for children who are not eligible now and who take advantage of the availability of such insurance in the future. Because allocations are made by the Federal Government on the basis of eligibility and not this precise use, and you just drawdown on the use, this amendment will not affect—I want to make this absolutely clear to every Member of the Senate—will not affect the allocations and the ability to use this program by any other State in the United States.

We are not raiding anyone else's money. The eligibility is created by what amounts to at least the State entitlement will only be using the allocation that we already get in theory but cannot use in practice. No one else will lose anything as a result.

Just to make certain that Members do not say this is simply a statement by the Senator from Washington without any basis, I ask unanimous consent a memorandum addressed to me from the Congressional Research Service dated yesterday expressing exactly the same view be printed in the RECORD at this point.

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

CONGRESSIONAL RESEARCH SERVICE,
LIBRARY OF CONGRESS,
Washington, DC, September 8, 1997.

MEMORANDUM

To: Honorable Slade Gorton Attention: Kristen Michel.

From: Jean P. Hearne, Consultant, Education and Public Welfare Division.

Subject: S. 1061—Amendment to Allow Title XXI Funding for Certain Children.

As you requested, I have reviewed your amendment to Title XXI, the State Child Health Insurance Program. The amendment would allow states to use Title XXI funding for the costs of covering under Medicaid certain waivered low-income children whose income is below the Medicaid applicable income level in the state but above the mandatory Medicaid income level for children. These waivered low-income children are defined as those living in states who have incomes at or above 200% of poverty and who had previously not been covered by Medicaid as of April 15, 1997. The provision would allow such children to qualify for enhanced federal matching funds for the cost of their Medicaid services.

The amendment would not change or otherwise affect the allocation of Title XXI funds to states but changes the way such funds may be used. The amendment would allow for certain states' allotments to be spent on children who are currently eligible for Medicaid coverage in such states but are not participating in the program.

Mr. GORTON. I will read the end of that memorandum: ''The amendment would not change or otherwise affect the allocation of Title XXI funds to states but changes the way in which state funds may be used.''

Will not change the allocation. It will change the way in which they can be used in my State and I believe to a greater or lesser extent, three other States.

I simply want to repeat for the purposes of this argument, these are States that did what the policy behind Kidcare in effect requires of other States before it was required by this Congress and by the Federal Government. These are States that went out of their way to try to see to it that health insurance was available to these relatively low-income families for their children. It is unconscionable, I believe, Mr. President, that we should say because you did the job we came to somewhat later, earlier, you are just out of luck. You can continue to pay for it yourself. You will not get the incentive that Kidcare provided, so on behalf of my own State and on behalf of a few others, without penalizing any other State in the Union, I am asking for the reasonable treatment, the fair treatment, that this amendment provides.

I suggest the absence of a quorum, and I ask unanimous consent it be charged equally to both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. 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. ROCKEFELLER. Mr. President, it is very unusual for me to come to the floor to oppose an amendment by my two very distinguished colleagues from the State of Washington, Senator GORTON and Senator MURRAY. I respect them both immensely. I have worked with them both closely. In offering this amendment, I understand what it is they are trying to do. There are many who look at States like Oregon and the State of Washington and Wisconsin and Minnesota and say these are truly progressive States, their governments are doing things which other State governments ought to be doing. Philosophically, therefore, it would be natural for them to come to the floor to ask for some kind of exemption with respect to the children's health care bill.

I come to the floor as somebody who has worked for a very long time on

health care, and who has worked virtually full time on this children's health insurance bill. This legislation is a huge accomplishment in terms of this Congress and the President. The children's health initiative is the biggest thing to happen in health care since the mid-1960's. Because of my experience in working on health care, and the children's initiative in particular, I am extremely leery about opening up the children's health legislation for amendment. I know that the chairman of the Senate Finance Committee, Senator ROTH, has said exactly that, and I know Senator MOYNIHAN has said exactly that. I am not sure there are many people who have talked against this amendment, which worries me because, on the face of it, it sounds like a reasonable request, a progressive State asking for an exemption because they are doing things at 200 percent of poverty, which most of the rest of the States are not.

Mr. President, I can tell you that this was a very difficult agreement to reach, the children's health insurance bill. There was the whole issue of whether funding should be made available for health care services as opposed to health care insurance? There was the whole issue of whether the Federal Government should have a say, since it is Federal dollars, in terms of how the money should be spent. The benefit package, which is something I care enormously about, in the children's health care bill is not as good as Medicaid, which is already currently available to millions of children in this country. And there was the question that I fought for, as did others, and didn't succeed, on whether vision and hearing should be included. You can make an enormously powerful case that if you don't provide hearing services, then you won't catch the problems children are experiencing in hearing, who then will stop learning. And, if you don't offer vision care, all kinds of other things happen. It was a very controversial bill. It was reached with great difficulty; the culmination and the consensus was reached with very great difficulty.

I firmly believe it would be very unwise for us to agree to the Gorton-Murray amendment simply because there will be a lot of other people following their lead, and leaders of other States will be following them through the door saying they do 200 percent of poverty, but we do 185 percent or 190 percent of poverty, or we are going to be doing it next year. There will be this and that, and all of a sudden the $24 billion will be quickly eroded.

Now, am I saying that as a knee-jerk response against what is a very good-faith effort on the part of the Senators from the State of Washington to improve their situation? No. I am opposing the amendment out of a genuine concern, accompanied by some degree of terror that, if this amendment passes, there will be many others that follow. One can almost say that, for example, had there not been votes this evening, I was meant to go to West Virginia to discuss with the Governor, Cecil Underwood, a Republican, how he and I were going to work together to help implement—to make sure that the children's health insurance bill works successfully in West Virginia. We don't do things as generously as the State of Washington because we cannot, we don't have the money. My point is that the children's health program is just being implemented. The ink is barely dry. The implementation date has not even arrived yet.

There is a very genuine concern on the part of those of us who care about health care that if we start modifying the agreement on children's health that was reached by the Congress and the White House that we will be in trouble. There are still 10 million children in this country that do not have health insurance. I remember there was common wisdom on the floor of the Senate that if we got the $16 billion for children's health insurance in the budget we could insure 5 million uninsured children. And if we got extra money—$8 billion or more from the tobacco tax—then we could insure all of the 10 million children. That was the hope for a period of time on this floor. As it turns out, it is much harder. It is much more difficult. And even with the full $24 billion we may only be able to reach 3.6 million American children who do not now have health insurance. In fact, the Congressional Budget Office, I think in responding to the submission of this amendment to them by Senators GORTON and MURRAY, indicated that, if this amendment is passed, it will result in 30,000 fewer children receiving health insurance coverage—not health services but health insurance coverage. Health insurance coverage is all that matters. That is the wraparound. That is the safety net. That is what guarantees your situation for the future. If we adopt this amendment, others will want special treatment and it would not be long before the $24 billion was eroded away.

So, again I emphasize the respect that I have for the two Senators from Washington. I emphasize that they have every right, just on the basis of the progressiveness of their State, to request this kind of an amendment. But, if they do, there are going to be many States—in the South, the Midwest, the Northeast, and the West—that are going to be losing as a result of it because others will come in with other requests, and gradually the $24 billion in new funding disappears.

So as somebody who cares passionately about health insurance being available to all 10 million children, and who a few years ago fought for health insurance to be available to 37 million Americans—now 40 million—who don't have it, I am rejoicing in the 3.6 million children who will get health insurance under the children's health insurance bill. But I do not want to see any fewer get it.

Therefore, I reluctantly, but energetically, oppose this amendment. I hope that my colleagues will understand that there are a lot of children across America that need to be protected and can best be protected by defeating this amendment.

I thank the Presiding Officer.

I yield the floor.

I note 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. Without objection, it is so ordered.

Mr. GORTON. Mr. President, it is difficult for me to express my disappointment in the position taken by my friend from West Virginia, although across party lines we have become so close personally to one another in a longtime, longstanding debate of great importance, that it always seems to me emotionally at least that we are likely to agree on other issues as well. I am greatly disappointed that we don't on this one.

He tells me that he had hoped to go and visit with the Governor of West Virginia on this subject today. Yet, the position he takes here is that while West Virginia should be—and I agree with him should be—entitled to an incentive for all of the new children who become eligible for Kidcare because their families' incomes are not more than 200 percent of the poverty line, that not only should the State of Washington be deprived of that incentive for children in exactly the same position who receive Kidcare through the State at the present time but that we shouldn't even be able to get the incentive for those who do not yet receive it who are in precisely the position of the children in West Virginia for whose circumstances he so eloquently speaks. I find it is hard to see that anyone could justify a situation such as that. But that is the situation in the bill as it was passed, not the situation as it was written here in the Senate.

We had the Senate version—Senator MURRAY and I. With this amendment it would have been unnecessary. The Senator expresses apprehension that if this amendment passes there will be many more States with requests.

But I simply say to the Senator that we already have an agreement on the amendments that are going to be considered on this bill. Someone may do it someday in the future in some other set of circumstances but not on the bill that deals with Medicaid and Medicare for the whole next year.

In any event, the idea that you can't do something that is right because it might create a precedent in the future to do something that is wrong is not a form of argument that seems to me to be especially persuasive. Since it is impossible for that to happen in connection with this bill, it perhaps has even less weight.

Obviously, there are differences with respect to this amendment. I regret that I have fought, and we worked diligently to see whether or not we couldn't come up with something that simply could be agreed to, as many other amendments on this bill have—we have not obviously been able to do that. I greatly regret it. But I greatly regret the position on the part of other Senators that, we have ours, it is tough on you, you don't need it.

With that, Mr. President, I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, will the Senator from Washington yield? I am not asking him to yield, but I simply would like to reply to what it was that he said.

The last thing in the world that I want the Senator from Washington, or anybody else, to think is we have ours, let others take care of their own.

First, I think the Senator from the State of Washington knows that is not the kind of legislator I am, in the first place. And, second, this is not about we have ours, and let others take care of their own.

This is a question of trying to keep stitched together an extremely fragile program about which there was enormous controversy. Enormous heat was generated. I was actually almost surprised when it passed not only in the Congress but was signed by the President. I would simply say that I understand that the UC agreement on this bill prevents Senators from offering similar amendments on this bill. But as a Senator who is on the Senate Finance Committee, the Governors were always asking for more ways to do things, new ways to get money, more flexibility. The list of demands kept growing.

Yes, I will fight for the children of West Virginia. But what I am thinking about here really is holding this program together, giving it a chance to work, not precluding the idea of the Senators from the State of Washington being able to introduce this kind of amendment a year or so from now, but simply let us get the children's health program implemented. Let us have a chance to see how it is going before we start exempting this situation and then that situation.

I hope that will be cleared by the parties.

Mr. KENNEDY. Mr. President, will the Senator be good enough to yield?

Mr. ROCKEFELLER. Of course.

Mr. KENNEDY. I have listened to the Senator from West Virginia. I agree with his position. I heard earlier today Chairman ROTH's opposition to this effort. And I understand other members of the Republican leadership also intend to speak on their concerns and opposition to this amendment.

Even under the proposal as it was recently passed, we will only reach about half of the currently uninsured children. As the Senator remembers, we had a more expansive and robust program that might have provided the kind of extensive coverage that the Senator from Washington was talking about. And with the work of the Senator from West Virginia and the Senator from Rhode Island, we explored options to expand coverage among working families in a manner that would have also helped states that have already acted to expand Medicaid eligibility guidelines. However, that proposal failed, and the program signed into law was designed instead to fit on top of what each state is currently doing. The new $24 billion investment in children's health is supposed to provide assistance to the 10 million children in working families whose parents are unable to afford health insurance and are not currently eligible for Medicaid.

So, with all due respect, it is difficult to argue in the abstract that we are pitting one type of uninsured child against another. The point of this new program is to build upon current state efforts to work up the income scale from what is currently being done in a state to ensure that the sons and daughters of working parents receive coverage. We are talking about teachers, nurses aides, janitors, and other professionals whose salaries are too low to enable them to purchase health insurance but too high to qualify for Medicaid. These are hard-working Americans who put in 40 hours a week, 52 weeks of the year.

I would join with the Senator from Washington and the Senator from West Virginia to see an expansion of this program.

Through the work of the Senator from West Virginia, Senator ROTH, Senator MOYNIHAN and others in that conference, we were able with the leadership of the President to get a good program enacted. But we are still probably going to need to enhance that program or strengthen it down the road.

As I understand the Senator's position, we ought to put the new program in place, find out what those needs are, and then I am sure the Senator from West Virginia will be a leader here in the Senate to make sure that we are going to help and assist families in the State of Washington, West Virginia, or Massachusetts to try to make sure that the sons and daughters of working families that are not covered are going to be able to get some coverage. Is that correct?

Mr. ROCKEFELLER. In response to the Senator, I wholly agree with what he said, by trying to make two points. One is that when we were first contemplating this children's health insurance bill and the whole key concept of maybe getting as much as $24 billion, or even perhaps more than that, it was sort of understood that first we were going to insure 5 million children of the families that had the least resources to buy health insurance, and then we would move on to those who had a little bit more resources but still would not be able to afford buying health insurance from the private market for their children. We were talking about 10 million children. There was a lot of opposition to insuring 10 million children. It wasn't 40 million Americans, but it was 10 million children. Then even with the $24 billion that was applied to the program we are now faced with the prospect of maybe only being able to cover 3.6 million children, leaving, therefore, many of the 10 million uncovered.

I think the Senator is also correct when he says this in no way precludes—I said that in my remarks earlier—the State of Washington, which has clearly moved out ahead of others, from, once the ink is dry, once we have seen a little bit more about how this works out, to be able to come back based on the ability of this particular State and others to be able to do more.

But at this point, I am very, very nervous given, frankly, the rather capacious nature of the Governors in trying to bring this money to them, having to put in fairly strict guidelines about what could be spent on health care services as opposed to health interests, which regrettably are different things. I really want to see the program work, and I think we need to give it a chance to work and then come back. And I will be the first to support the State of Washington and others that have done more than other States. But let us take this incredibly, frankly, put-together program and let it work before we open more doors.

Mr. KENNEDY. I thank the Senator.

The PRESIDING OFFICER (Mrs. SNOWE). The Senator from Massachusetts.

Mr. KENNEDY. How much time is there?

The PRESIDING OFFICER. The Senator has 2 minutes 26 seconds.

Mr. KENNEDY. What is the regular order at that time?

The PRESIDING OFFICER. The Senator from Washington has 5 minutes, and then the Senate will vote on a motion to table.

Mr. KENNEDY. I see the other Senator from Washington here who I know has an interest. I will withhold my remarks to permit her to speak.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I thank the Chair.

I rise in support today of the pending Gorton-Murray amendment. I think, as we are all aware, President Clinton recently signed into law legislation that really calls for the largest expansion of children's health care since the creation of Medicaid in 1965. I worked very hard on this initiative with my colleagues, Senator KENNEDY and Senator ROCKEFELLER. I was really thrilled to be a part of this historic effort to provide real health care security to the most precious and vulnerable children in our Nation. I think that is an accomplishment of which we can all be

very proud, and it will not only provide health care security for our children but economic security and peace of mind for millions of hard-working parents as well.

I know the benefits of expanding health care benefits for children because my home State of Washington took a similar step back in 1994. The State took the lead because it was concerned about the future of its children and it was expecting us to enact a comprehensive national health security act for Americans at that time. The State of Washington wanted to be sure that our children were the first priority in any health care security efforts, and I applauded the action by the State and am pleased to report that all children through the age of 18 in Washington State who live in families up to 200 percent of the Federal poverty level are covered. The State did not have to take that step and expanded their Medicaid program beyond any Federal mandatory level. As a result of that action, 427,000 children are now guaranteed access to quality, affordable health care. This is a fact that I take a great deal of pride in, and I know that our public health system has benefited.

In the last Congress, when I started working to expand health care insurance for 10 million children, I was assured that any expansion would benefit all States and that those States that had expanded their programs up to 200 percent of poverty would not be treated differently. I had seen the success in my State and seen the benefits of providing comprehensive health care to uninsured children. As a result, I worked hard to fight for nationwide expansion.

During negotiations, I worked with several other Members to ensure that the amount of funding for children's health care was increased. I supported efforts in the Chamber to fund this expansion at $24 billion, providing the greatest amount of resources available that will ensure the greatest number of children are insured.

The final budget reconciliation legislation was a major victory for children and families in this country, but unfortunately my State of Washington will not benefit to the degree I had hoped. My State and others that made the commitment to their children previously and provided coverage up to 200 percent of the Federal poverty level will not be able to access the $24 billion that was provided for in this bill. The State will have to expand their current program by 50 percent in order to access any of those new funds. I am hopeful that the State will act to cover more children, if the resources are available at our State level, but in the immediate future Washington State will not be able to provide additional coverage, meaning that the intent of the legislation to cover more uninsured children will not be met in my State. We have made great strides in covering uninsured children, but we still have over 300,000 children who have no health insurance. We should be making every effort to encourage our States to expand the number of children covered, not discourage them from doing so.

The Gorton amendment would only allow States that have covered children up to 200 percent of the Federal poverty level to access the children's health block grant money to cover children from 133 percent to 200 percent of the poverty level, meaning that States could access these funds for new children that are not currently required to be covered. Again, this would apply only to new children as of October 1, 1997. Any child currently enrolled up to 200 percent would remain in the Medicaid Program. We are simply trying to treat new children in Washington State the same as they will be treated in Idaho or Montana or any other State. A new ensured child is a new ensured child regardless of which State they live in.

I have heard some of the concerns about this amendment and the impact that it could have on States that are currently at 200 percent. Let me assure my colleagues that, unfortunately, there are not many at this level. I have also heard about the substitution effect. Included in this amendment is a requirement that the State must certify that the child has not been insured in the past. We are only talking about an insured child as of October 1 of this year.

Finally, this amendment only applies to those new children that the State made the decision to cover, the optional children. Those below the 133 percent will not be included for any match purposes.

My colleagues should also keep in mind that there is already strong maintenance-of-effort requirements in the act which apply to the States as well. I listened to my colleagues, Senator KENNEDY and Senator ROCKEFELLER. I understand their concerns and I want to remind them that we all share the same goal. I hope we can continue to work on this so that the children in my State are treated as equally as other children across the Nation regarding that $24 billion. Our Governor has told us he needs this amendment to look forward to ensuring new children. I hope we can continue to work together to make sure that happens for the children of Washington State as well as the rest of this country.

I yield the remainder of my time to Senator GORTON.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 1076, AS MODIFIED, WITHDRAWN

Mr. GORTON. Madam President, my colleague from the State of Washington and I have worked diligently on behalf of what we consider to be equity to our State and to two or three other States as well. It had been our firm contention and our fond hope that we would be able to secure the passage of this amendment by unanimous consent. It is quite obvious that we cannot. Each of us disagrees with the rationale presented by the other side on the amendment. But our preference is to try to live and fight this issue another day, and for that reason I ask unanimous consent to withdraw the amendment.

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

The amendment (No. 1076), as modified, was withdrawn.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 1109

Mr. NICKLES. Madam President, earlier today the Senate adopted an amendment No. 1109, an amendment that I introduced along with Senator ROTH, Senator MOYNIHAN, Senator GRAMS from Minnesota, and Senator HAGEL, that deals with Social Security Administration personal earnings and benefit estimate statements [PEBES].

The amendment that we passed requires the Social Security Administration to include the employee contributions as well as employer contributions on the PEBES. Right now, when those statements are compiled, they show employee contributions but not employer contributions. Due to the support of the chairman of the Finance Committee and Senator MOYNIHAN, these statements in the future will show not only what the individual contributed but also what the company contributed and what their future anticipated benefits will be.

I think it is a good amendment. It is a disclosure amendment. A lot of people are not aware of the fact that not only do they contribute 7.65 percent of their payroll for Social Security and Medicare, but their employer matches it, for a total of 15.3 percent of payroll. This personal benefit statement will be sent to every eligible working American from Social Security beginning in fiscal year 2000. Americans will receive this financial disclosure every year, so people will know what they have contributed to Social Security and what their employer has contributed as well.

I thank my colleagues for supporting this amendment, especially the chairman and ranking member of the Finance Committee and Senator SPECTER.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I would like to have consent to be able to speak for 7 minutes.

The PRESIDING OFFICER. The Senator has the right to speak.

Mr. KENNEDY. I thank the Chair.

Madam President, there are items that we will be dealing with—the McCain amendment, the Durbin amendment, and also the other Gorton amendment which we will be voting on in just a few moments—and I would like to speak very briefly on each of them.

I strongly support the Durbin amendment which will repeal language in the

budget agreement that deducts the cigarette tax devoted to children's health from the amount of the settlement.

In effect, this last-minute loophole inserted in the budget bill by Big Tobacco in the dead of night behind closed doors reduced the value of the settlement by $50 billion. It was one of the most devious and reprehensible actions that I have witnessed in my years as a Senator.

The lesson is clear. When tobacco issues are debated in the public, the American people win. But when the debate moves into the backrooms of Congress, the tobacco industry's interests come first, and the public interest comes last.

It's time that Congress stood up to the tobacco industry and said ''no'' to Joe Camel and the Marlboro Man. This tobacco loophole has no place in the budget agreement, I urge my colleagues to support the Durbin-Collins amendment.

I strongly oppose the McCain amendment which would have a devastating effect on our essential efforts to address physician work force issues.

Medicare pays approximately $9 billion per year for graduate medical education. Over the years, these payments have been a strong incentive for hospitals across the country to increase the size of their residency programs. The increase has resulted in turn in widely reported concerns about an oversupply of physicians. The Institute of Medicine, the Pew Health Professions Commission, the Association of American Medical Colleges, and the Council on Graduate Medical Education have all emphasized the urgency of dealing effectively with this problem, and Congress can't ignore it.

In addition, the longstanding hospital reimbursement policies have been more generous for specialist residents than primary care residents. As a result, most of the growth in the number of residents has come in specialist positions, not in primary care, and has produced an extremely serious oversupply of specialists.

Congress addressed these issues in the balanced budget legislation enacted this summer. We expanded the New York graduate medical education demonstration project into a national program to encourage teaching hospitals across the country to adjust the numbers and types of physicians they train. The program provides incentive payments to teaching hospitals to voluntarily reduce the number of medical residents in training, and to increase the proportion of residents training in primary care.

The program pays hospitals for residents who are not being trained. But the payments are reduced over time and phased out completely after 5 years. These payments help cushion the blow for institutions heavily dependent on the Federal funds, and allow an orderly downsizing of residency training programs, with minimal disruption to the provision of health services.

The McCain amendment, however, would eliminate incentives for hospitals to downsize the overall number of resident positions and recalibrate the number going into primary care. The glut of physicians and the imbalance between general practitioners and specialists would go unaddressed.

The McCain amendment could also have a harmful effect on rural and underserved areas. The budget agreement established a hospital-specific cap on residents, based on 1996 levels. It gave the Secretary of the Department of Health and Human Services the authority to lift the cap for residency programs in rural and underserved areas if the total number of positions does not exceed the national cap. By eliminating these payment incentives under the McCain amendment, large residency programs will no longer downsize. This result will hamstring efforts to establish new residency programs to address the health care needs in rural and underserved areas due to the overall cap.

Finally, the amendment would result in over $300 million in lost savings, according to CBO estimates.

A critical part of health reform is responsible action to reduce the oversupply of physicians and correct the imbalance between primary care practitioners and specialists. The Budget Act is helping us put a more effective policy in place, and we should not reverse the progress we have made. I urge my colleagues to reject the McCain Amendment.

The second Gorton amendment hurts students and goes against the Nation's commitment to helping the poor and educationally disadvantaged students who need our strongest support.

Although meaningful education reform happens not at the Federal level, or even at the State level, but at individual schools, the State and Federal Governments 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 does not support meaningful reform. Instead, it shifts Federal dollars away from the neediest communities to the wealthier ones. It guts carefully crafted and widely supported programs with specific purposes. And it undermines the State's role as a crucial partner in improving the achievement of all students.

This amendment is the wrong direction for the Nation's children and the wrong direction for the Nation's future. It is not an attempt to offer a helping hand for local schools. It is simply a thinly veiled attempt to dismantle the Federal role in education.

Currently, Federal 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 high standards, help communities create safe and drug-free schools, and help communities modernize their schools. This amendment would strip Federal funding of these crucial, targeted purposes intended to help children who need it most.

Time and time again, research has indicated that it is in high-poverty communities that children are most likely to fall behind and drop out of school. This amendment disregards the research and the testimony that we have heard over and over about the need to help disadvantaged and low-achieving students.

This amendment would shift funds from poor school districts to wealthier ones. Currently, some States depend heavily on Federal funds. Alabama, Arkansas, and Louisiana get more than 10 percent of their schools funds from the Federal Government. Mississippi depends on the Federal Government for a full 21 percent of its education funds. We should not do anything to weaken that support.

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 mechanisms and it is not fiscally responsible. Reforming the Federal role in education is neither a casual nor quick decision, and it should not be taken lightly.

Federal education laws are more flexible and school-friendly than ever before. States and local education agencies are working in greater and more effective collaboration. Schools are helping all children meet high standards of achievement. We should not undermine these efforts when they are just getting off the ground. We should support efforts to improve education for all students, not undermine them.

I also strongly support and am a cosponsor of Senator DASCHLE's sense-of-the-Senate amendment with 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 this fiscal year.

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.

Today, single independent students at public 4-year institutions are not eligible for a Pell grant if their annual income is over $10,000. Many of these students will not benefit from the tax credits for college expenses recently enacted in the budget law. Greater Federal assistance is needed to help them meet their most basic college expenses.

A similar problem faces parents trying to pay for college for their children. Current law is actually a disincentive for college students to work part-time to help pay for the cost of their education. Yet over three-quarters of undergraduates now work part-time while enrolled in college.

It makes no sense for the current law to penalize students who are willing

and able to work their way through college. Many students work full-time during the summer and part-time during the school year. But if they do so, the response by current law is to reduce their eligibility for Pell grants. We should be encouraging students to take part-time jobs, rather than take out additional loans, as long as their jobs do not become so burdensome and time-consuming that they interfere with the students' education.

The budget agreement contained a clear commitment to allocate $700 million to reform the needs analysis formula for Pell grants. The House appropriations subcommittee provided $500 million to meet this commitment, but that is not sufficient. The Senate bill is far worse—it contains no funds at all for this needed change.

The second part of the amendment will help more children learn to read well. We know the dimensions of the current problem. Some 40 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. Children who lack good reading skills by the fourth grade are far more likely to fall farther and farther behind, and eventually drop out of school. President Clinton is right to focus on this critical problem, and Congress should respond.

This amendment will provide $260 million for a child literacy initiative—and it will provide the funds this year. As the ranking member of the Labor and Human Resources Committee, I am strongly committed to seeing that legislation authorizing the initiative is enacted as soon as possible. But it makes no sense to delay the appropriation.

I urge my colleagues to support these two important sense-of-the-Senate provisions. We all know that the final bill will be written in the conference between the Senate and the House. 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 school and college education.

Another essential reform for elementary and secondary students is the President's proposal for a voluntary national test for fourth grade reading and eighth grade math. Schools need clear standards of achievement and realistic tests to measure their achievement. These tests are a tool they can use to measure their progress and identify areas of need to bolster student achievement.

I strongly support having the National Assessment Governing Board take responsibility for formulating policy guidelines for the voluntary reading and math tests. NAGB is in the best position to oversee this important issue. This bipartisan group has done an excellent job managing the National Assessment of Educational Progress. As we all know, NAEP has served to point out how we are doing as a nation and helped educators think about ways to improve our education system.

The voluntary national tests, however, will go further. They will help each school district, each school, each student to identify areas of need in order to make the necessary changes to improve individual student achievement.

The tests are linked to national and international standards. They will show whether individual students are meeting widely accepted standards in reading and math. No current test is available to provide this essential information to students, parents, teachers, and school administrators. For families that move from community to community or State to State, there is no current way to measure the performance of students on a comparative basis.

The President's proposal for voluntary national tests has broad support from business leaders, including the Business Roundtable, the U.S. Chamber of Commerce, the National Business Alliance, and many others.

It also has strong support from the education community, including the Council of Great City Schools, the Chief State School Officers, and the National School Boards Association.

Seven States, including Massachusetts, and 15 major cities have already agreed to use the voluntary test.

Voluntary national tests are an excellent way to support local school reform and hold schools and districts accountable for student achievement. I urge the Senate to reject any effort to deny Federal funds for these tests.

Finally, the Nickles amendment is a blatant attempt to punish the Teamsters Union for winning the UPS strike, and it does not deserve to pass. The amendment would require the Federal government to abdicate its responsibility under the court-approved consent order signed by the Justice Department under the Bush administration. If the Federal Government abdicates this responsibility, it could be subject to contempt proceedings in Federal court.

This is an unacceptable result. It would substitute the Senate's judgment for that of the Federal court about the meaning of the consent order. This is not how the judicial process was meant to operate, and I urge my colleagues to oppose the amendment.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I ask unanimous consent that the vote that was originally scheduled to occur immediately after the Gorton amendment occur at 6 o'clock.

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

Mr. KENNEDY. Madam 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. DURBIN. 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. 1078

Mr. DURBIN. Madam President, I have an amendment that is pending, I believe, amendment No. 1078. I ask for the regular order that this amendment be considered.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Amendment No. 1078, previously proposed by the Senator from Illinois [Mr. DURBIN].

Mr. DURBIN. I ask unanimous consent to dispense with further reading of the amendment.

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

Mr. DURBIN. Thank you, Madam President.

It is my understanding that there is an agreement that in 25 minutes or so a vote will be taken which will interrupt this debate. And during this pending period, I am sure that others will be joining us to discuss the amendment which I have called up. It has not only been my intention to call up this amendment, but any amendments thereto this evening. I hope we can dispense with this matter. I have waited all day for this opportunity.

I think it is an important amendment. It is one that has received a lot of attention, but it was an amendment which people almost missed because, you see, in the tax bill that we considered just a few weeks ago, it was not until the final hours before the vote that someone discovered a provision buried deep in this tax bill, which literally gave a $50 billion tax break to tobacco companies in the United States.

The reason why amendment came as such a surprise was it was not in the House version of the tax bill, it was not in the Senate version of the tax bill. No committee hearings were heard on this issue. No debate was held on the floor of the House or the Senate on the wisdom of this issue. But in fact we have come to learn that the tobacco companies, through their lobbyists, inserted this provision in the tax bill at the last minute.

It was a provision which I have called a ''legislative orphan,'' because for weeks afterward, after it was discovered, no one would claim parentage of this poor little $50 billion amendment—no fathers, no mothers, no living relatives. People said it appeared mysteriously, that it was approved by the leadership but no one could quite tell us where it came from.

Well, finally, after weeks of investigation, the USA Today reported, through a staff member, that it was a product created expressly by the tobacco companies and slipped into this tax bill at the last minute in an effort to deal with some of the politics of raising the tobacco tax.

The tobacco companies have come before us time and again and said, ''It's a new day. We have learned our lesson. We are no longer the oppressive industry, ignoring the reality of public health. We now want to sit down and settle. We want to work with our legislative leaders in Washington.''

Well, it was a new day when it came to the speeches, but not when it came to propose this amendment to the tax bill. In fact, it was an old day, old politics, old time religion. Wait for the dark of night, and in that stealthy atmosphere come in with an amendment worth $50 billion.

Here is what it said. We were going to raise the tobacco tax, over several years, 15 cents. That money was to be raised to provide health insurance for uninsured children across America so that States could invent their own programs and create their own approaches to cover these children. And the tobacco tax revenues would help defray that cost.

Well, the tobacco companies have decided that they want the value of this tobacco tax increase to be set off against anything they would have to pay in a final settlement, the so-called universal or global settlement.

So, at the last minute, they come in with this provision, a $50 billion setoff, or break, for the tobacco companies, without a minute of hearings, without any consideration in the House or the Senate, without any deliberation. They said, ''Let's make this part of any tobacco deal. We get a $50 billion break.'' It is no wonder that cynicism grows across America when this sort of thing is done. It really raises a question about whether we are doing our job right.

Some of the tobacco companies have come back and said, ''Now, wait a minute. This is nothing unusual. A $50 billion setoff against our offer of $368.5 billion—it is a natural thing.'' Well, I am afraid it isn't. It turns out State attorneys general, including Michael Moore of Mississippi, sent a letter on behalf of this group, and they said that ''. . . [the] recent action by Congress to use revenues raised by new taxes as a credit toward our settlement is unacceptable. . .'' This comes from Michael Moore of Mississippi. ''As you know, this concept was discussed and rejected by us during our negotiations. This industry''—the tobacco industry—''has agreed to specific dollar amounts in the settlement, and we will not agree to any diminution of those amounts not specifically set forth in the agreement.''

Attorney General Moore, who led this effort of 40 different States to bring an action against the tobacco industry, has in fact said that this is not part of the agreement. It was expressly rejected.

So the tobacco companies, having lost in their negotiations with the State attorneys general, came up to find some friends on Capitol Hill. And they clearly must have found them, because now in fact we have this amendment as part of the tax bill, signed into law.

The amendment which I propose today repeals it. It says that the tobacco companies cannot sneak in here in the dark of night and put this kind of provision in the law. I tried to attack this provision in the closing hours before the tax bill was voted on. Some of my colleagues told me later they were not sure what I was doing, and it was late, and they were not certain what the point of order was setting out to do, but they want a chance to vote on it again. Well, we are going to give them that chance today, I hope, if we do not get muddled down by the efforts of the tobacco companies again to pull a fast one.

I am reminded of a story because of what we are setting out to do here. An Irishman was seen digging around the wall of his house. He was asked by his neighbor what he was doing. He said, ''Faith, I'm letting the dark out of the cellar.'' That is what we are trying to do here. We want to let the dark out of the cellar in the tax bill. That section of miscellaneous provisions which was supposed to be innocuous, not costly, noncontroversial, turned out to include this $50 billion break for these tobacco companies.

I think that what the tobacco companies are trying to do here is to start writing the tobacco liability settlement legislation even before Congress gets its chance. And they want this $50 billion break to start with.

The tobacco company provision in the tax cut bill says the increase in the tobacco excise taxes collected as a result of the balanced budget law will be credited against the total payments the tobacco companies would make as a result of Federal legislation implementing the settlement.

The tobacco tax increase in the final version of the balanced budget bill raised $5.2 billion in the first 5 years, and a total of $16.7 billion over 10 years. Projected out to the 25-year life of the proposed settlement, we can estimate that the revenues at stake amount to around $50 billion over 25 years. I do not know if there was another provision in that tax bill of this magnitude. One small section that will literally cost the taxpayers of this country $50 billion that was put in this bill without a minute of debate or hearing.

That means the new balanced budget law, as amended by the tax cut bill, would give the tobacco companies a $50 billion credit in any future settlement. Boy, that is a good day at work if you can come home as a lobbyist for the tobacco companies, and the spouse says to the lobbyist, ''How was your day at work?''

''I had a great day.''

''What did you do?''

''I just saved the tobacco companies of America $50 billion without anybody noticing. We stuck it in the bottom of the tax bill, and now no one will ever know.''

Well, that isn't what happened. It was discovered. And today it will be addressed directly.

The revenues in this bill were not intended to set off the liability of the tobacco companies. They were in there to provide health insurance for low-income kids. They should not be used to lessen the financial liability of the tobacco companies.

Moreover, if this provision is not repealed, the tobacco industry is going to argue that $50 billion should be taken out of the money the settlement envisions for public health initiatives. Keep in mind, these tobacco companies sat down with 40 State attorneys general and said, ''We are willing to reach a settlement. And we are willing to invest money in public health initiatives to reduce children's smoking, for example.''

Now they have said, ''We won't give you $368.5 billion as promised over 25 years. We want a reduction of $50 billion.''

So what will be at stake here? Enforcement of this agreement, public information campaigns, smoking cessation programs, industry liability payments. We should not give the tobacco industry this $50 billion windfall.

I am pleased that Senator COLLINS is joining me. I see she has come to the floor here. Senator COLLINS of Maine has agreed with me that we should repeal this sweetheart deal for big tobacco. American taxpayers should not be subsidizing the tobacco industry to reduce its liability for past misconduct.

The amendment is very simple. It simply says that subsection (k) of section 9302 of the Balanced Budget Act of 1997, as added by section 1604(f)(3) of the Taxpayer Relief Act of 1997, is repealed. Or, in plain English, the tobacco industry credit added to the balanced budget bill by the tax cut bill is repealed.

The groups that have joined me in support of this effort grow by the hour. I am very proud of those who are endorsing the Durbin-Collins amendment to repeal that $50 billion tobacco credit.

I will read the groups for the RECORD: Action on Smoking and Health; the American Association of Critical Care Nurses; the American Cancer Society; the American College of Preventive Medicine; the American Heart Association; the American Lung Association; the American Medical Association; the American Public Health Association; the American Society of Addiction Medicine; Children's Defense Fund; the HMO Group; the Latino Council on Alcohol and Tobacco; the National Association of City and County Health Officials; the National Center for Tobacco-Free Kids; the National Council of Churches; the National Education Association; the National PTA; the National Women's Law Center; Partnership for Prevention; Public Citizen; Taxpayers for Common Sense; U.S. Public Interest Research Group; and the Women's Legal Defense Fund.

Some have argued we should just let this provision stand and then try to adjust the settlement accordingly, by adding $50 billion to the required payments. We should not have to expend valuable energy trying to increase the settlement price just to return to where we stood before July 31.

We should repeal this provision now, clear the decks, and start from a level playing field in deciding what the settlement price would be. Many of us think the final settlement price should be higher than $368 billion.

I might add that my colleague from Kentucky, Senator FORD, is offering an amendment in the second degree to this. He suggested at one point he thinks $368.5 billion should be the total that is in the settlement. Though I will not oppose his amendment as written, I disagree with that particular aspect. But whatever the price, it should not have to be artificially adjusted to fix a provision added in the dark of night that almost no one knew about and almost no one agreed to.

Some have also argued that the settlement provision has no meaning and no effect. When I brought it up on the floor some of my colleagues said, ''Well, this is not binding. It is not a matter of law.''

I said at that point, ''Then take it out of the bill.''

''No, no, we have to keep it in the bill.''

Clearly, the people fighting for it in the bill wanted a strong bargaining position. They wanted to say when the tobacco settlement came down, we will start with a $50 billion credit for the tobacco companies. I do not think the tobacco industry would have worked so hard to put the provision in the bill if it was not important.

In fact, news reports have indicated that the provision was supposed to have been put in the Balanced Budget Act and was added to the Taxpayer Relief Act after being inadvertently left out of the budget bill. If it had no meaning or effect, no one would have bothered to write it into the tax cut bill.

But make no mistake about it, this provision is very meaningful. Although it was originally characterized as an ''orphan'' provision because no one would own up to having written it, the truth finally came out that the tobacco industry provided the language directly to the Joint Tax Committee staff which put it in the bill at the behest of certain congressional leaders. The provision is very meaningful to those who wrote it, namely, the tobacco companies. They stand to gain $50 billion for 46 words of legislative language. That is more than $1 billion a word.

When you think about the history of Washington, DC, and all that we have done on Capitol Hill, we have literally reached the point where an effective lobbyist working in the stealth of the night can come up with a provision which saves his clients more than $1 billion a word. What an effective lobbyist that must be.

Regardless of whether we support or oppose the details of the proposed settlement, we should all be able to agree that the taxpayers should not be underwriting the cost of the settlement.

Some have argued we should not adopt this amendment because it might slow down this appropriations bill, and it is a very important appropriations bill. But I believe the American people and most Members of Congress don't support this tobacco giveaway. We must not pass up this opportunity to eliminate it. It is a bad law and it needs to be changed.

Those who want to derail the Labor-HHS bill will try to do so regardless of whether this provision is in it. We must not let a threat to slow down the bill turn courage into cowardice. If we stand up to the forces behind this amendment they will shrink away. They don't really want to try to defend the indefensible.

The question also comes up as to whether, if the amendment is adopted, the Labor-HHS appropriations bill could be ''blue slipped'' by the Ways and Means Committee in the House, pursuant to the origination clause, article I, Section 7 of our Constitution.

As a practical matter, the answer is no. Of course, the House could do whatever it wishes. It is a sovereign body. But as a practical matter, it wouldn't have a good case for blue slipping this bill over this amendment because it is not a revenue measure.

We talked to the House Parliamentarian's office. They agreed. The subsection of the budget bill that would be repealed by this amendment does not amend the Internal Revenue Code. It does not impose or remove a tax. It does not even change the tobacco industry's current obligations. It addresses only a possible future credit against the payments the tobacco industry would make in a settlement. That credit is not a tax credit. It is simply a reduction of the tobacco company's payment obligations under a settlement, if there is one. Therefore, this is not a tax revenue measure subject to that objection.

Any Member of the House could try to offer a privileged resolution claiming that the provision was a revenue measure subject to the origination clause and asking the House to reject the bill and send it back to the Senate, but they would have a hard time convincing the majority in the House to reject this important appropriations bill on the grounds this amendment was supposedly a revenue matter, even though the amendment, as I said, does not affect the Tax Code nor anyone's tax liability and does not even affect the tobacco industry's obligations.

Tobacco products in the United States kill more than 400,000 Americans every year. The U.S. economy suffers a tragic and unnecessary loss of $50 billion each and every year from tobacco-related health costs and another $50 billion from tobacco-related loss of productivity.

Historically, the tobacco industry was unwilling to admit to any damage caused by its products. Even today, tobacco company executives choke on statements that their products ''might have'' caused some instances of cancer.

But the settlement currently being discussed was agreed to by the tobacco industry.

This secret credit should never have been written into the tax bill. It should be repealed immediately.

Madam President, I say to my colleagues, they may have had an excuse for not voting to strip this provision from the tax cut bill on July 31. Perhaps many of them genuinely did not know it was there. I only learned about it a few hours before the vote. But there is no excuse today. There is no excuse for the Senate to leave this provision in law.

Now my colleagues have a chance to vote straight up to rectify the situation. The American people do not want this credit to remain on the books. It is time for Congress to agree and to vote to repeal it. So, I say to my colleagues, don't let the tobacco companies take $50 billion out of taxpayers' pockets to reduce their settlement liability.

I hope they will join me in voting for the Durbin-Collins amendment. This amendment, to paraphrase an old literary quote, ''shines and stinks like rotten mackerel by moonlight.'' We are now bringing it to the attention of our colleagues to let them know that this rotten mackerel should be excised from the Federal law, that the tobacco lobbyists, as effective as they were in placing this provision in law, did the wrong thing. They played old politics under the old rules.

I am happy now to yield the floor to my cosponsor on this amendment, Senator COLLINS of Maine.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I am pleased to be joining with my colleague from Illinois in offering this amendment to repeal the tax break that was slipped into the tax bill at the very last minute to benefit the tobacco industry. I note that the distinguished Presiding Officer, my colleague, the senior Senator from Maine, is also a strong supporter and cosponsor of our effort.

This provision, which amounts to a $50 billion giveaway to big tobacco, has generated justifiable outrage across the country and fueled the tremendous cynicism that already colors the American public's view of politics and politicians.

Now, Madam President, where did this tax break come from? It was not in the Senate tax bill. It was not in the House version of the bill. There was never any public debate. The one-sentence provision just magically appeared at the end of a 327-page conference report tucked into a section entitled ''Technical Amendments Related

to Small Business, Job Protection, and Other Legislation.''

No one claimed parentage. Like Harriet Beecher Stowe's Topsy, ''She wasn't born, she just was.''

While no one has officially spoken up to claim this orphan, it turns out, according to press reports, that the provision was written not by Members of Congress, but by the tobacco industry.

Madam President, this is outrageous. It is backroom politics at its worst, and represents the kind of abuse of the legislative process that the American public is rightfully sick and tired of—a secret agreement, negotiated behind closed doors, by powerful tobacco industry lobbyists, in the closing hours of consideration of a massive tax bill.

Congress is currently considering the proposed $368.5 billion global settlement negotiated between 40 attorneys general and the tobacco industry. As we review this settlement, one of our primary objectives is to ensure that the tobacco industry has negotiated in good faith and is held fully accountable for their past misconduct.

Many of us have harbored suspicions about the tobacco companies' supposedly good intentions during these negotiations. We have been concerned that the tobacco companies would simply raise prices and write off the settlement payments, effectively passing on the costs of the settlement to the taxpayer and the tobacco consumer.

Well, Madam President, worst suspicions confirmed. Not only can the tobacco companies write off the entire $368 billion as a business expense, which means that 30 to 40 percent of the tobacco settlement costs will be subsidized by the taxpayers, but now the Congress, in a moment of midnight madness, has carved out a brand-new tax break for these companies that effectively reduces the costs of the settlement by $50 billion.

It is outrageous that we should even consider approving this tax break and passing on these costs to the American taxpayer. Tobacco is the No. 1 preventable cause of death in the United States. It accounts for approximately 500,000 deaths a year and billions of dollars in health care costs. The tobacco companies have agreed to the settlement as a means of reducing their future liability and are providing some compensation to States and individuals for the costs they face because of the disease and addiction associated with their products.

Regardless of our position on the proposed tobacco settlement, we should all agree to reject this $50 billion special tax break for the industry.

Now, some would have us believe that the $50 billion tax credit is part of the tobacco settlement. This is simply not true. In fact, this concept was discussed and soundly rejected during the negotiations between the attorneys general and the tobacco industry. In fact, the States attorneys general strongly oppose this new tax credit.

I have a letter from the States attorneys general. I ask unanimous consent it be printed in the RECORD.

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

STATE ATTORNEYS GENERAL, (A COMMUNICATION FROM THE CHIEF LEGAL OFFICERS OF THE FOLLOWING STATES,

August 6, 1997.

Hon. PHIL CARLTON,
Carlton Law Firm,
Pinetops, NC.

DEAR MR. CARLTON: We are writing to inform you that the recent action by Congress to use revenues raised by new taxes as a credit toward our settlement is unacceptable. Apparently this action was taken with approval by or at the urging of representatives of the industry. As you know, this concept was discussed and rejected by us during our negotiations. The industry has agreed to specific dollar amounts in the settlement, and we will not agree to any diminution of those amounts not specifically set forth in the agreement.

We have continued our support for this settlement because we believe it to be in the best interest of the American public. We have always made it clear, however, that should Congress substantially alter material terms of the agreement, the States would exercise the option of rejecting the settlement and continuing the prosecution of their lawsuits. We regard this action as a substantial alteration of a material term. We ask your immediate agreement that this must be eliminated from any final resolution of this matter.

Sincerely,

MIKE MOORE,
Mississippi Attorney General.
GRANT WOODS,
Arizona Attorney General.
CHRISTINE O. GREGOIRE,
Washington Attorney General.
ROBERT A. BUTTERWORTH,
Florida Attorney General.
RICHARD BLUMENTHAL,
Connecticut Attorney General.
DENNIS C. YACCO,
New York Attorney General.

Ms. COLLINS. In that letter they state that they regard this action as ''a substantial alteration of a material term'' of the agreement and that they will ''exercise their option of rejecting the settlement and continuing the prosecution of their lawsuits'' if it is included.

Madam President, this secret tax break should never have been written into law in the first place. It should be repealed immediately. I urge my colleagues to join me in supporting the Durbin-Collins amendment.

I yield the floor.

Ms. SNOWE. Mr. President, I rise today in support of the amendment offered by the junior Senator from Illinois. This amendment would repeal a provision that was inserted in the recently enacted Taxpayer Relief Act of 1997 at the last minute that could potentially reduce the cost to tobacco companies of the proposed global settlement of tobacco litigation.

Mr. President, as my colleagues are aware, a global settlement on tobacco litigation was announced on June 20. This settlement would resolve lawsuits brought by 40 States against the tobacco industry that sought to recoup State Medicaid spending for smoking related illnesses.

Under the terms of the settlement, the industry would pay an estimated $386 billion over the next 25 years to compensate State and individuals for tobacco-related health costs and to finance nationwide antismoking programs. The settlement would further restrict the advertising of tobacco products and impose new labeling requirements on cigarettes and smokeless tobacco. At the same time, the tobacco industry would gain closure to the State lawsuits, and protect the industry from all but individual lawsuits in the future.

Mr. President, in light of this proposed agreement, I was very disappointed that a provision was included in the recently enacted tax cut package that would potentially reduce the cost to the tobacco industry of their proposed settlement. Specifically, the provision—which was agreed to by the administration and congressional negotiators at the last minute—would allow the tobacco industry to treat the excise tax on tobacco products as a credit against their proposed $368 billion payment, assuming that the settlement is codified. Although the enactment of that settlement is far from certain, the value of this potential credit is estimated to be $50 billion over 25 years.

Mr. President, regardless of whether or not Congress and the President ultimately enact, modify, or reject the proposed tobacco settlement, I do not believe that the already-enacted Federal excise tax on tobacco products—which is paid by consumers and is intended to help provide health insurance for uninsured children—should potentially become a downpayment by the industry on their proposed settlement. The fact that the Clinton administration and congressional negotiators agreed to include this provision at the last minute does not mean it should remain in law indefinitely—so I have cosponsored the Durbin amendment to repeal this provision.

Mr. President, I regret that this provision was inserted in the tax agreement without providing the House and Senate with an opportunity for consideration. As my colleagues will remember all too well, the negotiated tax package was a take-it-or-leave-it proposition: Members were unable to remove this or any other specific provision without taking the risk that the entire agreement would unravel and be killed.

Fortunately, we now have the opportunity to consider this provision independent of the broader tax agreement, and I would urge that my colleagues vote to repeal this settlement-reducing provision by supporting the Durbin amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call.

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

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

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act for the consideration of the McCain amendment 1091. 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.

The result was announced—yeas 45, nays 54, as follows:

[Rollcall Vote No. 223 Leg.]

YEAS—45

Abraham	Grams	Mack
Allard	Gregg	McCain
Ashcroft	Hagel	McConnell
Boxer	Harkin	Mikulski
Brownback	Helms	Nickles
Campbell	Hollings	Roberts
Coats	Hutchinson	Sessions
Collins	Hutchison	Shelby
Coverdell	Inhofe	Smith (NH)
Craig	Johnson	Specter
Dodd	Kempthorne	Thomas
Faircloth	Kohl	Thompson
Feinstein	Kyl	Thurmond
Gorton	Lott	Warner
Gramm	Lugar	Wellstone

NAYS—54

Akaka	Dorgan	Levin
Baucus	Durbin	Lieberman
Biden	Enzi	Moseley-Braun
Bingaman	Feingold	Moynihan
Bond	Ford	Murkowski
Breaux	Frist	Murray
Bryan	Glenn	Reed
Bumpers	Graham	Reid
Burns	Grassley	Robb
Byrd	Hatch	Rockefeller
Chafee	Inouye	Roth
Cleland	Jeffords	Santorum
Cochran	Kennedy	Sarbanes
Conrad	Kerrey	Smith (OR)
D'Amato	Kerry	Snowe
Daschle	Landrieu	Stevens
DeWine	Lautenberg	Torricelli
Domenici	Leahy	Wyden

NOT VOTING—1

Bennett

The PRESIDING OFFICER. On this vote, the yeas are 45, the nays 54.

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

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, perhaps the Senate is not in order.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, perhaps the Senate is not in order.

The PRESIDING OFFICER. The Senate will please come to order.

Mr. SPECTER. Mr. President, may I request that my colleagues who have amendments on the floor and who have amendments pending stay on the floor so that we can have a sequencing and see where we are proceeding.

I would like to see, Mr. President, if we might reach a time agreement on the pending amendment by Senator DURBIN. I am advised that there may be second-degree amendments to the Durbin amendment. May we reach a unanimous consent agreement to proceed with the Durbin amendment? Senator DURBIN is prepared to accept a short time agreement. He has already argued the matter. Senator DURBIN is prepared to accept a short time agreement of 20 minutes equally divided.

Is that acceptable to the Members?

Mr. FORD. Mr. President, I have an amendment in the second degree, and I would be willing to take 10 minutes.

Mr. SPECTER. Mr. President, I ask unanimous consent then that we proceed with the Durbin amendment with 20 minutes equally divided, and 10 minutes for a second-degree amendment by Senator FORD, unless there is an objection.

Mr. SESSIONS. I object.

Mr. SPECTER. May I inquire of my distinguished colleague from Alabama if he would accept a time agreement on his second-degree amendment?

Mr. SESSIONS. How long is the time agreement?

Mr. SPECTER. I would suggest 10 minutes, which has been offered by the Senator from Kentucky. How about 10 minutes for the second-degree amendment of the Senator from Alabama?

Mr. DURBIN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Just a minute, if the Senator would suspend.

Mr. SESSIONS. That would be appropriate.

Mr. SPECTER. I thank my colleague from Alabama.

Mr. President, I amend the unanimous-consent request to add 10 minutes for the amendment by Senator SESSIONS in the second degree?

Mr. SESSIONS. Thirty minutes.

Mr. FORD. Reserving the right to object.

The PRESIDING OFFICER. Let's please have order. Let's have one Senator speaking at a time.

Mr. FORD. I would like to object.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. We have to see the amendment and then we can agree. I apologize to the Senator. But I have been asked to object since we didn't know what the amendment is, and I am objecting for my colleagues.

Mr. SPECTER. Mr. President, might I ask the Senator from Alabama to state the amendment that he proposes to offer?

Mr. SESSIONS. Yes. The amendment would deal with attorney fees, involving payment of attorney fees—payments of attorney fees.

Mr. SPECTER. Mr. President, might the Senator from Alabama give a little more specification?

[Laughter.]

Mr. SESSIONS. My amendment would limit the amount of money that could be paid for the plaintiffs attorneys that have been hired as private attorneys by the attorneys general, and would not vitiate Senator DURBIN's amendment, but, in fact, would be in addition to that, and would not undermine or kill that amendment.

Mr. SPECTER. Mr. President, I thank my colleague from Alabama.

I would inquire of the Senator from Kentucky if that would be sufficient to let us proceed with the unanimous-consent agreement with 30 minutes for that second-degree amendment.

Mr. DURBIN. Mr. President, reserving the right to object, I say to the Senator from Pennsylvania, if the Senator from Alabama would be kind enough to show us a copy of his amendment, we may be able to enter into this agreement very quickly.

I would like to see the amendment, if he wouldn't mind. I have seen Senator FORD's amendment. I believe the time allocation we have been talking about is a reasonable one. But I wonder if the Senator from Alabama is asking for 30 minutes for his amendment in the second degree. Is that my understanding?

Mr. SPECTER. That is correct.

Mr. FORD. That is 15 minutes on the side.

Mr. SPECTER. Equally divided.

Mr. DURBIN. So as I understand it, the suggestion is that we agree to 20 minutes on my amendment, and then another 10 minutes equally divided on Senator FORD's second-degree amendment, and 30 minutes on the amendment of the Senator from Alabama as a second-degree amendment. Is that correct?

Mr. SPECTER. Mr. President, that correctly states the issue.

Mr. SESSIONS. It is my understanding that there will no further votes tonight.

Mr. SPECTER. My suggestion is that we proceed to vote tonight. Perhaps we can, if we can find agreement on putting these all on the calendar with the consent of the majority leader, vote tomorrow. But I would like to see us come to terms with the complete list and at least have a disposition pattern, if we do not vote tonight.

Mr. President, I yield to my colleague.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the Senator.

I hope that we can reach an agreement on this amendment in the second degree on a time limit, and if we can reach an agreement on a couple of more that we have, then I hope the majority and minority leaders would agree that we could roll those over and vote tomorrow, and not have any more votes tonight.

Mr. SPECTER. Mr. President, may we proceed? If the Senator from Alabama could give the Senator from Illinois a copy of his amendment while we are talking about the others before we move on, if we can solidify the agreement, it would be helpful. Our experience has been that once we move on

without getting the agreement, sometimes they evaporate.

May I inquire of the Senator from Washington—is Senator GORTON in the Chamber—as to a time agreement on his pending amendment?

Mr. GORTON. I am not yet prepared to enter into a time agreement on the amendment.

Mr. SPECTER. Mr. President, may I inquire of the Senator from Indiana about the testing amendment. Are we in a position to move for a time agreement on that amendment?

Mr. COATS. Mr. President, if the Senator will yield, I am just discussing that with Senator DORGAN and others. I just had a discussion with the majority leader on that. We are in the process of discussing that concept, and we are talking to numerous people on both sides of the aisle. We will not be ready to go with that this evening, I do not believe, but I believe we will be by tomorrow.

Mr. SPECTER. Mr. President, might I inquire if we could reach a time agreement whenever the matter is ready for debate?

Mr. COATS. I am not 100 percent sure it is going to need a lot of debate if we are able to work out a procedure and agreement on proper language, and so forth, in terms of how we will dispose of this. It may be that we don't need an agreement, but I can't give the Senator an answer.

Mr. SPECTER. I thank the Senator from Indiana.

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

Mr. SPECTER. I would.

Mr. FORD. I have a second-degree amendment offered, 10 minutes equally divided. I understand it is acceptable. I will not ask for a rollcall vote. That might help expedite the decision here a little bit. We could proceed with my second-degree amendment which would have to go before the Durbin amendment, and then the amendment of the distinguished Senator from Alabama which would be after that. We can go ahead and get his out of way, if that would be acceptable.

Mr. SPECTER. Mr. President, I think that would be acceptable. I first would like to explore what we can do on the other pending amendments.

If we could hear from the Senator from Oklahoma as to how much time he would need on his amendment or perhaps the distinguished Senator from Massachusetts as to whether we could reach a time agreement and vote on the issues raised on the Teamsters matter.

Mr. KENNEDY. Mr. President, as was pointed out by the Senator from Alaska and others, this is an extraneous matter. We had a good debate on it the other evening. I believe that it would probably take—we did not really complete the debate on it the other evening, so it will probably take some time to reach a resolution of it. But the majority leader has spoken to the minority leader about it and talked to me about it in terms of time, but I think it will probably take some time. I know the Senator from Maryland was very much involved in it. I don't see him in the Chamber at this particular time.

Mr. SPECTER. Mr. President, might I inquire of the Senator from Massachusetts whether he thinks it would be worthwhile to explore trying to find some outer parameter of time, 4 hours equally divided—some time limit?

Mr. DASCHLE. Mr. President, if the Senator will yield.

Mr. SPECTER. I do.

Mr. DASCHLE. This has been a matter of some discussion with the majority leader, and I think it would be prudent for us to allow the negotiations to continue without pressing for any kind of conclusive agreement tonight. I think we are making progress, but I do not think we are going to be in any position to come to any final conclusion on the amendment until we have had some additional discussions with the Senator from Oklahoma and others. So my preference would be to allow these negotiations to continue as we work on other amendments and revisit the question tomorrow afternoon, or tomorrow morning.

Mr. STEVENS. Mr. President, will the Senator yield to me?

Mr. SPECTER. I do.

Mr. STEVENS. I appreciate the statements made by the distinguished Democratic leader, but I have just counted days and we have 8 more days in this month to vote. And we have 14, 15 bills to bring across this floor from the Appropriations Committee that should all be passed by September 30. Tomorrow night is the President's picnic, and by tradition we would not be voting tomorrow night. That means we are not going to be voting Friday. Unless we get some agreement very quickly, I would say by tomorrow afternoon, we probably cannot finish this bill this week. We have the Interior bill and we have the D.C. bill yet to pass and 14 bills after that—13 conference reports, managers' statements from the conferences, and 1 continuing resolution.

I am beginning to see a problem developing as far as our ability to handle these bills if these extraneous amendments are going to weigh them down. I urge that we find some way to make up a list to see how many more amendments we have out there and then see what we can do about the time or getting some agreement to terminate this. This bill actually is a larger bill than the defense bill. We have been on this bill now for a substantial period of time. I think we have to find some way to get it to a resolution by at least Thursday afternoon and lay down the Interior bill so we can start that and get some of the debate going on Friday on that at least. I hope that we would find some way to get some resolution on some of these items that appear to be unlimitable right now.

Is there some way we could agree on getting a list and say there will be no more amendments? Could we get a list that there will be no more amendments raised?

Mr. SPECTER. We have such a list.

Mr. STEVENS. You have a dozen second-degree amendments so I do not think you can find an end to this unless you get an agreement there will be no more amendments.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank our distinguished colleague, Senator STEVENS, the chairman of the Appropriations Committee, for what he has just said and for his management of the overall appropriations process. He is exactly right. We had discussed this matter, and that is why I am pressing now to try to get time agreements.

We do have a list, but we have not precluded under the customary arrangement second-degree amendments. We could not incorporate that type of limitation.

May I inquire of the Senator from Minnesota, Mr. WELLSTONE, if he is in the Chamber, with respect to the amendments he has pending?

Might I inquire of the Senator from Washington, Senator MURRAY, of her willingness to enter into a time agreement on the amendment relating to family violence?

Mrs. MURRAY. Mr. President, I would be happy to enter into a time agreement after the Durbin amendment is disposed of. I would need a half-hour of time. I do not know what the opponents would need.

Mr. SPECTER. Mr. President, then I ask unanimous consent that we enter a time agreement on the amendment just referred to by the Senator from Washington, 1 hour equally divided, so she will have 30 minutes.

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

Mr. SPECTER. Mr. President, I thank my colleague from Washington.

I again inquire of the other Wellstone amendments—if the Senator from Minnesota is not in the Chamber, perhaps we can call him and ask him to come to the floor—if he would be willing to enter into time agreements.

Mr. President, might I inquire of the distinguished Democratic leader—if I might have the attention of the Senator from South Dakota, there is an amendment pending regarding Pell grants and child literacy.

I ask, if I might, the Senator from South Dakota, the distinguished Democratic leader, what his intentions are, whether he would be agreeable to a time limit?

Mr. DASCHLE. I would be happy to agree to a 20-minute time agreement, 20 minutes equally divided, if it is a contested amendment.

Mr. SPECTER. Mr. President, I ask unanimous consent that we have the agreement, 20 minutes equally divided.

Mr. DASCHLE. Reserving the right to object, I would assume there would be no second-degrees—with that timeframe assuming that there are no second-degree amendments.

Mr. LOTT. I would accept that in the unanimous-consent agreement, without second-degree amendments, and then a vote on or in relation to the Daschle amendment.

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

Mr. SPECTER. Mr. President, I inquire of the Senator from Illinois if he has had a chance to see the amendment by the Senator from Alabama.

Mr. DASCHLE. Mr. President, I might be able to enlighten my colleague, the manager of the bill. We are told by a number of our colleagues that they are not prepared to enter into a time agreement on the amendment of the distinguished Senator from Alabama at this time. So I think it will probably be some time before we are able to do that. We may want to proceed. But at least at this point I do not think we are in a position to agree to a timeframe on the amendment.

Mr. SPECTER. Mr. President, I thank the distinguished Democratic leader and would ask that they make the review as promptly as they can because we are ready to really proceed with the conclusion of the amendment by Senator FORD and Senator SESSIONS and also Senator DURBIN.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. If the Senator from Pennsylvania will yield, I suggest we return to my amendment, and Senator FORD has an amendment in the second degree and he is prepared to offer it. And at that point, if there are any other amendments in the second degree, they can be offered. But I would like some understanding as to whether or not any more votes would be taken this evening on any of these amendments.

Mr. SPECTER. Mr. President, if the Senator will yield, I think we have to be prepared to vote, on this state of the record. We are in a state of considerable flux, if not confusion, as to where this bill is headed, and our experience is that unless we stay and debate and vote we are not going to get through this bill. I say that with reluctance because I know Senators have other plans.

Mr. President, I would suggest that we proceed at this time to the debate on the amendment by the Senator from Kentucky on his second-degree amendment and perhaps in that intervening 10 minutes we could get Senator WELLSTONE to the floor to find a time limit. If we are unable to come to an agreement on the second-degree amendment by Senator SESSIONS, perhaps we would proceed with Senator MURRAY's amendment which is 1 hour equally divided.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for a period of 5 minutes.

Mr. FORD. I ask, is it necessary that I call up my amendment?

The PRESIDING OFFICER. The Senator's amendment is pending.

AMENDMENT NO. 1117

Mr. FORD. Mr. President, this amendment is cosponsored by Senator ROBB, Senator HOLLINGS, Senator MCCONNELL, Senator FAIRCLOTH, Senator HELMS, and Senator THOMPSON.

As many of my colleagues already know, I have been extremely disappointed that the national tobacco settlement includes no provisions whatsoever to help the tobacco farmer. There is no question that this proposal will affect them. Yet there is nothing in the proposal for them. They were not invited to the negotiations. They were not consulted about the negotiations. They were not even briefed about what was going on during the negotiations.

The proposed settlement contains money to compensate promoters of the NASCAR races who lose tobacco sponsorship. It contains money to compensate promoters of rodeo events who lose tobacco sponsorship. It contains money for other events, teams, or entries in such events who lose tobacco sponsorship. It contains money, big money, for a tobacco counteradvertising program. It contains money for smoking cessation programs. It contains money for individual lawsuits. It contains money for Medicaid lawsuits filed by the State.

Mr. President, the proposed tobacco settlement contains compensation for just about everything you can think of, everything except the tobacco farmer.

The negotiators found a way to compensate promoters of sporting events, but they completely ignored a 200-year tradition that is the cornerstone of many small communities in my State. In other words, the farmers got the shaft.

I intend to do everything I can to keep any legislation from passing unless there is a fair compensation for tobacco farmers included in the $368.5 billion package. We have to take into account the future of these small families. We have to take into account the future of these small farm communities.

There are about 60,000 tobacco farms in my State alone, Mr. President. Most of them grow a couple acres of tobacco, but they get about one-fourth of their farm income from tobacco. The national tobacco settlement leaves them out in the cold. It leaves the local economies of entire communities in shambles. We must do something about it.

I have been working with my farmers and with other tobacco State Senators to develop a package that will provide fair compensation to tobacco farmers and tobacco-growing communities. We intend to have such a package included in any legislation to implement the tobacco settlement. I think other Senators from tobacco States share my view that we will simply not support any future legislation which does not address the tobacco farmers' future.

So, Mr. President, all my amendment says is that farmers ought to be taken into account. We should not forget them. My amendment is a second-degree amendment which expresses the sense of the Senate that tobacco growers and tobacco-growing communities should be fairly compensated as a part of any Federal legislation for the adverse impact which will follow from enactment of a national tobacco settlement. I think this is a reasonable request, and I believe my colleagues are prepared to accept my amendment by unanimous consent. I am perfectly willing to do that without asking my colleagues to vote. I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, speaking to the second-degree amendment offered by the Senator from Kentucky, he and I have been in disagreement on this issue in the short time I have served in this body, but I stand today in support of his second-degree amendment. Though I may disagree with one or two provisions in it, I believe the central element of his amendment is a suggestion that tobacco growers should be protected in any settlement agreement, and I certainly think that is a worthy goal as part of the settlement negotiations. For that reason, though I may disagree with some other particulars, I will support his second-degree amendment.

Mr. LUGAR. Mr. President, I did not object to the Ford sense-of-the-Senate amendment to S. 1061. I agree with its sentiment that the needs of tobacco farmers should be taken into account when Congress considers the proposed tobacco settlement.

I wish to express reservations about two points in the Ford amendment's language. First, the amendment says that any compensation to tobacco growers should ''be included within the $368.5 billion in payments.'' However, we do not now know that the size of the settlement will be precisely $368.5 billion. It may be larger. Moreover, payments to growers might be additive to the settlement amount, whatever its size.

Second, the amendment expresses a desire to ensure ''the continued administration of a viable federal tobacco program which operates at no net cost to the taxpayer.'' I favor compensating tobacco farmers for the equity they have built up in the quota system over the years. Such a buyout of the quota program should lead to, at most, a minimal price-supporting role for the Government. That is what we have done for the producers of most other commodities in the 1996 FAIR Act: Transition payments, and price supports at market-clearing levels.

I believe that to continue the present tobacco program without change is not

likely to be viable, so I find the amendment's language acceptable. Because some might read it to imply an endorsement of the status quo, I simply want to register my view that such a reading is neither required by the amendment's language, nor in the long-term interest of tobacco producers.

Mr. SPECTER addressed the chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I believe that the Senator from Kentucky has offered a worthwhile amendment. There is no doubt about the dislocation to tobacco growers occasioned by a settlement which will have the effect of crippling their business for public policy reasons which may yet be worked out.

It is obviously uncertain at this point as to what will happen with the proposed global settlement on the tobacco industry, but I think this is another matter where public policy calls for certain action. There are some employees, some workers in the industry who are hurt. I think it is sensible to provide for those individual workers.

Certainly, we have seen the demise in my State of the steel industry and the glass industry and the coal industry, and we have tried to take care of dislocated workers. As the distinguished Senator from Kentucky has articulated the amendment, the sense of the Senate to do that I think is acceptable. There may be a fair distance between the sense of the Senate and how it is going to be effectuated. With some frequency we see on this floor the Senate express its sense and then back off when it comes to putting dollars up to druthers.

But in terms of the public policy behind looking out for the interests of the employees who will be injured by a global tobacco settlement, I believe the Senator from Kentucky has offered a worthwhile amendment, and we are prepared to accept it on this side.

Mr. FORD. Mr. President, if I have any time left, I will yield it back after asking unanimous consent that Senator FRIST of Tennessee be added as a cosponsor.

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

Mr. FORD. Mr. President, I thank my colleague for his support, and I do agree, once we have a sense of the Senate, they should be helped. How they are helped is another issue.

I thank my colleague from Illinois for his effort here.

I yield back whatever time I might have.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1117) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 1125 TO AMENDMENT NO. 1078

(Purpose: To provide for certain limitations on attorneys' fees under any global tobacco settlement and for increased funding for children's health research)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for himself, Mr. CRAIG and Mr. FAIRCLOTH, proposes an amendment numbered 1125 to amendment No. 1078.

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

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

The amendment is as follows:

At the end of the amendment, add the following:

SEC. . (a) GENERAL LIMITATION.—Notwithstanding any other provision of law, if any attorneys' fees are paid (on behalf of attorneys for the plaintiffs) in connection with an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures or for other causes of action, involved in the settlement agreement, such fees shall—

(1) not be paid at a rate that exceeds $250 per hour; and

(2) be limited to a total of $5,000,000.

(b) FEE ARRANGEMENTS.—Subsection (a) shall apply to attorneys' fees provided for or in connection with an action of the type described in such subsection under any—

(1) court order;

(2) settlement agreement;

(3) contingency fee arrangement;

(4) arbitration procedure;

(5) alternative dispute resolution procedure (including mediation); or

(6) other arrangement providing for the payment of attorneys' fees.

(c) EXPENSES.—The limitation described in subsection (a) shall not apply to any amounts provided for the attorneys' reasonable and customary expenses.

(d) REQUIREMENTS.—No award of attorneys' fees shall be made under any national tobacco settlement until the attorneys involved have—

(1) provided to the Governor of the appropriate State, a detailed time accounting with respect to the work performed in relation to any legal action which is the subject of the settlement or with regard to the settlement itself; and

(2) made public disclosure of the time accounting under paragraph (1) and any fee agreements entered into, or fee arrangements made, with respect to any legal action that is the subject of the settlement.

(e) PROVISION OF FUNDS FOR CHILDREN'S HEALTH RESEARCH.—Any amounts provided for attorneys' fees in excess of the limitation applicable under this section shall be paid into the Treasury for use by the National Institutes of Health for research relating to children's health.

(f) EFFECTIVE DATE.—The limitation on the payment of attorneys' fees contained in this section shall become effective on the date of enactment of any Act providing for a national tobacco settlement.

Mr. SESSIONS. Mr. President, I would like to address a very important issue that has not been discussed much. It has been raised a few times but not openly discussed. I think it is consistent with Senator DURBIN's concern that a tax benefit being proposed has not had full public discussion.

One of the things that has not had public discussion regarding the tobacco settlement is attorney's fees. Many of the States have undertaken very lucrative agreements with plaintiff lawyers who States attorneys general have hired to represent their States to carry on this litigation.

Less than a year ago, I was attorney general of the State of Alabama, and I was asked and it was suggested to me to hire plaintiff attorneys to represent the State of Alabama. It was suggested that a 25-percent contingent fee would be appropriate in those cases. I rejected that. I felt like it was not necessary for the State of Alabama to undertake such a generous fee agreement. Other States have undertaken such agreements, and that is of much concern to me.

Now we have the case coming before this Senate of being asked to bless or to approve by legislation those agreements. It is important for us to consider that every dollar that is spent on attorney's fees is a dollar that does not go to children's health. So this amendment limits the amount of money that can be spent on attorney's fees and says any excess moneys that are saved in that regard will be sent to the National Institutes of Health to be used for research for children's illnesses.

I think that is the appropriate way to do this. We have a lot of attorneys who have been talking a lot about children's health, so let's talk about that seriously, and let's ask about how this has happened.

Let me just say, the way this agreement has been entered into, the attorneys general, with their attorneys who they have hired, have entered into an agreement, a global settlement agreement, with the tobacco industry. Oddly enough, it mentions nothing about attorney's fees.

What we have learned since then is that there is a side agreement between the plaintiffs' attorneys who represent the States and the tobacco industry to pay their attorney's fees directly by the tobacco industry, apart from the State that they represent, which is a very odd situation and, in fact, in my opinion, Mr. President, represents a conflict of interest, because at this point, you have the attorneys supposedly representing the State entering into an agreement, a side agreement, with the attorneys and the party on the other side of this litigation, the tobacco industry.

So that puts them in a situation in which, if they do not agree and this settlement does not go forward, they do not get their attorney's fee.

That is basic. That is a conflict, I submit, between their interests and their duty and fidelity to the State, their client, and the opposing side who

now is paying their fees. Why didn't they put it in the agreement? Why didn't they state it publicly? Because they don't want to talk about it.

Most of the estimates and many reports have been suggested as to how much these fees might be. Some have said $10 to $14 billion. That is what I have seen published in several different instances. Let me repeat that: $10 to $14 billion. That is the greatest legal fee ever paid in the history of this Nation, in the history of this world. It is the mother of all attorney's fees. We are talking about $10 to $14 billion. Outside of education, the budget of the State of Alabama is $1 billion. So we are talking about an incredible sum of money that could provide tremendous amounts of research and care for children. That is where this money ought to go.

We are talking about a secret side agreement by which the attorneys, supposedly representing the States and the children, have gone over here now and have set up a side agreement with the people they have been accusing of being so bad, the tobacco industry, the people they are suing. That is not an appropriate way to do it.

I think if this body is to approve a global settlement and enact legislation in that regard, this body ought to make clear where we stand with regard to attorney's fees. We cannot allow some secret side agreement representing billions of dollars that could be going to children to be paid under the table by the party for the other side to the attorneys to the States who are representing the children.

I think this is a very important subject, Mr. President, and I care about it very deeply.

I think Senator DURBIN's amendment deals with a tax question that has not been fully aired. This is a question that has not been fully aired, and it needs to be.

Our amendment would do something else. It would say that every fee agreement that has been entered into between the State attorneys general and the lawyers they hired, the plaintiffs' lawyers they hired to represent them has to be made public, and the statement has to be made public. We limit the amount of fees. I think this is a large fee, most people think this is huge. Mr. President, $5 million is the limit per State we think is appropriate for this kind of litigation. In addition to that, we say it should not exceed $250 per hour in billing time. So that would be the cap on the fees that this bill would set forth: that no more than either $250 per hour, which is far more than what the average working man in this country makes, I assure you, $250 per hour would be the maximum time. If it goes over that, we would cap it at $5 million.

I think that is a reasonable proposal. It would not take effect until and if this body enters into a global settlement of this litigation. I think it is quite appropriate. I think that we need to deal with this issue.

I will just say this, as to the secretiveness of it. There have been several inquiries made by members of various committees of this Senate and one made by me of an attorney general about what the fee agreement was, and he did not set forth that agreement. Right after that hearing, over a month ago, I wrote a letter to the parties involved in this litigation, and I asked them to state the agreement they had with the attorneys representing those States publicly. We have a response not from one of them. They have not responded.

This is a public contract between the attorneys general of the States and the lawyers who are representing the States. So I think something is amiss here. It is something we ought to deal with. This amendment deals with it straight up. I believe it fulfills the needs that we are here for, and that is to make sure we get the most money possible for children and children's health.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I stand to join my colleague from Arkansas this evening in offering this second-degree amendment. I must tell you, when the Senator approached me, I was hesitant. I don't get involved in what I originally think is a private-sector relationship, a client relationship that can be none of our business here. But when the States attorneys general and the trial attorneys have come together to craft a universal or a national agreement that the Senator from Illinois approaches tonight as part of his amendment, and they approach us to make this national law, to make this the law of the land, it is now the public's business, without doubt.

Clearly, the Senator from Arkansas has demonstrated that this evening. He has even clearly stated——

Mr. FORD. Alabama.

Mr. CRAIG. Excuse me. Excuse me, the Senator from Alabama.

Mr. SESSIONS. Alabama, thank you very much, I say to the Senator from Iowa.

[Laughter.]

Mr. CRAIG. Touché.

But the Senator has very clearly pointed out there could well have been side agreements made or upfront agreements that go beyond any average person's wildest imagination to the potential of tens of billions of dollars in attorney's fees.

Here tonight the Senator from Illinois—and just a month ago this Senate agreed to tax an industry for the purpose of the health of the children of this country, a tax that in 1 year would not even demonstrate this amount of money. How can it be possible that any one profession could draw or come to draw or believe to be entitled to that amount of money? And $250 an hour is a what the Senator's amendment says is a reasonable and right fee, and even that the average working person would pale to.

So I am extremely pleased that the Senator this evening has brought forward the amendment. It is something that this Senate will either face now or face in the future as we deal with the crafting of a universal agreement, if that becomes possible and ultimately gets to the floor of this Senate.

I will join with the Senator however many times it takes to make sure that what he has proposed as an amendment tonight can and must become the law of the land, because in his wisdom and in the crafting of this amendment, he says that the excess dollars go where they ought to go, to children's health because all of us are extremely concerned about the rapid increase in teenage smoking in this country. That is part of what spurred this whole effort that is now nationwide as it relates to smoking and the tobacco industry.

So I think the amendment to the pending amendment is appropriate this evening. It fits into what we are trying to do if in fact we become participants in the crafting of a global agreement as it relates to what is attempted to be resolved between the States attorneys general, the tobacco industry, and the representatives of those States attorneys general. So I join my colleague tonight. I am proud to be a cosponsor of this important second-degree amendment.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Senator from North Carolina.

Mr. FAIRCLOTH. I rise in strong support of the amendment offered by the distinguished Senator from Alabama. I cannot think of any better method of cutting to the crux of this whole tobacco settlement than the amendment that he has offered. We talk about here, on a regular basis, doing something for children, for the health care of children, for their better care, and looking after children. And I strongly support these initiatives.

Knowing the generous, caring, and giving nature of the trial attorneys, I have no doubt that they would all be in strong support of the amendment of the Senator from Alabama if they were here to vote on it. Knowing of the eleemosynary history of trial attorneys, I know if they were here, they would join us in strong support of Senator SESSIONS' bill.

So I just say that this is a wonderful opportunity to make a major contribution to the caring for children's health and their well-being in this country. I commend again the Senator from Alabama for bringing it to this body's attention. I stand in strong support of it.

I say again, knowing the nature of the trial attorneys of this country, that if they were here and knowing that they had the opportunity to make this strong contribution to the children of this country rather than it going into attorneys' fees, that they would stand in strong support of the

amendment of the Senator from Alabama also.

I thank you, Mr. President, and I thank Senator SESSIONS.

Mr. MCCONNELL addressed the Chair.

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

Mr. MCCONNELL. Mr. President, I commend my friend and colleague from Alabama for an outstanding amendment. I listened carefully to his comments, Senator FAIRCLOTH's comments, and Senator CRAIG's comments.

As I understand the amendment by the distinguished Senator from Alabama, he is in effect here giving the Senate a choice, if I understand correctly, a choice between legal fees and children's health. The Senator from Alabama pointed out that as a State attorney general he had the option to retain private counsel to engage in this litigation which is going on in 30-some odd States around the country, and that he chose not to do it, but that many State attorneys general chose to hire private counsel to pursue this litigation against the tobacco companies.

Now we understand, as the distinguished Senator from Alabama pointed out, there are fee arrangements not known to the public under which there could be billions of dollars in fees paid to these lawyers who in effect were acting on behalf of State governments——

Is that right, I say to my friend from Alabama?

Mr. SESSIONS. You are correct. The Senator is correct.

Mr. MCCONNELL. Engaged in the business of the public to recover the Medicaid costs. And we are not sure how much those fees are.

Now, it is suggested that the Federal Government, the Congress of the United States, ratify—we will have a proposal at some point this year or next year—ratify what is referred to as the global tobacco settlement. So the distinguished Senator from Alabama is simply saying that this is a matter of public concern.

It will actually, if it is passed, be a matter of Federal law. If we are going to sanction this kind of agreement, the distinguished Senator from Alabama is saying we would like to make a decision as how best to deploy the public money in this global settlement. Some of the public money, Mr. President, is obviously legal fees for those who, on behalf of State governments, brought these lawsuits.

The distinguished Senator from Alabama is not being unfair, it seems to me, to the lawyers. As I understand the amendment, he is saying, up to $5 million per State or at a rate of $250 an hour, whichever is less——

Mr. SESSIONS. Less.

Mr. MCCONNELL. Would be the capped fee arrangement for these private lawyers doing public business at the behest of the State attorneys general. And $5 million, Mr. President, is not a bad year's work, not a bad 2 years' work—for many Americans not a bad lifetime's work.

So the distinguished Senator from Alabama is not saying that these lawyers, if you have been hired by the State government, you have to do it for nothing. All he is saying in effect is you don't get to gouge us. So he has set here a reasonable limit, some would argue maybe even too generous, and saying any excess amounts that have been agreed to should be diverted to the children of America at the National Institutes of Health to fund research for children and children's diseases.

I think it is an outstanding amendment. I commend the distinguished Senator from Alabama for his amendment. I think it makes an awful lot of sense. It is clearly an amendment in the best interest of the children of America. So, Mr. President, I thank the Senator from Alabama for his leadership on this issue.

I yield the floor.

Mr. FORD addressed the Chair.

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

Mr. FORD. Mr. President, would the Senator from Alabama help me here a little bit? I want to be sure—the eloquence of his amendment has already been stated on the floor. Let us be sure, because this is a very complex piece of legislation. And I yield to everyone because I am not a lawyer and so, therefore, I have a hard time understanding side agreements, protocols, but I am learning. I am on the jury.

As I understand it, your amendment applies to the $368.5 billion settlement?

Mr. SESSIONS. That is correct.

Mr. FORD. Inside there?

Mr. SESSIONS. The Senator is correct.

Mr. FORD. All right.

Now, that is not the bill. That is not the total bill here. There is also added on to that about $24 billion more for tort liability. That is in addition to that. And then the lookback penalties, which is if the reduction of youth smoking is not sufficient to meet the criteria set, there will be another $42 billion. So we are talking about $435 billion here now, not $368.5 billion.

So I want to be sure that we all understand where we are going. We are beginning to put so much weight on this agreement that it is going to fall, and then we will lose, I think, all those goals that we have set for ourselves.

But one of the items yet to be decided is the plaintiff attorney's fees.

Your amendment does not get to that?

Mr. SESSIONS. It does, yes. Yes.

Mr. FORD. I am talking about the private litigants now.

Mr. SESSIONS. No, not the private litigants.

Mr. FORD. So private litigants, their attorneys are yet to be compensated. So you add those on to the $435 billion. Now, if you are talking about $10 to $14 billion in the other place, I wonder if we could just add a low figure $10 billion, so we are now getting to around $495 billion, almost $500 billion. So I want to be sure that we all are on the same wavelength.

Then we are talking about the new taxes. That is another $50 billion. That is another $50 billion. That is just over a few years. That is not over the term of the contract. So you add that on and you are at about $530 billion. So if there is a possible doubling of lookback penalties, we are talking about another $42 billion.

So I want to be sure everybody understands that $368.5 billion is just within a range for the States for those Medicaid payments. The Federal Government will get about 60 percent; States will get about 40 percent.

There are a lot of things here I thought we ought to be sure about.

The Senator's amendment, I wanted to be sure that it was in the $368 billion, and not in addition to.

Mr. SESSIONS. Let me clarify that as best I can.

Mr. FORD. I think we are all going to have to work at this pretty hard.

Mr. SESSIONS. To put it real simply, almost every State that entered into this litigation hired a law firm to represent the State. Some of them used their own attorneys, I believe, but most hired private plaintiff lawyers to represent them. They then entered into agreements to pay them so much money.

Now those attorneys general, now those plaintiff lawyers, now the tobacco lawyers have come to this body and asked us to approve a global settlement, ''but don't talk about attorney's fees,'' they say, ''because we're going to take care of that between the plaintiff lawyers and the tobacco lawyers. We're going to work that out between us.''

What we are saying is, that needs to be public. The public needs to know. It ought to be capped to a reasonable fee, and not be a windfall, because in many of these cases they hardly filed the lawsuits before the settlement was agreed to, so almost no legal work has been done, yet they would stand to receive perhaps billions of dollars in legal fees. It is a matter we have to deal with.

Mr. FORD. I thank the Senator. I hope you understand what I am trying to do. It is a huge, a humongous piece of legislation. The $368 billion is just the beginning. It is now, in my judgment, at about $525 to $530 billion. And we have not talked about the private litigants' attorney's fees, which are an add-on. You are not bothering that.

I think it might be well, Mr. President, if I submit these figures, have them on a per year basis and with some question marks. There are other add-ons that will be question marks. And the attorney's fees are question marks. I think I will just put this in for a matter of the RECORD just so everybody will understand.

Mr. President, 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:

NEW FEDERAL REVENUES FROM TOBACCO INDUSTRY

	Per year [1]	Over 25 years
Core Tobacco Settlement.	$15 bil.	$368.5 bil.
Additional tort liability	Up to $1 bil.	Up to $23.86 bil.
"Lookback" penalties	Up to $2 bil.	Up to $42 bil.
Attorneys fees	????	????
Subtotal	Up to $18 bil. (+?)	Up to $434.36 bil. (+?)
New Excise Taxes	$2 bil.	$50 bil.
Subtotal	Up to $20 bil.	Up to $484.36 bil.
Possible doubling of Lookback penalties.	Up to $2 bil.	Up to $42 bil.
Subtotal	Up to $22 bil.	Up to $526.36 bil.
Other add-ons?	????	????
Total	????	????

[1] Annual figures begin in 5th year of settlement, when fully implemented.

1995 Tobacco Industry Contribution to GNP: $44.7 bil.

Mr. FORD. I thank the Senator for helping me here.

Mr. SESSIONS. If the Senator will yield.

Mr. FORD. Yes.

Mr. SESSIONS. I do think that, depending on the wording of these understandings between the attorneys general and lawyers, that the fee may be a percentage of the whole $500 billion that the Senator referred to.

Mr. FORD. Because it is not $368 billion, I say to my friend from Alabama.

Mr. SESSIONS. Yes. I appreciate your correcting that.

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

Mr. SESSIONS. Yes.

Mr. HARKIN. Who has the floor?

The PRESIDING OFFICER. Senator FORD has the floor.

Mr. FORD. I yield the floor.

Mr. HARKIN. I wonder if I might inquire of the author of the amendment, the Senator from Alabama, a question.

I was reading it over, and as I read the amendment, under the first section, paragraph A of your amendment, you put a limitation on the per-hour rate of attorneys, and then there is a cap total of $5 million that applies per State?

Mr. SESSIONS. Yes.

Mr. HARKIN. The $5 million applies to per-State maximum.

Mr. SESSIONS. That would be the maximum, but if they could not justify the fee by hour, they may not get that.

Mr. HARKIN. I understand that, but it is a maximum of $5 million in any regard.

Now, this has to do with attorney's fees paid in connection with a State recovering money. This does not have to do with the so-called proposed big settlement that is going to come to us in the future. This applies to States.

I wonder how we, here, can limit attorney's fees in a State action?

Mr. SESSIONS. I am delighted to try to answer that. It is a very unusual thing that is happening to this Senate and we have been asked by the attorneys general, by the defendants, the tobacco companies, too, in fact, by legislation legislate a lawsuit. So it is unusual.

They are asking us to do that because many of the things that they want, each side wants, cannot be accomplished through private litigation. They want to, in effect, control new tobacco companies that have not been making tobacco and have not made people sick before, they want to control them and others.

So they have asked this body for a lot of reasons to ratify this through our legislation. To that degree, they have asked us to ratify.

I think we need to find out what the attorney's fees are. I think as part of our legislation our legislation ought to control legal fees and we ought not to pay any more than that mentioned in this amendment.

That is, basically, where we are.

Mr. HARKIN. I listened to the Senator make the explanation but I thought the amendment was going to go toward limiting attorney's fees if there is a global settlement, this thing we are being asked to do at some point. We do not know if it is this fall, next year, or whatever, when we will be asked to ratify a so-called global settlement.

But your amendment does not just speak to that, it speaks to ongoing cases in the States. For example, as I understand it, the State of Mississippi just settled, the State of Florida just settled, other States will maybe be settling. Your amendment seems to me to apply to those States that make those settlements. It has nothing to do with the proposed universal or global settlement that we will be asked to ratify at some point later on.

That is why I wonder, by what right or power do we have in the Federal Government of saying to a State government, a State attorney general and the State government that you can't, in your agreement, whatever your agreement is, you have to limit attorney's fees?

That seems to me to be an odd kind of a thing for us to do—the Federal Government telling the State government when you make your agreement, here is all you can do. It does not seem to me to be constitutional.

Mr. SESSIONS. I would like to respond. I think you raise a very interesting point.

First, I say it is unusual that the States would come to this body and ask the Congress of the United States to ratify a lawsuit, but they have.

Our bill does not take effect and does not apply unless this body enacts a global tobacco settlement. It is the last sentence in the amendment. In other words, we do not, and this legislation does not attempt to intervene in litigation that is ongoing unless there is a global legislation by the Congress of the United States, in which case we would then also deal with attorney's fees as we should.

Mr. HARKIN. Again, I understand and I appreciate the Senator pointing that out. Mississippi made an agreement, Florida has made an agreement, maybe there will be a couple of other States that make agreements, what if later on we make a global settlement, do they have to go back and renegotiate all the attorney's fees? That is what I wonder.

How can we tell a State what they have to do prior to our reaching this national settlement—and whether we reach it or not, I do not know. What would happen, for example, to a State like Mississippi that has already negotiated and make their deals—I guess, I assume they have.

Mr. SESSIONS. My understanding is that States that have settled have conditioned their settlement on the requirements of the congressional global settlement. If there is no congressional action, then their settlements will be in full force and effect, but if it is, they are agreed to be vitiated by the congressional action.

Mr. HARKIN. The Senator was not aware of that. I appreciate that.

I yield the floor.

Mr. DURBIN. Mr. President, I rise in opposition to this amendment. I have just seen this amendment this evening for the first time, but I know the Senator from Alabama has offered it in the regular order of business.

I have had a few minutes to read it over. I commend to my colleagues the suggestion they should read this very closely. This amendment is the dream of the tobacco companies. The Senators who have risen to speak on behalf of this amendment from the tobacco-producing States I think have given evidence of the fact that this is another one of the last gasps of this industry.

Let me tell you why what appears to be so reasonable on its face is, in fact, a loaded deck for the tobacco companies again.

My friend, the Senator from Alabama, wants to limit attorney's fees and to take any excess and put it into health research for children. Now, who in the world could oppose that?

But look closely. He does not want to limit the attorney's fees for tobacco company lawyers. No. He just wants to limit the attorney's fees for those on the plaintiffs' side, the States that have brought this action. Now that is curious. If he is afraid that the attorneys, who will ultimately all be paid by tobacco companies when this is all over, are going to charge too much money, he only wants to limit the hourly rate to $250 an hour to attorneys representing the plaintiffs in this action. So he protects these fat cat law firms that have represented the tobacco companies forever, who can charge $500 an hour, $1,000 an hour, he does not care. His interest is only the attorneys for the plaintiffs.

That does not make any sense. All of the money is coming out of the same pot. If he wants to make this a reduction in the lifestyle of attorneys, why does it not apply to defense attorneys? Why does it not apply to tobacco company attorneys? No, his only interest is

the attorneys who stepped forward and filed these lawsuits on behalf of the States.

Now, they have been characterized by their critics this evening as a pretty motley crew. Remember that 40 different States decided through their own elected attorneys general that they would bring these lawsuits under fee arrangements so that they would have the legal talent to be able to process the most complicated litigation in the history of the United States.

Mr. SPECTER. May I interrupt my distinguished colleague for a moment to say there will be no further rollcall votes tonight. I have just been able to make that determination, and I know there are many Senators on the campus waiting to find out what is going to happen.

I regret interrupting Senator DURBIN, but I think that is worth a statement. We have the list fairly well pared down. When Senator DURBIN finishes, I will announce the prospects for tomorrow.

Mr. DURBIN. I am pleased to be interrupted with that good news.

Isn't it curious that this effort to provide research funds for children's health, funded by excess attorney's fees, would only apply to attorney's fees in excess for the plaintiffs, that the law firms representing Philip Morris and RJR and all the tobacco companies can charge whatever they care to charge.

Now, I think that pierces the veil of what this is all about.

But let's read on. What else is the Senator from Alabama setting out to do here?

Mr. SESSIONS. Will the Senator yield?

Mr. DURBIN. I yield for a question.

Mr. SESSIONS. Would the Senator be agreeable to this amendment if we reworded it, in fact, make it apply to the tobacco lawyers? I will certainly feel good about that.

The reason it was done this way is because many of the plaintiffs' attorneys apparently have it on a contingency fee basis, probably have filed lawsuits, may be entitled to hundreds of millions of dollars and have done very little work. It would be an unjust enrichment, it appears to me.

I would certainly entertain that amendment. I think it is a suggestion that we ought to incorporate.

Mr. DURBIN. I think that is an improvement, but let me read on.

The reason why this amendment should not be considered, why the tobacco companies will jump for joy if it is adopted, is that it will discourage any State from bringing its lawsuit against the tobacco companies.

The Senator from Alabama, for reasons I do not understand, has decided that no State of the 40 that filed suits, no matter how deeply they are involved in this litigation, can pay outside attorney's fees beyond $5 million, which sounds like a huge sum of money until you consider States like Minnesota.

Minnesota has been preparing for trial on January 19, has now collected millions of documents from these tobacco companies, has warehouses in London and in Minneapolis. They have attorneys scouring through the documents and processing them. They are preparing to go to trial.

In my home State of Illinois, I do not think we have made nearly that progress in moving toward litigation. But the Senator from Alabama does not care that the attorneys in Minnesota have been working overtime for months and the attorneys in Illinois may not have been.

He says, we are going to pick an arbitrary figure—no State can pay their attorneys no matter how much work they have put into this, any more than $5 million, period.

Now, that is fundamentally unfair. It really does not reflect the effort that has been put in by these attorneys in these States.

Let me tell you what else he is doing, and I think this is a pretty crafty move by the tobacco companies. By putting this provision in the law to limit attorney's fees, he will have the attorneys come forward in these States and say to the attorney general, ''Well, listen, if we cannot, after all of this discovery and all of this preparation even recover the amounts that we have expended in attorney's fees, we certainly cannot take this to trial,'' so the tobacco companies will have their way. The tobacco companies do not want these cases to go to trial. They want to discourage that from happening.

In fact, representatives of those companies have told me point blank if any case goes to trial there will be no global settlement. The Senator from Alabama is offering them a great improvement here in saying that they do not have to worry about a trial now because attorney's fees are going to be strictly limited.

Well, they will be jumping for joy at RJR and Philip Morris if this Senator's amendment is adopted this evening, because by limiting the attorney's fees and saying that there will be a strict limitation of the amount that can be paid to the plaintiffs' attorneys he is, in fact, discouraging, if not stopping litigation and trials.

You will have accomplished with your amendment what the tobacco companies have been unable to accomplish to this point. You will have stopped these cases and they cannot move forward.

I do not think that is what the Senator set out to do when he explained this amendment. But I think that is the net result of it.

It is interesting to me as you look into it, what will happen to the States that have settled, Mississippi and Florida, what will happen to their attorney's fees? If I read this correctly, this may or may not apply to it. It is not clear. This amendment is not drawn in a way that can tell you it definitely applies in the case of Mississippi and Florida. The Senator offers it for prospective payment of attorney's fees. Yet, we already have two cases settled and they are not addressed.

And then this whole question of the amount to be paid attorneys, a $250 rate. I don't know what a reasonable rate is in the Senator's home State. I don't know what attorneys might charge in any State, whether it is New York, Minnesota, Illinois or Alabama. But I think the Senator has chosen a rate that is unrealistic—unrealistic in terms of what these attorneys general face.

Keep in mind that most of the attorneys general in the United States looked to these lawsuits and said right off the bat, ''We don't have the resources to sue these tobacco giants. We have to bring in the resources and services of attorneys who will, in fact, represent us.'' Of course, those attorneys coming in to file those lawsuits expected to be compensated if they won—only if they won. Contingency fees are based on that. I know from my experience with the Senator in the Judiciary Committee, he doesn't think very kindly of contingency fees, particularly in his own State. But I think, quite honestly, this is a clear illustration that if a contingency fee was not awarded to an attorney, the attorney general would not have had this army of lawyers to go forward.

When I heard comments from some of the Senators from tobacco-producing States, it is clear that they resent these lawyers, these attorneys general, for bringing these lawsuits and they want to get even with them, they want to nail them and say, ''We are going to limit your fees. You thought there was money in this, but there won't be any money in this. We will limit you as to how much you can recover.''

I don't think that is fair. It is curious to me at this time, when we are talking about whether or not the Federal Government is going to impose its will on the States, that we have an amendment from a Senator from Alabama, which suggests that we in Congress should impose on 40 different States, 40 different attorneys general, a fee arrangement that we happen to think is reasonable.

Well, let me tell you what this is all about. The tobacco companies were embarrassed when the amendment was disclosed that gave them a $50 billion windfall in the tax bill, an amendment which we hope to repeal. They had hoped to initiate the negotiations in the tobacco settlement by saying: Before we sit down at the table and reach an agreement, give the tobacco companies $50 billion.

I think the public sentiment and the votes of this Senate will see it another way. Now the tobacco companies come in with this amendment. They want to see this amendment adopted because now they come to the table and say to each of these States: There is a new arrangement. You can't pay your attorneys. You can't go to trial. We have

you where we want you. We don't care what your contingency fee agreement is going to be. You are limited to what we in Congress think attorney's fees should be and how much they should be paid.

Well, I think this amendment should be defeated. I think this amendment is one the tobacco companies will enjoy, one that the American people will regret. The States, including my own, that had the courage to step forward and file these lawsuits against the tobacco companies should not be penalized at this point in time. They have done a great service to this Nation. Each attorney general—Democrat, Republican or Independent—who decided to enter into an agreement with attorneys to represent them did it with the understanding that they will be held accountable for this. The Senator says that these are secret agreements. Well, in my home State, I can tell you that whether there was a secret agreement or not, the gentleman who entered into it, our attorney general, will be held accountable for it. Can he justify it? Did he say to the taxpayers from Illinois we have recovered enough money to justify the contingency money paid the attorneys? Of course, and he is held accountable.

The Senator suggests this is done in secret with no accountability. I think he is wrong. I hope when this is all said and done, we will defeat this amendment, and that we will not give the tobacco industry a victory this evening or tomorrow when we vote, such as they secured at the close of debate on the tax bill. These tobacco companies have to be told, whether they are trying to stop the States from bringing these actions through this amendment by the Senator from Alabama, or recouping $50 billion in the stealth of the night, that the party is over. The tobacco companies just can't have their way anymore. I think we have to stand up for the people who are best represented by these lawsuits—the consumers, the children, those who unfortunately are going to be the losers if this amendment is adopted.

At this point, I would like to move to table this amendment.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I ask if the distinguished Senator from Illinois will withhold that motion for the present time. We cannot proceed to a rollcall vote tonight under a determination made earlier by the majority leader, which I announced as soon as we had heard it. There may be other Senators who wish to speak to this amendment. The Senator from Illinois would be preserving his position, in any event, since we cannot vote tonight, to carry this matter over until first thing tomorrow morning. We are beginning at 9:30, so that we can consider at that time if there are any other Senators on the floor who wish to speak.

The PRESIDING OFFICER. Does the Senator from Illinois withdraw the motion?

Mr. DURBIN. I will withdraw it, as long as at 9:30 we will proceed to the same order of business and the amendment will be the amendment of the Senator from Alabama and we can proceed to my amendment after we have considered all amendments in the second degree.

Mr. SPECTER. Mr. President, that is agreeable to this manager of the bill. So that all Senators will be on notice that a motion to table will be pending. Of course, if it is not tabled, then we can't proceed to the underlying amendment.

Mr. DURBIN. I withdraw the motion to table, with that understanding.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. SPECTER. I thank my friend from Illinois.

Mr. President, we have made some progress in limiting the number of amendments. We have been advised by Senator WELLSTONE that he is prepared to withdraw a filed amendment on Pell grants. Senator WELLSTONE is prepared to withdraw a filed amendment on infrastructure, which leaves one pending Wellstone amendment on Head Start. I have been advised that Senator WELLSTONE is prepared to enter into a unanimous-consent agreement for 1 hour, equally divided, providing he has an opportunity to modify his amendment. I will not ask unanimous consent for the moment on that.

Senator WELLSTONE has arrived on the floor. Mr. President, since the Senator has just arrived, perhaps I can ask my colleague if the information is correct that the Senator is prepared to enter into a unanimous-consent agreement for 1 hour, equally divided, on his Head Start amendment on the understanding that it may be modified, and he is prepared to withdraw the other two amendments, one relating to Pell grants and one to education infrastructure?

Mr. WELLSTONE. Yes. I say to my colleague from Pennsylvania, that is correct. I am prepared to lay this down tomorrow and debate it for 1 hour, if there are no second-degree amendments.

Mr. SPECTER. We can enter into a unanimous-consent agreement right now that there be 1 hour, equally divided, with no second-degree amendments in order and then a motion on or in relation to the amendment to be offered at the conclusion of 1 hour of debate. I make that unanimous consent request.

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

Mr. SPECTER. Mr. President, did I understand my colleague from Minnesota to say that he preferred to offer and debate the amendment this evening?

Mr. WELLSTONE. I had been home and I followed the debate on the amendment of the Senator from Alabama, and I had wanted to come over here and respond to that.

Mr. SPECTER. Mr. President, I renew my question. Did my colleague say he was prepared, after he discusses the amendment by Senator SESSIONS, to debate the issue today so we can vote tomorrow morning?

Mr. WELLSTONE. No. Mr. President, I would be prepared to lay the amendment down tomorrow morning as early as he wants.

Mr. SPECTER. I thank the Senator.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 1125, AS MODIFIED

Mr. SESSIONS. Mr. President, I would like to modify the amendment to reflect the change, which I send to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 1125), as modified, is as follows:

Strike the last word in amendment.

No. 1078. As amended, and insert the following: ''repealed''.

''SEC. . (a) GENERAL LIMITATION.—Notwithstanding any other provision of law, if any attorneys' fees are paid (on behalf of attorneys for the plaintiffs or defendants) in connection with an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures or for other causes of action, involved in the settlement agreement, such fees shall—

''(1) not be paid at a rate that exceeds $250 per hour; and

''(2) be limited to a total of $5,000,000.

''(b) FEE ARRANGEMENTS.—Subsection (a) shall apply to attorneys' fees provided for or in connection with an action of the type described in such subsection under any—

''(1) court order;

''(2) settlement agreement;

''(3) contingency fee arrangement;

''(4) arbitration procedure;

''(5) alternative dispute resolution procedure (including medication); or

''(6) other arrangement providing for the payment of attorneys' fees.

''(c) EXPENSES.—The limitation described in subsection (a) shall not apply to any amounts provided for the attorneys' reasonable and customary expenses.

''(d) REQUIREMENTS.—No award of attorneys' fees shall be made under any national tobacco settlement until the attorneys involved have—

''(1) provided to the Governor of the appropriate State, a detailed time accounting with respect to the work performed in relation to any legal action which is the subject of the settlement or with regard to the settlement itself, and

''(2) make public disclosure of the time accounting under paragraph (1) and any fee agreements entered into, or fee arrangements made, with respect to any legal action that is the subject of the settlement.

''(e) PROVISION OF FUNDS FOR CHILDREN'S HEALTH RESEARCH.—Any amounts provided for attorneys' fees in excess of the limitation applicable under this section shall be paid into the Treasury for use by the National Institutes of Health for research relating to children's health.

''(f) EFFECTIVE DATE.—The limitation on the payment of attorneys' fees contained in

this section shall become effective on the date of enactment of any Act providing for a national tobacco settlement.''

Mr. SESSIONS. Mr. President, this is in the nature of a technical change. It doesn't change the basic import of the amendment.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I respect the motivation of my colleagues who are offering amendments on the proposed global tobacco settlement tonight. As we all know, the issues surrounding this settlement prove easy to frame, but difficult to resolve.

I have been listening carefully to this debate, and the timing is very interesting to me.

Here we are now in September. Everybody would like to see this session end sometime near the end of October, or early in November, at the latest.

But as far as the proposed global tobacco settlement goes, people around here seem to be assuming it is going to happen when, really, basically, nothing is being done.

Yet, tonight we are making arguments and amendments on the assumption that something is going to get enacted.

I would suggest to my colleagues, though, that this discussion is premature. We do not have all the details of the agreement. No one, that is no one, does, not even any of the parties to the agreement has final legislative language.

We have not even reached a discussion in this body of the most general question we have to answer before we decide if the Senate will consider the global tobacco settlement: do we want to further regulate the use and sale of tobacco products in order to protect the public health and bring a degree of accountability and finality to the surge in tobacco-related litigation.

More precisely, the question we face during the remaining weeks of this session is whether the global tobacco settlement proposal should be implemented and, after we make that decision, then amendments would be in order.

Mr. President, I don't think anybody in this body despises the use of tobacco more than I. Frankly, I think tobacco use is wrong, it is deleterious to health, and it basically can ruin people's lives.

There is no question that—in the eyes of almost every research scientists—tobacco use causes cancer.

There is no question that it causes cardiovascular, respiratory, and other similar diseases, and still we treat it as though it is a substance that has every right to exist.

As long as it does have the right to exist as a legitimate business in this country—and I believe that it will continue to be available—then it seems to me that we have to resolve these problems in an amicable, decent manner that is in the best interests of this country.

As I see it, there is not much happening on the proposed tobacco settlement.

There is no use kidding ourselves, the $368 billion settlement proposed by the attorneys general and most of the tobacco industry—all except Liggett & Myers—as I understand it, is an interesting proposal.

There is no question, that offers a substantial sum of money. It is to be paid over a 25-year period and, if my calculations are correct, the tobacco companies will be able to write off about a third of the cost of that settlement at the expense of the taxpayers.

There are many, many issues that have to be resolved on the tobacco settlement if we are going to have one at all. Let me name just a few of them, in no particular order of importance.

No. 1 would be an evaluation of the totality of the settlement. That is, as I have said, whether this Congress should seize the window of opportunity presented by the tobacco proposal which offers the possibility of significant advances in public health and liability reform. Are the public health gains it offers something we wish to pursue? Are the legal reforms it contains sound public policy? Are the two in appropriate balance?

No. 2 would be whether the costs associated with implementation of this agreement should be treated for tax purposes as ordinary business expenses?

Third would be the appropriate role of the Food and Drug Administration in the regulation of tobacco products. This is an extremely complicated issue. It involves an evaluation of the FDA's current legal authority, the regulations FDA has promulgated on youth tobacco use and the Greensboro court decision, and the future authority called for in the agreement.

The fourth issue is an examination of the constitutional limitations posed by an agreement which some believe abrogates their first amendment, free speech rights.

The fifth issue is what I call the ''show me the money'' issue. I challenge anyone to undertake an exhaustive review of the 68-page proposed settlement and then delineate clearly how the $368 billion in funds will be allocated. For example, many participants in the agreement have said there are funds for children's health. On what page? It simply isn't there.

And even for the amounts stipulated in the agreement, there is no definition of how the funds will be divided among states or parties to the agreement.

The sixth issue is a consideration of civil justice concerns, such as changing traditional plaintiffs' rights to seek redress through the courts.

The seventh issue is how those who were not parties to the original agreement will be treated. One company, for example, Liggett & Myers, has now signed agreements with about 25 States and all of the Castano class members. How should those agreements be factored into the settlement?

The eighth issue is related. Should there be an accommodation for those who manufacture, sell, or use vending machines or for others who have been engaged in legal businesses and have made a livelihood with products or services that might not be continued after a settlement is finalized?

Here's another important issue. The ninth issue we need to address is that of documents disclosure. Some in this body have called for full disclosure of all tobacco-related documents before any settlement is considered. Others believe we will never get to a settlement if we become enmeshed in an investigation of abuses extending back over 30 years.

One of the greatest advantages of having a tobacco settlement is the public benefits that may derive from it for our children and indeed our society as a whole.

As we all know, 3,000 kids start smoking a day—teenagers, that is—1,000 of whom will become addicted over their lifetimes. These numbers are only going up, and it is no secret that part of the reason is that the tobacco industry has basically enticed these kids into smoking.

Without a tobacco agreement, we will not be able to put meaningful resources into solving these teen tobacco use problems. It is questionable whether we could ever provide the same nationwide incentives or resources to not only slow down teenage smoking, but perhaps end it forever.

And since we are debating the National Institutes of Health funding bill, I might mention that without the tobacco settlement, we won't be able to have as many funds as we would otherwise have for biomedical research.

It is also apparent that if we break the cigarette companies, we are not going to be able to have 25 years of continual multibillions of dollars paid into a settlement agreement system for the benefit of our society as a whole.

There are so many other issues that I hesitate to even begin. But the fact is the proposed settlement is complex, it is difficult, and Congress basically has done nothing about it since it arrived here on June 20.

It is true we have held three hearings in the Judiciary Committee. They have been interesting hearings. They have enlightened us to a degree. We think we now know the issues involved. We have listened to the attorneys general. We have listened to people representing the tobacco industry. We have listened to constitutional experts. We have listened to health care specialists.

And, frankly, we are going to hold some more hearings on this. But it seems to me that we need to address the proposed tobacco settlement with a timetable and a process that will literally cause it to be done. We aren't there yet, and piecemeal amendments

on an appropriations bill won't get us to that point.

If the tobacco settlement is not completed by the end of this particular session, I fear we may never have a tobacco settlement. If that is so, we will lose this one-time opportunity to help our children and perhaps to help keep millions of kids from ever starting to smoke or chew tobacco.

If we lose that opportunity, it will be pathetic.

It is no secret that the tobacco industry has virtually won every case but one in the history of litigation in this matter. In that one particular case it was a $750,000 verdict. If I understand it correctly, that is on appeal. And that will be dragged out for another 10 years by very, very good lawyers who are very, very capable of doing exactly that.

So, if we do not move ahead and we don't solve these problems, we are going to find ourselves in a morass where we are right back to business as usual, and the tobacco companies will be making billions of dollars at the expense of the society at large with no help to our young people in this society and not much money for research other than what we can generate through congressional appropriations. In the end, we lose all of the advantages that we could achieve.

In fact, there are several things which must occur if we are even going to try to move forward to an agreement, or move an agreement forward.

First, the President of the United States has to get off the dime and start leading on this issue.

In July, we heard the President would speak out a few days before his planned August 15 vacation. It didn't happen.

Earlier this week, we heard the President was supposed to speak out about the settlement this Thursday.

Let's speak the plain truth here. Without the President's leadership, the tobacco agreement can't happen.

The proposed settlement was announced on June 20. At that time President Clinton called the concessions attained by negotiators from the tobacco industry ''unimaginable.'' He also tasked top executive branch officials with the job of reviewing the settlement, consulting with the public health community, and advising him on whether or not this agreement adequately protects the Nation's public health interests.

Eleven weeks have passed with no final word at all from the White House on what, if any, changes the President wishes to see. Almost daily we hear, or so it seems, rumors that the President will speak—only to find out that he does not.

The President's silence in this area speaks volumes.

It has been speculated in the press that the President will say that the level of funding needs to be increased, that the FDA's regulatory authority needs to be strengthened, and that there needs to be greater accountability on the part of the tobacco companies if the reduction targets are not met, especially among the Nation's teenagers. But this is only speculation at best.

Should President Clinton support the idea of moving forward, he needs to tell our American people, and he needs to reveal what changes, if any, he deems to be necessary.

We need the President to speak out and tell us precisely where he stands and whether he believes there should be an agreement, and an agreement this year.

We need him to help us to understand where we are going on this issue. We need to know how much political capital he is willing to expend on this issue, and we need to know whether he is really serious about solving these problems.

With 3,000 children starting to smoke each and every day, I don't believe the Clinton administration can afford to delay this any longer.

Second, I call on parties to the agreement to resolve ambiguities and to help produce legislative language agreed upon by all parties so that Congress can be crystal clear about the details of the proposal and therefore can plan and judge it accordingly.

If the President chooses to take advantage of this one-time opportunity, the parties to the agreement have a responsibility to settle ambiguous points within the settlement agreement and provide the Congress with their version of the settlement in legislative form.

Today, I am challenging the parties to the agreement to do so, to provide us with the details of the agreement beyond the 68-page prospectus.

I, for one, am willing to look at it. I think the other committee chairmen who are involved are willing to look at it as well. We are willing to see if we can mold together an agreement that literally will be in the best interests of the public at large.

Let me add that several weeks ago I sent the proposed agreement to legislative counsel and asked them to try to draft a bill based on the language of the settlement. We found that these expert draftsmen were presented with more questions than answers. So the parties need to get together and help us to formulate the legislative language. I am calling upon them to do that. If there are problems or ambiguities that have to be resolved, we will help them with that.

Third, the parties who negotiated this settlement presented it to Congress must also produce others willing to champion this unprecedented public health opportunity. Beyond the several attorneys general, the plaintiffs bar, and public health groups, few have seized on the settlement as a viable option. Major legislation such as the settlement envisions has never been approved absent widespread support. And we aren't there yet, which is another reason why these amendments we are considering tonight are premature.

The fact is we will not be there without the President and without an awful lot of hard work on the part of all of us here.

Fourth and finally, we must consider how we resolve this issue of document production. The proposed agreement provides that previously undisclosed documents be publicly disclosed through a national tobacco document depository open to the public and located centrally here in Washington, DC. These documents would include documents from the files of the tobacco companies, including those relating to internal health research, documents that we have not been able to get up until now.

Any documents already produced in the attorney general actions would be immediately deposited, and additional existing documents would be placed in the depository within 3 months of the enactment of the bill.

Despite this provision for open disclosure, some in Congress—those who question the settlement most—have proposed immediate disclosure of these documents. The documents in the Minnesota case alone brought by Attorney General Hubert Humphrey, who has testified before our committee, amount to 33 million documents. Such massive disclosure is neither practicable nor possible in the presettlement arena.

Naturally there are attorneys all over this country who believe that the settlement will never make it through and they are trying to look out for their clients. Internal documents which have not yet been released could be invaluable in such suits.

But the greater good demands that we look at an agreement which could bring us tremendous public health advances, and it appears that agreement could actually be hindered by an exhaustive investigation of internal tobacco documents.

I can't blame the cigarette companies for not wanting to produce the documents in advance—although I cannot in any way condone some of their past reprehensible behavior. I simply question whether it is the appropriate role of Congress to conduct discovery for private litigants.

I think we are all indebted to the negotiators for stimulating a potentially fruitful public discussion on the public health issues attendant to tobacco.

I commend the States attorneys general, especially those involved in the class action litigation. I commend the public health representatives who have been speaking out, and the representatives of the tobacco industry for advancing the ball in a meaningful direction.

The climate has been created for the Congress and the public to have opportunities to make significant strides on this whole set of tobacco issues.

It is clear that the Senate is only in the beginning stages of this process. Five congressional hearings having been held, and more are planned.

I urge my colleagues to let the process work. Let us move a proposal in the

Judiciary Committee. Many of my colleagues here tonight are members of that committee, and we will have ample opportunity for full discussion.

I just have to doubt if this is the right time and the place, on the Labor-HHS appropriations bill, to be raising these issues that could blow the settlement out of the water.

I personally believe we ought to move that settlement forward.

My study has led me to conclude it is a one-time opportunity to do something for our kids in this society.

It is a one-time opportunity to make significant advances in biomedical research, And it is surely a one-time opportunity to have the tobacco companies fully cooperate in providing all of their internal research for the benefit of the public health at large.

There are so many benefits that could derive from a decent settlement, if we can formulate one and keep the parties together.

It is time now for the President to speak out.

He was supposed to speak out this Thursday. Now they have put it off for another week, knowing that every week that it is put off it is less likely that we can pass something in this Congress.

Let me make a prediction. I believe that we are going to lose this historic opportunity if we do not seize the opportunity, bite the bullet, do the work that is necessary, get the involvement of the companies, the attorneys general and others who are interested in this process, and come up with a package, that literally, will realize all of the public health gains I have been talking about, and more.

It is no secret that the tobacco industry may not proceed with the settlement if the North Carolina case, which does indicate that FDA does have some right to regulate in the area of nicotine, is overturned on appeal. Many legal experts say that the Greensboro case is iffy at best and that it could very easily be overturned on appeal. In fact, I think there are many good arguments for overturning it on appeal based on present law and our understanding of present law.

But let me admonish my colleagues that if that case is overturned on appeal, I am not so sure that the tobacco industry is going to proceed with a settlement anyway, because they might just continue to take the risk that juries in the respective States will almost invariably find that those who smoked all of their lives assumed the risk, or were contributorily negligent in doing so. That is why they have won these cases in large measure right up to today.

I was in Pittsburgh, PA, when the first anticigarette tobacco case was brought, Pritchett versus Liggett & Myers, by the then fabled McArdle law firm. Jimmy McArdle, was one of the leaders, if not the leader in the whole country, in paving the way for tobacco litigation. He scared the daylights out of tobacco companies, but lost, one of few times that great lawyer did not prevail in court.

So I have watched this litigation for all of these years. If that case in North Carolina is lost, we will lose a major incentive for the tobacco companies to come to the table.

Or let's put it another way. If Minnesota Attorney General Hubert Humphrey wins his case, the tobacco companies may very well decide not to go forward anyway. Or, conversely, if General Humphrey loses, what is the incentive for the tobacco companies to stay in the deal?

It would be a message to every other attorney general in the country. Already they have decided to fight right to the end the case brought by the Attorney General of Texas. What is the incentive to continue?

Right now we have an opportunity for all sides to put something together. The attorneys general have put inordinate amounts of time and effort into this matter, and there is an obligation on our part to try to resolve it.

But without Presidential leadership, it is very unlikely that we can resolve it. If we have the President's endorsement, then I think we have to have leadership here in the Congress to move forward, and to do what is right.

No matter what we do, it is going to be difficult because there are those in the Senate and in the House who resent anything done to the tobacco industry. And there are those who feel that anything the tobacco industry wants should be blocked.

My feeling is that the benefits that could come from a legitimately and well put together tobacco settlement clearly outweigh the desire of some to just kill the industry, when in fact they don't have the tools to do so.

There is no doubt in my mind that the $368 billion figure has to change. We have to give serious consideration to the tax implications, as some in this body have suggested. We have got to have some clear-cut approach toward FDA authority.

We have to do a number of things that literally will make that settlement more acceptable. And we have to bring all sides and all parties together, and we have to bring the weight of the Federal Government, the weight of the administration, the weight of the legislative branch of Government, and ultimately the weight of the courts into bringing this all together so that the public at large can benefit greatly.

Personally, I am willing to devote substantial effort toward that end. I know other committee chairmen, who have various jurisdictional areas in this matter, are willing to work on it as well.

In all honesty, we are not going to resolve this by bits and pieces in amendments to legislation like this.

With regard to the amendment of the distinguished Senator from Illinois, let's face it, the language in the Balanced Budget Act was pretty ambiguous. I see any way that language could be binding; it is too ambiguous.

The language, in my opinion, is not really going to require any tobacco settlement to pay for child health insurance. Nevertheless, it would be nice to clarify that matter, and we could do that in a true tobacco settlement.

With regard to attorneys' fees, I share some of the view of the distinguished Senator from Alabama. I agree that there should be a limitation. This should not be a ripoff situation where we have a feeding frenzy on attorney's fees. On the other hand, there are attorneys who have worked long and hard and spent a lot of money and a lot of effort and time, and without whom the settlement would not have been brought to this point. They do deserve some compensation for that.

I think we were all well aware that the issue of attorneys' fees is going to have to be solved in any tobacco settlement that happens.

I do not believe we can easily solve tonight the problem that has been raised by the Sessions amendment that would retroactively limit attorney fees which have already been a matter of contract between States and private counsels.

But we can solve the problem as to how much of this money that actually has to be put up over 25 years is going to go for attorneys' fees.

That is something we are going to have to work to solve. It needs to be done fairly; it needs to be done with wisdom, as with all other aspects of this agreement, in totality.

The way to do it isn't by nit-picking or just by amendment after amendment in the Chamber. We could literally get into 100 tobacco amendments on just this appropriations bill alone.

I think the way to do it is to get the President to speak out. Let's keep holding our hearings. Let's get a final legislative draft and look at it. Let's bring the parties together and demand that the attorneys, the attorneys general, the public health groups, and the tobacco companies who originally negotiated the deal work to provide us with a draft. Let's reform and refine that draft, factor in the President's perspective, and the views of others who did not participate, such as the farmers, and let's move forward to resolution of this issue in the best interests of the American people.

I just wanted to make these comments because I am very upset that we keep playing around with this issue. Frankly, if we let it go beyond the end of this year, it may be very difficult, it maybe impossible, to do next year.

I ask unanimous consent that Bruce Artim be granted access to the floor for the remainder of the session.

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

Mr. HATCH. I yield the floor.

Mr. SPECTER addressed the Chair.

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

Mr. SPECTER. Mr. President, a few administrative matters here.

I ask unanimous consent that Senator DOMENICI be added as a cosponsor to amendment No. 1121.

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

AMENDMENT NO. 1095, AS MODIFIED

Mr. SPECTER. Mr. President, I ask unanimous consent that the pending amendment be set aside and that the Senate turn to the consideration of amendment No. 1095 to S. 1061 very briefly and temporarily for disposition.

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

Mr. SPECTER. On behalf of Senator LANDRIEU, I send a modification to the desk.

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

The amendment, as modified, is as follows:

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

On page 85, line 19, further increase the amount by $5,000,000.

Mr. SPECTER. This amendment, Mr. President, provides for an additional $5 million for the adoption opportunities program, bringing the total in the bill to $18 million. The amendment is offset by further reductions in administrative expenses. It has been cleared on both sides, and accordingly I urge its adoption.

The PRESIDING OFFICER. Without objection the amendment is agreed to.

The amendment (No. 1095), as modified, was agreed to.

AMENDMENT NO. 1125

Mr. SPECTER. Mr. President, very briefly on the pending amendment offered by the distinguished Senator from Alabama, I think the debate this evening has been very useful. The comments by the distinguished Senator from Utah are cogent. We have had the hearings as noted by Senator HATCH in the Judiciary Committee. It is tempting to eliminate the very substantial tax break which is presented in the reconciliation bill. Perhaps that is something that can be done now although the considerations advanced by the Senator from Utah are very weighty.

The amendment offered by the Senator from Alabama to curtail the attorney's fees is very much worth considering. I am not sure that the proper place for it is on this bill because we really do not know all the underlying facts. When you talk about $250 an hour, that is a substantial sum of money on an hourly rate. When you talk about a total of $5 million, that is a substantial sum of money. The reports are that the attorney's fees in the agreement run into the billions. It may well be that before an intelligent legislative decision can be made on this matter, we will have to know a great deal more about the arrangements made by each State with the attorneys, what their work has involved, evaluation of the contingent nature, that is, a likelihood of failure so that a contingent fee is set and some consideration on the likelihood of success because if there is no settlement, then there are no attorney's fees to be paid, and that may be a fact-specific inquiry which will take some considerable time ultimately by the Judiciary Committee.

But in any event, the stage is set. There are other Senators who want to discuss this issue. We will proceed to the conclusion of it when we resume consideration of the bill tomorrow morning at 9:30.

I yield the floor.

Mr. WELLSTONE. Mr. President, might I ask the manager a question? I had come to the floor to speak tonight, but I know it is late and people may be anxious to leave. What would be the order of business tomorrow? Is there additional time on the amendment of the Senator from Alabama?

Mr. SPECTER. Mr. President, if the Senator will yield, I will be glad to respond. The pending amendment will remain in the Chamber. The Senator from Illinois, [Mr. DURBIN], had made a motion to table and then had withdrawn it at my request so that Senators who were not here might have an opportunity to debate tomorrow morning. But that will be the amendment which we will return to at 9:30 tomorrow morning.

Mr. WELLSTONE. Mr. President, I wonder whether, with the support of my colleagues, rather than taking up more time tonight, I might ask unanimous consent to be included in the sequence of that order to be able to speak once we start for 5 minutes or 10 minutes? I will not do it tonight.

Mr. SPECTER. Mr. President, if I may respond, I don't think there is any unanimous consent order required. If the Senator is here tomorrow morning when we proceed with the bill, I am sure he will be recognized.

Mr. WELLSTONE. I thank the Chair. I will wait until tomorrow, then, to speak.

Mr. SESSIONS addressed the Chair.

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

Mr. SESSIONS. I want to express my appreciation to the distinguished chairman of the Judiciary Committee, Senator HATCH, for his remarks. I appreciate them. His committee, the Judiciary Committee, of which I am a member, has begun wrestling with these very complex issues. I think he is exactly correct. It is a matter that requires the leadership of the President. He is going to have to step up to the plate and bring his departments of the U.S. Government on board if there is to be an agreement. It has so many possibilities of going awry.

I think, personally, I have not decided whether this legislative body, the Congress, ought to get involved in this lawsuit or not. It may be the right thing for us to do. Then again it may turn out that it is not. But if we do, I think it is appropriate that we limit the amount of attorney's fees in these cases. Under the fee agreements that I understand are now in place, attorneys, private attorneys, who have been hired by the States have been involved in litigation maybe only a few weeks and could stand to receive tens of millions, even billions of dollars. In fact, most published reports indicate that fees could be as high as $10 billion to $14 billion in this litigation.

That is far too much. That money needs to go to children. That is what these lawsuits were about, to have that money go to children for children's health, and that is what this bill would be involved with. So I feel very strongly about that.

As to this being a tobacco industry bill, I am surprised the Senator from Illinois said that because I am supporting his amendment which would add another $50 billion, $60 billion to the tobacco industry, at least take away any benefit that now may come to them in that amount—a very significant issue. And I have come down on his side.

I simply say, just as that amendment that came through to change perhaps the funding for the tobacco industry to save them a large amount of money was not fully debated, likewise the attorney's fees that have been out there have not been debated. As a matter of fact, they have not been discussed. At the Judiciary Committee hearing at which I appeared with Senator HATCH, I asked about attorney's fees of several of the attorneys general, and I got only evasive answers.

So then I submitted written questions to them asking for detailed explanations of what kind of fee agreements had been entered into and asked them to respond to me in writing. Over a month has passed, and we have heard nothing from them. So I say there is a side agreement, an unhealthy, secret agreement, it appears, between the attorneys for the States and the tobacco industry, that the attorneys general and the States are saying they are not responsible for.

You cannot do that. Mr. President, as an attorney, let me say this. An attorney's fidelity must be totally to his or her client, and in this instance, these attorneys, these plaintiff attorneys who have been hired to represent most of the States involved who have contingent fee agreements with their States need to have their total loyalty to the State. But if they are over there on the side entering into a fee agreement negotiation with the tobacco industry and saying to the American people and the people of the various States involved, ''Don't worry about the fee agreement, the tobacco industry is going to pay that,'' make no mistake about it, that is money taken from the children. That is money taken from the settlement that would go to benefit the health of people who have suffered from smoking. It is a side agreement that is not healthy.

I have serious questions in my mind as a practicing attorney whether or not

that is ethical because, you see, if that private side agreement between the tobacco people and the attorneys about how much money they get falls apart, those attorneys get no money—perhaps. And maybe the tobacco company can say, well, if you will just agree to this restriction or that restriction, we will agree to pay you two or three more billion dollars in attorney's fees. That is the kind of unhealthy relationship that should never occur in serious litigation, and this is certainly serious litigation.

The Senator from Kentucky from the other party indicated that this settlement may exceed $500 billion. We cannot allow 10–20 percent of that money to go to attorneys, many of whom have filed lawsuits so recently that the ink is hardly dry on them. They have done very little litigation. Yet we are at the point of the tobacco industry coming in and agreeing to settle and pay it all and the litigation would presumably end and then they would get these huge sums in legal fees. I think it is a very important matter, and as far as this Senator is concerned I will not support any agreement, I will not support any global settlement legislation from this body that does not fully disclose every dime that is being paid, and I don't think we should.

In addition to that, I think this body ought to make clear that if any settlement does occur, we should cap the amount of legal fees. I think $250 an hour is fine pay for any good lawyer, and that is the maximum they ought to be paid. If they are not worth that—they do not normally charge that—they should not get $250. But we say no more than $250 an hour and no more than $5 million per State. So that is 50 States to perhaps pay $5 million, and we could save substantial sums of money, Mr. President, that could go to benefit children's health in this country and not be involved in windfalls to attorneys who may have done very little work at all.

I think this is a good bill. I just point out that, of course, if there is a global settlement and there needs to be some changes in the actual formula or caps involved in the payment of attorney's fees, that could be made a part of it. But I think this body right now needs to send a message to the people of this country that we are going to insist on full disclosure and we are going to put some reasonable limits on how much money can be spent on attorney's fees.

AMENDMENT NO. 1125, AS MODIFIED FURTHER

Mr. SESSIONS. Mr. President, at this point I would like to further modify my amendment to address the concerns of the Senator from Iowa with regard to the ongoing State suits versus the national tobacco settlement.

I send that to the desk at this time.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment will be so modified.

The amendment (No. 1125), as modified further, is as follows:

Strike the last word in amendment No. 1078, as amended, and insert the following: ''Repealed.

''SEC. . (a) GENERAL LIMITATION.—Notwithstanding any other provision of law, if any attorneys' fees are paid (on behalf of attorneys for the plaintiffs or defendants) in connection with an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures or for other causes of action, involved in the National Tobacco Settlement Agreement, such fees shall—

''(1) not be paid at a rate that exceeds $250 per hour; and

''(2) be limited to a total of $5,000,000.

''(b) FEE ARRANGEMENTS.—Subsection (a) shall apply to attorneys' fees provided for or in connection with an action of the type described in such subsection under any—

''(1) court order;

''(2) settlement agreement;

''(3) contingency fee arrangement;

''(4) arbitration procedure;

''(5) alternative dispute resolution procedure (including mediation); or

''(6) other arrangement providing for the payment of attorneys' fees.

''(c) EXPENSES.—The limitation described in subsection (a) shall not apply to any amounts provided for the attorneys' reasonable and customary expenses.

''(d) REQUIREMENTS.—No award of attorneys' fees shall be made under any national tobacco settlement until the attorneys involved have—

''(1) provided to the Governor of the appropriate State, a detailed time accounting with respect to the work performed in relation to any legal action which is the subject of the settlement or with regard to the settlement itself; and

''(2) made public disclosure of the time accounting under paragraph (1) and any fee agreements entered into, or fee arrangements made, with respect to any legal action that is the subject of the settlement.

''(e) PROVISION OF FUNDS FOR CHILDREN'S HEALTH RESEARCH.—Any amounts provided for attorneys' fees in excess of the limitation applicable under this section shall be paid into the Treasury for use by the National Institutes of Health for research relating to children's health.

''(f) EFFECTIVE DATE.—The limitation on the payment of attorneys' fees contained in this section shall become effective on the date of enactment of any Act providing for a national tobacco settlement.''

Mr. SESSIONS. Mr. President, the effect of this amendment would be to make sure this amendment applies to tobacco attorneys, too. It would limit their fees if they were in excessive amounts.

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. SESSIONS. 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. 1122

Mr. MACK. Mr. President, my colleague Senator GORTON has introduced an amendment which would return federal funding for education programs serving grades K–12 directly to school districts. Currently, nearly one third of all the money spent on education by the federal government ends up at the Department of Education. However, of that amount, only 13.1 percent actually reaches local school districts.

Mr. President, the Federal Government currently administers so many education programs which it cannot efficiently control, nor can it determine if it is money well spent. The vast number of these programs are redundant and could be easily combined. Over the years, as new ideas and innovations in education have been enacted, we have not reviewed programs currently in place which serve similar purposes. The result has been a growing Washington bureaucracy, with more federal regulations affecting the day-to-day workings of our local schools.

Clearly, when it comes to the education of our young people, one size does not fit all. This amendment would remove Washington bureaucrats from what should be local decisions. Parents, teachers, and local school officials are far better prepared to determine how best to use scarce resources. We should express our confidence in parents, our teachers and our principals to decide how best to use limited resources to meet the needs of children—who ultimately are the ones we must serve. Washington bureaucrats, far removed from these local situations, cannot accurately make those decisions.

Mr. President, I am sure that during debate on this amendment and debate on this bill, we will hear from others in this body about the need to preserve Congress' role in providing for the education of our nation's children. Certainly, there is a role for Congress in this area, but I believe it is a more limited role.

I must point out that this amendment would not reduce by one dime the amount of funding provided by the federal government for education nationwide. Instead, it will ensure that the status quo which has sentenced our schools to mediocrity will be reformed to enable parents, teachers and local decisionmakers to enact innovative reforms to our education system.

Mr. President, I believe in this approach because I believe in parents—who have the biggest stake in their parent's success and fulfillment. I believe in teachers—who, everyday, stand before classrooms of children and challenge their minds with knowledge and ideas, who inspire them to dream and imagine, who help them open the doors to success. These are the ones we should seek to help, because their efforts will determine how America fares in the 21st Century—they will determine whether we continue to lead in the world or whether we will allow that leadership to fall on some other nation.

I'm confident that our parents, teachers, and students can build the best education system in the world, if only Washington ''experts'' will just get out of the way. Let's show them that Congress believes in their abilities

to make the right decisions for the future of our children by supporting this amendment. I thank the chair and I yield the floor.

MEDICARE COMMISSION PROVISION

Mr. FEINGOLD. Mr. President, I want to thank the Senator from Iowa [Mr. HARKIN], for his efforts to include language in this appropriations bill relating to the Bipartisan Commission on the Future of Medicare. I also want to thank his colleague, the senior Senator from Iowa [Mr. GRASSLEY], who chairs the Senate Special Committee on Aging, for joining me in advocating some additional direction to the Commission with respect to long-term care. I very much enjoy working with Senator GRASSLEY on the Aging Committee, where he has continued a long tradition of bipartisanship.

Mr. President, the language added to the bill at our request touches on one aspect of an enormously important segment of health care, namely long-term care. I have been deeply involved in long-term care issues for nearly 15 years, and have advocated significant reforms to our current system both at the State and Federal level.

Mr. President, many will recall that as part of the Balanced Budget Act of 1997, we created the so-called National Bipartisan Commission on the Future of Medicare. Established because of the need to reform and modernize the principal health care system of our Nation's seniors, that Commission will examine a host of issues relating to health care coverage and will make recommendations that we hope can lead to an improved Medicare system, one which will not only deliver better health care but also provide some relief from the growing pressure Medicare has been placing on our Federal budget.

One of the key issues to be examined by the Commission is the area of chronic disease and disability.

Mr. President, effective treatment of individuals with chronic health care needs requires a combination of acute and preventive care, disease management, health monitoring, and long-term care services and supports. However, as it is now structured, the Medicare fee-for-service program responds to specific and discrete episodes of care through separate providers, and often discourages timely, coordinated cost-effective chronic care.

Mr. President, more than 20 percent of Medicare beneficiaries today have chronic health care needs, and they are the fastest growing segment of the Medicare population. A major part of the health care for these beneficiaries with chronic needs are the long-term care services and supports which are separately financed by beneficiaries and their families, or, for those without personal resources, by Medicaid and the States.

This latter group of people with chronic care needs, those who are eligible for both Medicare and Medicaid, help make up a particularly important group of beneficiaries. The so-called dually eligible make up about one-sixth of the population of these two programs, but account for nearly one-third of program expenditures and rightly have captured the attention of policy makers as one of the critical targets for policy reforms in the two programs. As a recent hearing of the Aging Committee revealed, the lack of coordination between these two programs, and more generally between Medicare and long-term care, creates perverse incentives for cost-shifting in the health care system, and often results in excess cost, inappropriate care, or no care at all.

Mr. President, while the National Bipartisan Commission on the Future of Medicare is already directed to examine this critical population, our proposal goes further be specifically calling on the Commission to examine the potential for coordinating Medicare with cost-effective long-term care services.

Mr. President, I want to underscore the language we had included in the bill does not limit or even specify what the Commission might consider in reviewing the potential for coordinating Medicare with long-term care services. But there are a number of matters deserving the Commission's attention that I want to highlight, including the success of a number of States, such as Wisconsin, in developing effective long-term care programs built on flexible delivery systems that deliver more cost-effective, individualized care. The Commission should also take a particularly close look at efforts which build upon the existing system of informal supports, often provided by family members and friends, that currently account for the vast majority of long-term care provided in this country.

More generally, while the primary focus of the Commission will be the future of Medicare, as the Commission calculates the future cost of the current Medicare program, I urge it take into consideration the total costs of care for individuals with chronic illnesses and disabilities, including the cost of long-term care services and supports, whether those costs accrue to Medicare, Medicaid, private insurers, or beneficiaries and their families. It is neither good budgeting policy nor good health care policy to partition off health care service planning, making changes to one program while ignoring the effect those changes will have in other areas.

Mr. President, unlike the near-term focus of the budget process, the recommendations that we expect the Commission will make regarding Medicare will be based on a much longer and broader view. Some of the defects of the current Medicare program are arguably the result of short-term budget considerations that have led to unintended, sometimes expensive consequences. By taking a broader view, the Commission can avoid some of these past errors, and possibly contribute to one of the highest health care priorities we have, the need for significant long-term care reform.

AMENDMENT NO. 1074

Mr. CAMPBELL. Mr. President, I strongly support the amendment offered by my distinguished colleague from Arizona, Senator MCCAIN. The amendment would dedicate an additional $100 million to research on Parkinson's disease, an effort driven by my accomplished mentor and dear friend, Morris K. Udall.

The statistics are staggering. While over a million Americans battle Parkinson's at a cost of $26 billion annually, the Federal commitment to Parkinson's research is only $27 million. While it is not only impossible but unfair to try and determine what disease should get more funding for research while another gets less, these statistics say unequivocally that Parkinson's deserves more.

While I have many fond memories of Mo, his thirty years of unparalleled service to this country, his ever present wit and his statesmanship, one of my fondest memories is of a circumstance in which he exhibited rarely matched courage and integrity. While both in the House of Representatives, I had the honor of crusading with Mo to remove a painting from a wall in the Capitol that was both offensive and demeaning to Native Americans. That painting, that symbol of dominance, hung for years. Mo Udall took it down. He took down many such injustices during his tenure in Congress.

Parkinson's has robbed us of too many valuable people. I feel very strongly that the 64 Members of the Senate who cosponsored this bill should follow through on their initial—overwhelming—show of support and adopt the amendment.

MORNING BUSINESS

Mr. SESSIONS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, September 8, 1997, the Federal debt stood at $5,411,318,696,295.51. (Five trillion, four hundred eleven billion, three hundred eighteen million, six hundred ninety-six thousand, two hundred ninety-five dollars and fifty-one cents)

Ten years ago, September 8, 1987, the Federal debt stood at $2,360,222,000,000. (Two trillion, three hundred sixty billion, two hundred twenty-two million)

Fifteen years ago, September 8, 1982, the Federal debt stood at $1,107,230,000,000 (One trillion, one hundred seven billion, two hundred thirty million)

Twenty-five years ago, September 8, 1972, the Federal debt stood at $435,645,000,000 (Four hundred thirty-five billion, six hundred forty-five million) which reflects a debt increase of nearly $5 trillion—$4,975,673,696,295.51 (Four trillion, nine hundred seventy-five billion, six hundred seventy-three million, six hundred ninety-six thousand, two hundred ninety-five dollars and fifty-one cents) during the past 25 years.

NOTICE OF PROPOSED RULEMAKING

Mr. THURMOND. Mr. President, pursuant to section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1384(b)), a notice of proposed rulemaking was submitted by the Office of Compliance, U.S. Congress. The notice publishes proposed amendments to regulations previously adopted by the Board implementing sections 204, section 205, and section 215 of the Congressional Accountability Act of 1995.

Section 204 concerns the extension of rights and protections under the Employee Polygraph Protection Act of 1988. Section 205 applies rights and protections of the Worker Adjustment and Retraining Notification Act. Section 215 concerns the extension of rights and protections under the Occupational Safety and Health Act of 1970.

Section 304(b) requires this notice to be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice be printed in the RECORD.

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

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988, THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT, AND THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

NOTICE OF PROPOSED RULEMAKING

Summary: The Board of Directors (''Board'') of the Office of Compliance is publishing proposed amendments to its regulations implementing sections 204, 205, and 215 of the Congressional Accountability Act of 1995 (''CAA'' or the ''Act''), 2 U.S.C. §§1314, 1315, 1341. The CAA applies the rights and protections of eleven labor and employment and public access laws to covered employees and employing offices within the Legislative Branch. Section 204 applies rights and protections of the Employee Polygraph Protection Act of 1988 (''EPPA''), section 205 applies rights and protections of the Worker Adjustment and Retraining Notification Act (''WARN Act''), and section 215 applies rights and protections of the Occupational Safety and Health Act of 1970 (''OSHAct''). These sections of the CAA will go into effect with respect to the General Accounting Office (''GAO'') and the Library of Congress (the ''Library'') on December 30, 1997, and this Notice of Proposed Rulemaking (''NPRM'') proposes to amend the Board's regulations implementing these sections to extend the coverage of the regulations to include GAO and the Library. Several typographical and other minor corrections and changes are also being made to the regulations being amended.

The regulations under sections 204, 205, and 215 were adopted in three virtually identical versions, one that applies to the Senate and employees of the Senate, one that applies to the House of Representatives and employees of the House, and one that applies to other covered employees and employing offices. This NPRM proposes that identical amendments be made to the three versions of the regulations. The proposal to amend the regulations that apply to the Senate and its employees is the recommendation of the Office of Compliance's Deputy Executive Director for the Senate, the proposal to amend the regulations that apply to the House and its employees is the recommendation of the Office of Compliance's Deputy Executive Director for the House of Representatives, and the proposal to amend the regulations that apply to other employing offices and their employees is the recommendation of the Executive Director of the Office of Compliance.

Dates: Comments are due within 30 days after the date of publication of this NPRM in the Congressional Record.

Addresses: Submit comments in writing (an original and 10 copies) to the Chair of the Board of Directors, Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540–1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile (''FAX'') machine to (202) 426–1913. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM–201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact: Executive Director, Office of Compliance, at (202) 724–9250 (voice), (202) 426–1912 (TTY). This Notice is also available in the following formats: large print and braille. Requests for this notice in large print or braille should be made to Mr. Russell Jackson, Director, Services Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, at (202) 224–2705 (voice), (202) 224–5574 (TTY).

SUPPLEMENTARY INFORMATION

1. Background and purpose of this rulemaking

The Congressional Accountability Act of 1995 (''CAA'' or the ''Act''), Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438, was enacted on January 23, 1995. The CAA applies the rights and protections of eleven labor and employment and public access laws to covered employees and employing offices within the Legislative Branch.

Sections 204, 205, and 215 apply three of these laws. Section 204 of the CAA, 2 U.S.C. §1314, applies the rights and protections under the Employee Polygraph Protection Act of 1988 (''EPPA''), by providing generally that no employing office may require a covered employee to take a lie detector test where such a test would be prohibited if required by an employer under paragraph (1), (2), or (3) of section 3 of the EPPA, 29 U.S.C. §2002(1), (2), (3). Section 205 of the CAA, 2 U.S.C. §1315, applies the rights and protections of the Worker Adjustment and Retraining Notification Act (''WARN Act''), by providing generally that no employing office shall be closed or a mass layoff ordered within the meaning of section 3 of the WARN Act, 29 U.S.C. §2102, until 60 days after the employing office has provided written notice to covered employees. Section 215 of the CAA, 2 U.S.C. §1341, applies the rights and protections of section 5 of the Occupational Safety and Health Act of 1970 (''OSHAct''), by providing generally that each employing office and each covered employee must comply with the provisions of section 5 of the OSHAct, 29 U.S.C. §654.

For most covered employees and employing offices, sections 204 and 205 became effective on January 23, 1996, and section 215 became effective on January 1, 1997. However, ''with respect to the General Accounting Office and the Library of Congress,'' the CAA provides that sections 204, 205, and 215 ''shall be effective . . . 1 year after transmission to the Congress of the study under section 230.'' Sections 204(d)(2), 205(d)(2), 215(g)(2) of the CAA, 2 U.S.C. §§1314(d)(2), 1315(d)(2), 1341(g)(2). This ''study under section 230'' is a study of the application of certain laws, regulations, and procedures at the General Accounting Office (''GAO''), the Government Printing Office (''GPO''), and the Library of Congress (''Library''), which the Board was directed to undertake by section 230 of the CAA, as amended, 2 U.S.C. §1371. The Board transmitted the completed study to Congress on December 30, 1996, and sections 204, 205, and 215 will therefore become effective with respect to GAO and the Library on December 30, 1997.[1]

The CAA requires that the Board adopt regulations to implement sections 204, 205, and 215, and further requires that these regulations be the same as the substantive regulations promulgated by the Secretary of Labor to implement the provisions of applicable statute, except if the Board determines, for good cause shown, that a modification would be more effective for the implementation of the rights and protections under these sections. 2 U.S.C. §§1314(c), 1315(c), 1341(d). The Board has adopted regulations implementing these sections with respect to employing offices other than GAO and the Library, and the purpose of this rulemaking is to adopt regulations implementing these sections with respect to GAO and the Library as well.

2. Record of earlier rulemakings

To avoid duplication of effort in proposing and adopting regulations with respect to GAO and the Library, the Board plans to rely, in part, on the record of its earlier rulemakings. The regulations implementing sections 204 and 205 of the CAA were proposed, adopted, and issued during the latter part of 1995 and the first part of 1996, and, during that period, the Board solicited comment and explained the basis and purpose of the regulations in several notices published in the CONGRESSIONAL RECORD. On September 28, 1995, the Board published an Advance Notice of Proposed Rulemaking (''ANPRM''), in which the Board solicited comments before promulgating proposed rules under several sections of the CAA, including sections 204 and 205. 141 CONG. REC. S14542–44 (daily ed. Sept. 28, 1995). On November 28, 1995, the Board issued NPRMs proposing regulations under sections 204 and 205, among others, 141 CONG. REC. S17652–64 (daily ed. Nov. 28, 1995), and on January 22, 1996, the Board published Notices of Adoption of Regulation and Submission for Approval and Issuance of Interim Regulations under these sections, 142 CONG. REC. S262–74 (daily ed. Jan. 22, 1996). The Board also proposed and adopted separate regulations, pursuant to section 204(a)(3) of the CAA, authorizing the Capitol Police to use lie detector tests. 141 CONG. REC. S14544–45 (daily ed. Sept. 28, 1995) (NPRM); 142 CONG. REC. S260–62 (daily ed. Jan. 22, 1996) (Notice

[1] The study under section 230, as well as copies of the December 30, 1996 letters from the Board transmitting the study to Congress, are available for inspection in the Law Library Reading Room, at the address and times stated at the beginning of this Notice. The study may also be viewed on the Office of Compliance's Internet web site at either http://www.compliance.gov/230.html or http://www.access.gpo.gov/compliance/230.html.

of Adoption, etc.). The adopted regulations were then approved by Congress, and, on April 23, 1996, the Board's Notices of Issuance of Final Regulations were published in the CONGRESSIONAL RECORD setting forth the text of the final regulations implementing several CAA sections, including 204 and 205. 142 CONG. REC. S3917–24, S3948–52 (daily ed. Apr. 23, 1996).

The Board published proposed regulations to implement section 215 on September 19, 1996, 142 CONG. REC. H10711–19 (daily ed. Sept. 19, 1996), and published its Notice of Adoption and Submission for Approval for these regulations on January 7, 1997, 143 CONG. REC. S61–70 (Jan. 7, 1997). The House and Senate have not yet approved the section 215 regulations, and, accordingly, these regulations have not yet been issued.[2]

3. Proposed amendments

The Board is presently aware of no reason why the regulations to be adopted under section 204, 205, or 215 for GAO and the Library and their employees should be separate or substantively different from the regulations already adopted for other employing offices and their employees. The Board therefore proposes in this NPRM to expand the coverage of the regulations already adopted under sections 204, 205, and 215 to include GAO and the Library and their employees, and to make no other substantive change to the regulations.

a. Regulations Under Section 204—Rights and Protections Under the Employee Polygraph Protection Act of 1988. The Board's two regulations implementing section 204 of the CAA—*i.e.*, the exclusion for employees of the Capitol Police, and the regulations covering all other employing offices except GAO and the Library—were issued in final form and published in the April 23, 1996 issue of the Congressional Record, 142 CONG. REC. S3917–24 (Apr. 23, 1996). In the regulations for employing offices other than the Capitol Police, the scope of coverage is established by the definitions of ''covered employee'' in section 1.2(c) and ''employing office'' in section 1.2(i). The Board proposes to amend these regulations by adding any employee of GAO or the Library to the definition of ''covered employee,'' and by adding GAO and the Library to the definition of ''employing office.''

b. Regulations under Section 205—Rights and Protections Under the Worker Adjustment and Retraining Notification Act. Regulations implementing section 205 for employing offices other than GAO and the Library were issued in final form and published in the April 23, 1996 issue of the CONGRESSIONAL RECORD, 142 CONG. REC. S3949–52 (Apr. 23, 1996). The scope of coverage of these regulations is established by the definition of ''employing office'' in section 639.3(a)(1). As presently drafted, the definition in section 639(a)(1) incorporates by reference the definition of ''employing office'' in section 101(9) of the CAA, 2 U.S.C. §1301(9), which includes all covered employees and employing offices other than GAO and the Library. The Board proposes to amend these regulations by adding to the definition of ''employing office'' a reference to section 205(a)(2) of the CAA, which, for purposes of section 205, adds GAO and the Library to the definition of ''employing office.''

c. Regulations under Section 215—Rights and Protections Under the Occupational Safety and Health Act of 1970. Regulations implementing section 215 for employing offices other than GAO and the Library were adopted by the Board and published in the January 7, 1997 issue of the ''CONGRESSIONAL RECORD, 143 CONG. REC. S61–79 (Jan. 7, 1997). The scope of coverage of these regulations is established by the definition of ''covered employee'' in section 1.102(c), the definition of ''employing office'' in section 1.102(i), and a listing in both sections 1.102(j) and 1.103 of entities that, pursuant to the regulations are included as employing offices if responsible for correcting a violation of section 215 of the CAA. The Board proposes to amend these regulations by adding any employee of GAO or of the Library to the definition of ''covered employee,'' and by adding GAO and the Library to the definition of ''employing office'' and to the entities listed in sections 1.102(j) and 1.103 that can be included as employing offices.

In addition to the proposed changes described above, several typographical and other minor corrections are being made to the regulations being amended, including a few corrections and changes to the list of Department of Labor's regulations under the OSHAct that are incorporated by reference into the regulations adopted by the Board under section 215 of the CAA.[3]

4. Request for Comment

The Board invites comment on these proposed amendments generally, and invites comment specifically on whether there is any reason why the regulations to be adopted under section 204, 205, or 215 for GAO and the Library and their employees should be separate or substantively different from the regulations already adopted for other employing offices and their employees.

Recommended method of approval. The Board proposes that it will adopt three identical versions of the amendments and recommends: *(1)* that the version amending the regulations that apply to the Senate and employees of the Senate be approved by the Senate by resolution, *(2)* that the version amending the regulations that apply to the House of Representatives and employees of the House of Representatives be approved by the House by resolution, and *(3)* that the version amending the regulations that apply to other covered employees and employing offices be approved by the Congress by concurrent resolution.

The Board expects to adopt the amendments and to submit them to the House and Senate for approval by three separate documents, one for the amendments under section 204 of the CAA, one for the amendments under section 205, and one for the amendments under section 215. This procedure will enable the House and Senate to consider and act on the amendments under sections 204, 205, and 215 separately, if the House and Senate so choose. The Board's regulations under section 215 have not yet been approved by the House and Senate, and, if the regulations remain unapproved when the Board adopts the amendments under section 215, the Board recommends that the House and Senate approve those amendments together with the regulations.

Signed at Washington, D.C., on this 5th day of September, 1997.

GLEN D. NAGER,
Chair of the Board, Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby proposes the following amendments to its regulations:

AMENDMENTS TO REGULATIONS UNDER SECTION 204 OF THE CAA—APPLICATION OF RIGHTS AND PROTECTIONS OF THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

It is proposed that the regulations implementing section 204 of the CAA, issued by publication in the CONGRESSIONAL RECORD on April 23, 1996 at 142 CONG. REC. S3917–3924 (daily ed. Apr. 23, 1996), be amended by revising section 1.2(c) and the first sentence of section 1.2(i) to read as follows:

''*Sec. 1.2 Definitions*

* * * * *

(c) The term *covered employee* means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Congressional Budget Office; (5) the Office of the Architect of the Capitol; (6) the Office of the Attending Physician; (7) the Office of Compliance; (8) the General Accounting Office; or (9) the Library of Congress.

* * * * *

(i) The term *employing office* means (1) the personal office of a Member of the House of Representatives or of a Senator; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance; (5) the General Accounting Office; or (6) the Library of Congress. * * * ''.

AMENDMENTS TO REGULATIONS UNDER SECTION 205 OF THE CAA—APPLICATION OF RIGHTS AND PROTECTIONS OF THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

It is proposed that the regulations implementing section 205 of the CAA, issued by publication in the CONGRESSIONAL RECORD on April 23, 1996 at 142 CONG. REC. S3949–52 (daily ed. Apr. 23, 1996), be amended by revising the title at the beginning of the regulations, and the introductory text of the first sentence 639.3(a)(1), to read as follows:

''APPLICATION OF RIGHTS AND PROTECTIONS OF THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

* * * * *

[2] Although the Board's regulations implementing section 215 have not yet been issued, section 411 of the CAA provides that, in proceedings to enforce most provisions of the CAA, including section 215, ''if the Board has not issued a regulation on a matter for which this Act requires a regulation to be issued, the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.'' 2 U.S.C. §1411.

[3] In the regulations implementing section 204 of the CAA, in the definitions of ''employing office'' and ''covered employee'' in sections 1.2(c) and (i), the references to the Office of Technology Assessment (''OTA'') and to employees of OTA are being removed, as OTA no longer exists. In the regulations implementing section 205 of the CAA, the title at the beginning of the regulations is being corrected. In the regulations implementing section 215 of the CAA, in the definition of ''employing office'' in section 1.102(i), ''the Senate'' is stricken from clause (1) and ''of a Senator'' is inserted instead, and ''or a joint committee'' is stricken from that clause, for conformity with the text of section 101(9)(A) of the CAA, 2 U.S.C. §1301(9)(A). In section 1.102(j) of those regulations, ''a violation of this section'' is stricken and ''a violation of section 215 of the CAA (as determined under section 1.106)'' is inserted instead, for consistency with the language in section 1.103 of the regulations. Furthermore, in Appendix A to Part 1900 of the regulations, several editorial and technical errors are being corrected in the cross-references to the Secretary of Labor's regulations under the OSHAct and recent changes in the Secretary's regulations are being incorporated. These corrections comport with the Board's stated intention to incorporate by reference the Labor Secretary's substantive regulations in effect at the time the Board approved the regulations under section 215 of the CAA, and to update the list of incorporated regulations when necessitated by the Secretary's changes to those regulations. *See* 142 CONG. REC. H10711, H10715 (daily ed. Sept. 19, 1996) (NPRM under section 215); section 1900.1(c) of the Board's regulations under section 215, 143 CONG. REC. S61, S67 (daily ed. Jan. 7, 1997).

''§639.3 Definitions.

''(a) *Employee office.* (1) The term ''employing office'' means any of the entities listed in section 101(9) of the CAA, 2 U.S.C. §1301(9), and either of the entities included in the definition of ''employee office'' by section 205(a)(2) of the CAA, 2 U.S.C. §1315(a)(2), that employs—

''(i) * * * ''.

* * * * *

AMENDMENTS TO REGULATIONS UNDER SECTION 215 OF THE CAA—APPLICATION OF RIGHTS AND PROTECTIONS OF THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

It is proposed that the regulations implementing section 215 of the CAA, adopted and published in the CONGRESSIONAL RECORD on January 7, 1997 at 143 CONG. REC. S61, 66–69 (daily ed. Jan. 7, 1997), be amended as follows:

1. EXTENSION OF COVERAGE.—By revising sections 1.102(c), (i), and (j) and 1.103 to read as follows:

''*§1.102 Definitions.*

* * * * *

(c) The term *covered employee* means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; (8) the Office of Compliance; (9) the General Accounting Office; and (10) the Library of Congress.

* * * * *

''(i) The term *employing office* means: (1) the personal office of a Member of the House of Representatives or of a Senator; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance; (5) the General Accounting Office; or (6) the Library of Congress.''

* * * * *

''(j) The term *employing office* includes any of the following entities that is responsible for the correction of a violation of section 215 of the CAA (as determined under section 1.106), irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such violation occurs: (1) each office of the Senate, including each office of a Senator and each committee; (2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee; (3) each joint committee of the Congress; (4) the Capitol Guide Service; (5) the Capitol Police; (6) the Congressional Budget Office; (7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden); (8) the Office of the Attending Physician; (9) the Office of Compliance; (10) the General Accounting Office; and (11) the Library of Congress.

''*§1.103 Coverage.*

''The coverage of Section 215 of the CAA extends to any ''covered employee.'' It also extends to any ''covered employing office,'' which includes any of the following entities that is responsible for the correction of a violation of section 215 (as determined under section 1.106), irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such a violation occurs:

''(1) each office of the Senate, including each office of a Senator and each committee;

''(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

''(3) each joint committee of the Congress;

''(4) the Capitol Guide Service;

''(5) the Capitol Police;

''(6) the Congressional Budget Office;

''(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

''(8) the Office of the Attending Physician;

''(9) the Office of Compliance;

''(10) the General Accounting Office; and

''(11) the Library of Congress.''.

2. Corrections to cross-references.—By making the following amendments in Appendix A to Part 1900, which is entitled ''REFERENCES TO SECTIONS OF PART 1910, 29 CFR, ADOPTED AS OCCUPATIONAL SAFETY AND HEALTH STANDARDS UNDER SECTION 215(d) OF THE CAA''

(a) After ''1910.1050 (Methylenedianiline.'' insert the following:

''1910.1051 1,3-Butadinene.

''1910.1052 Methylene chloride.''.

(b) Strike ''1926.63—Cadmium (This standard has been redesignated as 1926.1127).'' and insert instead the following:

''1926.63 [Reserved]''.

(c) Strike ''Subpart L—Scaffolding'', ''1926.450 [Reserved]'', ''1926.451 Scaffolding.'', ''1926.452 Guardrails, handrails, and covers.'', ''1926.453 Manually propelled mobile ladder stands and scaffolds (towers).'' and insert instead the following:

''SUBPART L—SCAFFOLDS

''1926.450 Scope, application, and definitions applicable to this subpart.

''1926.451 General requirements.

''1926.452 Additional requirements applicable to specific types of scaffolds.

''1926.453 Aerial lifts.

''1926.454 Training.''.

(d) Strike ''1926.556 Aerial lifts.''.

(e) Strike ''1926.753 Safety Nets.''.

(f) Strike ''Appendix A to Part 1926—Designations for General Industry Standards'' and insert instead the following:

''APPENDIX A TO PART 1926—DESIGNATIONS FOR GENERAL INDUSTRY STANDARDS INCORPORATED INTO BODY OF CONSTRUCTION STANDARDS''.

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 a withdrawal and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:55 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 700. An act to remove the restrictions on the distribution of certain revenues from the Mineral Springs parcel to certain members of the Agua Caliente Band od Cahuilla Indians.

H.R. 976. An act to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 700. An act to remove the restriction on the distribution of certain revenues from the Mineral Springs parcel to certain members of the Agua Caliente Band od Cahuilla Indians; to the Committee on Indian Affairs.

H.R. 976. An act to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians, and for other purposes; to the Committee on Indian Affairs.

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–2880. A communication from the Acting Secretary of Veterans Affairs, transmitting, a draft bill of proposed legislation to remove a statutory provision; to the Committee on Veterans' Affairs.

EC–2881. A communication from the Acting Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, a rule relative to migratory bird hunting (RIN1018-AE14) received on August 27, 1997; to the Committee on Indian Affairs.

EC–2882. A communication from the Director of the Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, a rule entitled ''Urine Surveillance'' (RIN1120-AA68) received on August 26, 1997; to the Committee on the Judiciary.

EC–2883. A communication from the Secretary of Labor, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–2884. A communication from the President of the United States, transmitting, pursuant to law, the report on foreign economic collection and industrial espionage; to the Select Committee on Intelligence.

EC–2885. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a rule relative to private delivery services received on August 29, 1997; to the Committee on Finance.

EC–2886. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Ruling 97–37 received on August 29, 1997; to the Committee on Finance.

EC–2887. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a rule relative to weighted average interest received on September 3, 1997; to the Committee on Finance.

EC–2888. A communication from the Secretary of Agriculture, transmitting, a draft bill of proposed legislation entitled the ''Agricultural Fair Practices Enforcement Authority Act of 1997''; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2889. A communication from the Secretary of Agriculture, transmitting, a draft

bill of proposed legislation to establish the position of Under Secretary; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2890. A communication from the Acting Administrator, Agricultural Research Service, Department of Agriculture, transmitting, pursuant to law, a rule relative to a schedule of fees to be charged, received on August 27, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2891. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, a rule relative to a change in disease status received on September 2, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2892. A communication from the Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, a rule relative to bartlett pears received on August 26, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2893. A communication from the Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, a rule relative to tart cherries received on August 26, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2894. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, a rule relative to quarantined areas received on August 26, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2895. A communication from the Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, a rule relative to limes received on August 27, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2896. A communication from the Assistant Secretary of State (Legislative Affairs), the report of the Executive Summary and Annexes to the U.S. Arms Control and Disarmament Agency for calendar year 1996; to the Committee on Foreign Relations.

EC–2897. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the proliferation of missiles and essential components of nuclear, biological, and chemical weapons; to the Committee on Foreign Relations.

EC–2898. A communication from the Assistant Secretary of State (Legislative Affairs), the report of a memorandum of justification relative to the Nonproliferation and Disarmament Fund; to the Committee on Foreign Relations.

EC–2899. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, three rules including a rule entitled ''The Potato Research and Promotion Plan'' (AMS–FV–96–703, CN–97–003, DA–97–09) received on September 5, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2900. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report on horse protection enforcement for fiscal year 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2901. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report entitled ''Mid-Session Review of the (Fiscal Year) 1998 Budget''; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, and to the Committee on the Budget.

EC–2902. A communication from the Secretary of the Interior, transmitting, a draft bill of proposed legislation entitled ''The Revised Statute (R.S.) 2477 Rights-of-Way Act''; to the Committee on Energy and Natural Resources.

EC–2903. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–2904. A communication from the Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, a rule entitled ''Public Land Records'' (RIN1004–AC81) received on September 3, 1997; to the Committee on Energy and Natural Resources.

EC–2905. A communication from the Assistant Secretary of the Interior (Fish and Wildlife and Parks), transmitting, pursuant to law, a rule relative to wildlife refuges in Alaska (RIN1018–AD93) received on August 22, 1997; to the Committee on Energy and Natural Resources.

EC–2906. A communication from the Acting Deputy Assistant Secretary of the Interior (Fish and Wildlife and Parks), transmitting, pursuant to law, the report on Damaged and Threatened National Historic Landmarks for fiscal year 1996; to the Committee on Energy and Natural Resources.

EC–2907. A communication from the Director of the Reclamation and Enforcement, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, a rule entitled ''The Indiana Regulatory Program'' (IN–127–FOR) received on September 3, 1997; to the Committee on Energy and Natural Resources.

EC–2908. A communication from the Director of the Reclamation and Enforcement, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, a rule entitled ''The Kentucky Regulatory Program'' (KY–211–FOR) received on August 26, 1997; to the Committee on Energy and Natural Resources.

EC–2909. A communication from the Director of the Reclamation and Enforcement, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, a rule entitled ''Coal Moisture Rule'' (RIN1029–AB78) received on August 25, 1997; to the Committee on Energy and Natural Resources.

EC–2910. A communication from the Acting General Counsel, Department of Energy, transmitting, pursuant to law, one rule relative to conflicts of interest (RIN1991–AB26), received on August 28, 1997; to the Committee on Energy and Natural Resources.

EC–2911. A communication from the Acting General Counsel, Department of Energy, transmitting, pursuant to law, one rule relative to certificate requirements (RIN1991–AB31), received on August 28, 1997; to the Committee on Energy and Natural Resources.

EC–2912. A communication from the Acting General Counsel, Department of Energy, transmitting, pursuant to law, one rule relative to conservation standards received on August 28, 1997; to the Committee on Energy and Natural Resources.

EC–2913. A communication from the Chief Counsel of the Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, a rule received on September 3, 1997; to the Committee on Finance.

EC–2914. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Notice 97–52; to the Committee on Finance.

EC–2915. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a rule entitled ''Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1998 Rates'' (RIN0938–AH55) received on September 4, 1997; to the Committee on Finance.

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–224. A resolution adopted by the House of the Legislature of the Commonwealth of Massachusetts; to the Committee on Energy and Natural Resources.

RESOLUTION

Whereas, the Federal Government's program to manage and dispose of spent fuel from the United States nuclear power plants is substantially behind schedule and failure to take appropriate action to enable said Federal Government to take title to and possession of this material in a timely and efficient manner coul result in the need to construct and operate one or more long-term spent nuclear fuel storage facilities in Massachusetts and New England; and

Whereas, forty per cent of New England's power is from nuclear plant generation which is the highest percentage for any region in the entire United States; and

Whereas, New England's capability to meet the clean Air Act requirements is highly dependent upon continued availability of our nuclear power plants; and

Whereas, continued operation of our nuclear power plants reduces New England's dependence on the importation of foreign oil; and

Whereas, the Department of Energy is contractually required to begin to take title to and possession of spent fuel on January 31, 1998; and

Whereas, an integrated spent fuel management system is necessary which should include, but not be limited to, four essential components:

A central facility for interim storage until a permanent repository is made available;

A transportation infrastructure for the safe and efficient transfer of spent fuel;

A central repository for permanent deep geological disposal; and

A provision to prioritize the acceptance of spent nuclear fuel from shut down reactor sites; and

Whereas, more than $12,000,000,000 has been paid into the nuclear waste fund of which over $1,000,000,000 has been paid by the ratepayers of New England and current congressional budget restraints preclude proper use of the funds consistent with schedule requirements; and

Whereas, legislation to rectify the nuclear waste storage problem have been introduced in this one hundred and fifth session of the United States Congress: Therefore be it

Resolved, That the Massachusetts House of Representatives respectfully requests that the United States Congress enact legislation to address the problems relative to the disposal of nuclear waste and that members thereof from the Commonwealth take a leadership role in insuring that the financial, energy and environmental interests of the ratepayers of the Commonwealth are protected; and be it further

Resolved, That a copy of these resolutions be forwarded by the clerk of the House of Representatives to the Presiding Officer of each branch of the United States Congress and to the members thereof in this Commonwealth.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FAIRCLOTH, from the Committee on appropriations, without amendment:

S. 1156. An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes (Rept. No. 105–75).

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. REED:

S. 1154. A bill to amend the Electronic Fund Transfer Act to clarify consumer liability for unauthorized transactions involving debit cards that can be used like credit cards, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KERREY:

S. 1155. A bill to amend title 23, United States Code, to make safety a priority of the Federal-aid highway program; to the Committee on Environment and Public Works.

By Mr. FAIRCLOTH:

S. 1156.

An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. CRAIG:

S. 1157. A bill disapproving the cancellations transmitted by the President on August 11, 1997, regarding Public Law 105–34; to the Committee on Finance, for not to exceed 7 days of session pursuant to section 1023 of Public Law 93–344.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD (for himself, Mr. SPECTER, Mr. MOYNIHAN, Mr. KOHL, Mr. BREAUX, Ms. LANDRIEU, Mr. D'AMATO, and Mr. WELLSTONE):

S. Res. 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; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. NICKLES (for himself, Mr. DASCHLE, Mr. LOTT, Mr. MACK, Mr. BROWNBACK, Mr. HUTCHINSON, Mr. LEAHY, Mr. LEVIN, Mrs. FEINSTEIN, Mr. BUMPERS, Mr. ROBB, Mr. KOHL, Mr. BIDEN, Ms. LANDRIEU, Mr. SARBANES, Mr. REID, Mr. DODD, Mr. INOUYE, Mr. LIEBERMAN, Mr. KERREY, Mrs. BOXER, Mr. MOYNIHAN, Mr. DOMENICI, Mr. KENNEDY, Mr. HATCH, Mr. KERRY, Mr. LAUTENBERG, Ms. MOSELEY-BRAUN, Ms. MIKULSKI, Mr. JOHNSON, Mr. KYL, Mr. MURKOWSKI, Mr. ASHCROFT, and Mr. INHOFE):

S. Res. 120. A resolution expressing the sense of the Senate on the occasion of the death of Mother Teresa of Calcutta; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERREY:

S. 1155. A bill to amend title 23, United States Code, to make safety a priority of the Federal-aid highway program; to the Committee on Environment and Public Works.

THE HIGHWAY SAFETY PRIORITY ACT

Mr. KERREY. Mr. President, there is a national health epidemic in America that does not receive the attention it deserves. This epidemic is responsible for the loss of 1.2 million pre-retirement years of life a year; more than is lost to cancer or heart disease. It is the leading cause of death for Americans between the ages of 15 and 24. Last year, more than 41,900 Americans died from this epidemic and more than 3 million suffered serious injury. In Nebraska alone, the epidemic claimed 293 lives in 1996 up from 254 the year before. The only good news has been that in Nebraska, during the first 6 months of this year, the death rate has slowed slightly. Most tragic, is the fact that this epidemic is almost 100 percent preventable.

This epidemic I am talking about is death and injuries related to driving. While America has made significant progress in reducing traffic accident rates, deaths, and injuries have trended upward in the 1990's.

Traffic accidents impose extraordinary costs on our health care system. About $14 billion a year in health care costs are attributable to traffic accidents. Taxpayers bear $11.4 billion of that cost. In terms of lost productivity, property damage and health care costs, these accidents extracted $150 billion out of the economy for the last year that statistics are available.

The most important point is that traffic accidents are almost completely preventable. The smallest actions of a driver can make the difference between life and death. One lapse in judgment, one moment of inattention can end in tragedy. As drivers, too often, we take for granted the immense power and responsibility we possess when behind the wheel. As public officials we need to be constantly attentive to the need to make our transportation system safer.

The Congress is working on legislation to reauthorize the Nation's basic highway law. It is one of the most important bills the Senate will consider. I strongly believe that we should use this opportunity to commit ourselves to enhancing safety on America's highways and byways. In that spirit, I introduce the Highway Safety Priority Act.

This legislation systematically makes clear that safety is a priority in highway construction and maintenance programs. It sends a strong message to Federal, State, and local transportation planners that they should focus on enhancing safety.

I encourage my colleagues to study and support the Highway Safety Priority Act which I introduce today.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1155

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 ''Highway Safety Priority Act''.

SEC. 2. SAFETY OF FEDERAL-AID HIGHWAYS.

(a) APPROVAL OF 3R PROJECTS ON NATIONAL HIGHWAY SYSTEM.—Section 106(b)(1) of title 23, United States Code, is amended by inserting before the period at the end the following: ''and includes the use of full-width lanes and shoulders''.

(b) STANDARDS.—Section 109 of title 23, United States Code, is amended—

(1) in subsection (c), by adding at the end the following:

''(3) SAFETY.—To the maximum extent practicable, a design described in paragraph (1) shall include the use of full-width lanes and shoulders to enhance highway and bridge safety.''; and

(2) in subsection (p), by adding at the end the following: ''The laws (including regulations, directives, and standards) shall ensure appropriate roadside safety improvements, lane and shoulder widening, alignment and sight distance improvements, and conspicuous traffic control devices and pavement markings.''.

(c) CERTIFICATION ACCEPTANCE.—Section 117(b) of title 23, United States Code, is amended by inserting before the period at the end the following: '', including standards that preserve and enhance the safety and mobility of highway users''.

(d) SET ASIDE FOR 4R PROJECTS.—Section 118(c)(2)(B) of title 23, United States Code, is amended by inserting before the period at the end the following: ''and that improves safety while reducing congestion''.

(e) METROPOLITIAN PLANNING.—Section 134 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (a), by inserting ''safety and'' after ''maximize'';

(2) in subsection (f)—

(A) in paragraph (1), by inserting ''safely and'' after ''more'';

(B) by redesignating paragraphs (4) through (16) as paragraphs (5) through (17), respectively;

(C) by inserting after paragraph (3) the following:

''(4) The need to prevent accidents involving rail and road users, including bicyclists, pedestrians, and motor vehicles, and to reduce the frequency and severity of such accidents.'';

(D) in paragraph (12) (as redesignated by subparagraph (B)), by inserting ''safe and'' after ''enhance the''; and

(E) in paragraph (14) (as redesignated by subparagraph (B)), by inserting ''safety,'' after ''economic,''; and

(3) in subsection (g)(2)(C)—

(A) in clause (i), by inserting ''and safety'' after ''operational''; and

(B) in clause (ii), by inserting ''safety and'' after ''maximize the''.

By Mr. CRAIG:

S. 1157. A bill disapproving the cancellations transmitted by the President on August 11, 1997, regarding Public Law 105–34; to the Committee on Finance, pursuant to the order of for 7 days of session pursuant to section 1023 of Public Law 93–344.

DISAPPROVAL LEGISLATION

Mr. CRAIG. Mr. President, I am introducing today a bill to disapprove the President's line-item veto of a provision providing tax relief when an agricultural production facility is sold to a farmer cooperative—a veto that has produced a cry of outrage from Idaho's farm families.

I am disappointed that the President vetoed this provision of the Tax Relief Act of 1997. This provision had strong bipartisan support in both the Senate and the House. This type of tax relief deserves to be debated on the merits and enacted into law.

Because of the large number of ultimate beneficiaries involved in this kind of tax provision, it is my opinion that this item was erroneously identified as a candidate for a line-item veto.

In Idaho, for example, in a single coop, there are 1,130 family farm members who have been interested in this kind of tax law change for a long time.

Changes in agricultural policy over recent years are intended to make American agriculture more market based. Prior changes in tax laws raised hurdles for agriculture at a time when world markets were becoming more competitive. Current tax law allows some advantages to corporations and other entities that are denied to farmer cooperatives.

To allow family farmers in Idaho and across America to remain productive and effective in this changing environment, our tax laws need further revision. The provision the President vetoed would have helped, by allowing farmer cooperatives, by expanding their operations and compete more fully and fairly.

I do not believe the President vetoed this provision without reservations. The White House has said publicly that the issue of ensuring the competitive ability of farmer cooperatives should be addressed. The administration had technical objections which, I believe, we should be able to work out.

It is my hope, and it is fully my intention in introducing this bill today, that Members of Congress, from both sides of the aisle, and the administration can now sit down and work out the details of similar legislation and produce a win-win solution—one that helps farm families and addresses technical concerns expressed by the administration.

I also want to address some important procedural matters.

I am optimistic that, ultimately, legislation providing relief to farmer cooperatives and making any necessary and reasonable technical changes, will move on a track totally separate from this bill. That is my hope and intent.

But we are constrained by procedure and timing in the introduction of this bill. Introduction of this bill, in this form, no later than today, is the only way to keep all procedural options open to the Congress.

The Line Item Veto Act prescribes the precise form and content of this type of bill. Therefore, this bill refers to one other vetoed item besides the farmer cooperative item I have addressed. It is my understanding that persons supporting that item already are working out its consideration on a separate track.

I hope and expect that the same will be true of the farmer cooperative item many in this body have supported. I stand ready to work with my colleagues and the administration on any reasonable, technical changes needed to enact such needed tax relief into law.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves of cancellations 97–1 and 97–2 as transmitted by the President in a special message on August 11, 1997, regarding Public Law 105–34.

ADDITIONAL COSPONSORS

S. 358

At the request of Mr. DEWINE, the names of the Senator from Massachusetts [Mr. KERRY], and the Senator from Georgia [Mr. COVERDELL] were added as cosponsors of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 632

At the request of Mr. KOHL, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 632, a bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes.

S. 729

At the request of Mr. HUTCHINSON, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 729, a bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide new portability, participation, solvency, and other health insurance protections and freedoms for workers in a mobile workforce, to increase the purchasing power of employees and employers by removing barriers to the voluntary formation of association health plans, to increase health plan competition providing more affordable choice of coverage, to expand access to health insurance coverage for employees of small employers through open markets, and for other purposes.

S. 1003

At the request of Mr. GRASSLEY, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1003, a bill to amend chapter 53 of title 31, United States Code, to require the development and implementation by the Secretary of the Treasury of a national money laundering and related financial crimes strategy to combat money laundering and related financial crimes, and for other purposes.

S. 1042

At the request of Mr. CRAIG, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1042, a bill to require country of origin labeling of perishable agricultural commodities imported into the United States and to establish penalties for violations of the labeling requirements.

At the request of Mr. GRAHAM, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1042, supra.

S. 1062

At the request of Mr. D'AMATO, the names of the Senator from Illinois [Mr. DURBIN] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 1062, a bill to authorize the President to award a gold medal on behalf of the Congress to Ecumenical Patriarch Bartholomew in recognition of his outstanding and enduring contributions toward religious understanding and peace, and for other purposes.

S. 1105

At the request of Mr. COCHRAN, the names of the Senator from Missouri [Mr. BOND], the Senator from Michigan [Mr. ABRAHAM], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 1105, a bill to amend the Internal Revenue Code of 1986 to provide a sound budgetary mechanism for financing health and death benefits of retired coal miners while ensuring the long-term fiscal health and solvency of such benefits, and for other purposes.

S. 1153

At the request of Mr. BAUCUS, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 1153, a bill to promote food safety through continuation of the Food Animal Residue Avoidance Database program operated by the Secretary of Agriculture.

SENATE CONCURRENT RESOLUTION 42

At the request of Mr. D'AMATO, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of Senate Concurrent Resolution 42, a concurrent resolution to authorize the use of the rotunda of the Capitol for a congressional ceremony honoring Ecumenical Patriarch Bartholomew.

SENATE CONCURRENT RESOLUTION 50

At the request of Mr. HUTCHINSON, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from Washington [Mr. GORTON] 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 CONCURRENT RESOLUTION 51

At the request of Mr. HELMS, the names of the Senator from Arkansas [Mr. HUTCHINSON] and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Concurrent Resolution 51, a concurrent resolution expressing the sense of Congress regarding elections for the legislature of the Hong Kong Special Administrative Region.

SENATE RESOLUTION 96

At the request of Mr. CRAIG, the names of the Senator from Montana [Mr. BAUCUS], the Senator from Georgia [Mr. COVERDELL], the Senator from Connecticut [Mr. DODD], the Senator from Kentucky [Mr. FORD], the Senator from Iowa [Mr. GRASSLEY], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Louisiana [Ms. LANDRIEU], the Senator from Florida [Mr. MACK], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Colorado [Mr. CAMPBELL], the Senator from Ohio [Mr. DEWINE], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Florida [Mr. GRAHAM], the Senator from Utah [Mr. HATCH], the Senator from South Dakota [Mr. JOHNSON], the Senator from Wisconsin [Mr. KOHL], the Senator from Mississippi [Mr. LOTT], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from New Jersey [Mr. TORRICELLI] were added as cosponsors of Senate Resolution 96, a resolution proclaiming the week of March 15 through March 21, 1998, as ''National Safe Place Week.''

SENATE RESOLUTION 111

At the request of Mr. THURMOND, the names of the Senator from Nebraska [Mr. KERREY], the Senator from California [Mrs. FEINSTEIN], and the Senator from California [Mrs. BOXER] were added as cosponsors of Senate Resolution 111, a resolution designating the week beginning September 14, 1997, as ''National Historically Black Colleges and Universities Week,'' and for other purposes.

AMENDMENT NO. 1078

At the request of Mr. DURBIN, the names of the Senator from North Dakota [Mr. DORGAN], the Senator from Louisiana [Ms. LANDRIEU], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of amendment No. 1078 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. 1085

At the request of Mr. DURBIN, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of amendment No. 1085 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. 1086

At the request of Mr. DURBIN, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of amendment No. 1086 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. 1095

At the request of Ms. LANDRIEU the names of the Senator from Michigan [Mr. LEVIN], the Senator from South Dakota [Mr. JOHNSON], the Senator from Ohio [Mr. DEWINE], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of amendment No. 1095 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. HARKIN the name of the Senator from New Mexico [Mr. BINGAMAN] 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. 1109

At the request of Mr. SPECTER the names of the Senator from Delaware [Mr. ROTH], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of amendment No. 1109 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. 1117

At the request of Mr. FORD the names of the Senator from Tennessee [Mr. THOMPSON] and the Senator from Tennessee [Mr. FRIST] were added as cosponsors of amendment No. 1117 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. 1121

At the request of Mr. SPECTER the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of amendment No. 1121 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. GORTON the name of the Senator from Oregon [Mr. SMITH] 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.

SENATE RESOLUTION 119— RELATIVE TO MILK PRODUCERS

Mr. FEINGOLD (for himself, Mr. SPECTER, Mr. MOYNIHAN, Mr. KOHL, Mr. BREAUX, Ms. LANDRIEU, Mr. D'AMATO, and Mr. WELLSTONE) SUBMITTED THE FOLLOWING RESOLUTION; WHICH WAS REFERRED TO THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY:

S. RES. 119

Whereas the basic formula price for milk established by the Secretary of Agriculture under Federal milk marketing orders fell to a 6-year low of $10.70 in May 1997 following months of substantial price volatility and remained at similarly low levels throughout the summer of 1997;

Whereas the basic formula price for milk announced for each month since April 1997 has been below the cost of producing milk for milk producers in all regions of the United States, as calculated by the Department of Agriculture;

Whereas income losses to milk producers resulting from low milk prices have imposed economic hardship on milk producers in all regions of the United States;

Whereas lost income to milk producers may create economic losses to businesses and result in loss of jobs in rural communities;

Whereas milk producers, rural residents, and agribusinesses in rural areas have petitioned the Secretary of Agriculture to implement an emergency milk price floor to provide price relief to milk producers;

Whereas the Secretary of Agriculture has authority under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to establish minimum prices paid to milk producers covered by Federal milk marketing orders; and

Whereas the Secretary of Agriculture has authority under section 143 of the Agricultural Market Transition Act (7 U.S.C. 7253) to use informal rulemaking to reform Federal milk marketing orders: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Secretary of Agriculture should immediately use the authority of the Secretary under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to establish a temporary emergency minimum milk price that—

(1) is equitable to all producers nationwide; and

(2) provides price relief to economically distressed milk producers.

Mr. FEINGOLD. Mr. President, I rise to submit a resolution which I hope all of my colleagues will support. Milk is

produced in every State of this country and in recent months the dairy farmers who produce that milk have suffered from unusually low milk prices. I am pleased to be joined in offering this resolution by the Senator from Pennsylvania [Mr. SPECTER], my senior Senator from Wisconsin [Mr. KOHL], the Senator from New York [Mr. MOYNIHAN], and both Senators from Louisiana [Mr. BREAUX and Ms. LANDRIEU] all of whom have worked hard over the past 10 months to find solutions to the problem of low milk prices.

The resolution we are introducing today expresses the sense of the Senate that the Secretary of Agriculture should use his administrative authority under the Agricultural Marketing Agreement Act of 1937 to set a temporary emergency price floor under milk prices.

Mr. President, as I am sure many Members are aware, milk prices have fallen in the past several months to levels far below the amount it costs many dairy farmers to produce that milk. In fact, the basic formula price for milk as calculated by USDA for every month since April has been below the cost of producing milk for all regions of the country—including the lowest cost milk producers in California. This situation might be bearable if dairy farmers had any assurance that prices might rebound—that the financial strain they are under would be alleviated—but many predictions about milk prices over the past 10 months have simply proven inaccurate.

Last fall, milk prices fell from $14.13 per hundred pounds in October to $11.61 in November. This dramatic decline in milk prices was nearly unprecedented. And while milk prices were strong prior to the milk price collapse last fall, the higher prices of mid-1996 reflected the extremely high cost of feed last year which left dairy farmers with little to show from those high milk prices. Feed is the single most important, and most expensive, input to milk production. It is frequently the case that the cost of the input—in this case, forage and feed grains such as corn—is reflected in the cost of the output—milk. So while some dairy producers may have found 1996 to be a good year, many more were struggling under high feed bills that still had to be paid long after the strong milk prices had evaporated.

Despite the milk price crash late last year, many dairy farmers had expressed optimism for 1997 as milk prices incrementally rose early this year, and were expected to continue to rise throughout the year. Many of my colleagues joined me and other dairy State Senators in asking the Secretary of Agriculture to take administrative steps to shore up milk prices, such as making advance purchases of cheese and other dairy products for the school lunch and breakfast programs and to export more dairy products under the Dairy Export Incentive Program. The Secretary took a number of steps in that regard that may have facilitated the slight increase in milk prices and we thank him for his efforts.

Unfortunately, the milk price recovery was not sustained and in May, the basic formula price for milk hit a 6-year low of $10.70 per hundredweight and remained at roughly that level throughout the summer. Even the mailbox milk prices—that is, the milk prices that farmers are actually paid including all premiums—were below the cost of production for many milk producing regions of the country this summer. These tight margins have squeezed even the most efficient operators and have placed a great deal of financial stress on small- to mid-size family dairy farms who are less able to absorb the price shocks.

While the recently announced basic formula price for August increased milk prices by about $1.00 per hundredweight, few farmers believe this is enough for them to continue to pay their bills through the fall and many farmers are skeptical that prices will increase much beyond this level.

Mr. President, it has been a long summer for dairy farmers who have come to Washington today to demand our action and our support. They have brought with them thousands of petitions from farmers, rural residents, and agribusinesses seeking emergency price relief for milk producers. It is in response to those petitions, the hard work that has gone into gathering the signatures, and the months of exasperatingly low milk prices that we introduce this resolution today.

Mr. President, I urge my colleagues to support their dairy farmers by supporting this resolution.

This resolution simply expresses the sense of the Senate that the Secretary of Agriculture should use the substantial administrative authority and discretion the Congress has provided him under the Agricultural Marketing Agreement Act of 1937 to provide temporary emergency price relief to dairy farmers throughout the Nation. The resolution stipulates that such price relief will be provided in a manner that is equitable to farmers throughout the country. As many of my colleagues know, dairy policy has frequently been embroiled in regional battles over pricing. This resolution stipulates that all producers will receive the same price relief regardless of where they milk their cows.

Many Senators have already asked the Secretary to implement this type of emergency price floor. Earlier this year over 30 Senators from all regions of the country contacted the Secretary urging that he provide price relief for economically stressed dairy farmers. And those requests came even before prices hit bottom this summer. I urge those Senators to join me in sponsoring this resolution.

Agriculture Secretary Dan Glickman, however, has indicated that he needs more than just letters from Senators to provide this type of emergency price relief. Rather, he indicated in a July 9 letter to the distinguished chairman and ranking member of the Senate Agriculture Committee [Mr. LUGAR and Mr. HARKIN] that he needs Congress to provide a more formal expression of support for temporary emergency price relief for dairy farmers. This resolution, when agreed to by the Senate, will provide the Secretary with the support he needs to provide milk price relief.

The resolution, while directing the Secretary to take action, provides him with flexibility in providing price relief. If milk prices do indeed recover this fall, a price floor may be unnecessary and the Secretary will be able to take that into account. However, analysts are unsure as to what milk prices will ultimately be this fall when they normally reach their peak. High levels of nonfat dry milk stocks may continue to depress prices through the end of the year.

Some might ask why dairy farmers should be given this assistance. The answer, Mr. President, is that a temporary emergency price floor is necessary because unlike other commodity producers, dairy farmers were singled out in the Federal Agricultural Improvement and Reform Act by having their only support mechanism—price supports—phased out. No other commodity program was terminated by the 1996 FAIR Act. Dairy farmers were not provided with the ''Freedom to Farm'' payments that have been provided to wheat and feed grain producers each year regardless of crop prices. These payments, also known as transition payments, were provided to crop producers in order to help them transition to a market without Government intervention. However, no transitional income assistance has been provided for milk producers even though their commodity program has been, in effect, eliminated.

Similarly, while wheat and feed grain producers, as well as producers of many other commodities, have federally subsidized crop insurance available to help them manage their production risk, and in some cases, their price risk as well, there is no USDA insurance program for milk production.

While producers of other commodities may be able to hedge their price and production risk using high volume futures and options markets that have operated in those commodities for decades, dairy farmers have no such markets to rely on. While futures and options markets exist for dairy products, the trading volumes for most of these markets are so low that few farmers are able to use them.

For whatever reason, Mr. President, dairy farmers were not provided the tools to weather a transition to a more market oriented agricultural sector.

Mr. President, I am not a strong advocate of Government intervention in dairy markets. I have seen the types of division and inequity that Federal involvement in dairy policy and milk

prices can create in the dairy industry. So, I do not introduce this resolution lightly. But if there was ever a time for the Federal Government to step in to help dairy farmers, it is now. During the month of August, I traveled throughout Wisconsin conducting the listening sessions which I hold in each county, each year. And in the 15 years I have represented Wisconsin farmers, I have never seen a greater sense of despair among farmers and other rural residents.

Mr. President, there is a sense in the countryside that Washington, DC, has turned a blind eye to the low milk prices of 1997. While that might be a misperception, as I know many of my colleagues have worked with me to find solutions to low milk prices, it is understandable that farmers feel this way. Farmers began asking for this type of price relief at the end of 1996 and 9 months later, nothing has come of that request. That must change.

Mr. President, we must act now to provide some very short-term relief that will help economically distressed dairy farmers through this milk price crisis. We can do that by passing the resolution we are introducing today. The long-term solutions to volatile milk prices and farm income are more nebulous and we must work to address them. But first, we must take some steps to lessen the immediate financial strain on farm families throughout the Nation.

I urge my colleagues to support this important resolution.

Mr. SPECTER. Mr. President, I rise today to join with my colleague from Wisconsin, Senator FEINGOLD, in submitting a sense of the Senate resolution calling for the Secretary of Agriculture to immediately establish a temporary emergency minimum milk price that is equitable to all producers nationwide, and that provides price relief to economically distressed milk producers. We are joined by Senators KOHL, MOYNIHAN, BREAUX, and LANDRIEU.

I have been working with my colleagues in the Senate over the past year in order to provide a more equitable price for our Nation's milk producers. Last year, dairy prices set an all-time high, with an average price of $13.38 per hundredweight. The price reached its peak in September at $15.37 per hundredweight, but the market experienced its largest drop in history during November, falling to $11.61 per hundredweight, which represents a 26 percent decline. During this same period, the cost of the dairy production reached a record high due to a 30–50 percent increase in grain costs.

This record drop in prices has placed a tremendous strain on our Nation's dairy farmers, who have been forced to sell their milk for a price below the cost of production for much of the past year. In an attempt to provide some relief, and to ensure that thousands of small dairy producers were not forced out of business entirely, I joined with 19 of my Senate and House colleagues on November 22, 1996, in writing to Agriculture Secretary Glickman, urging him to take action to help raise dairy prices. Secretary Glickman responded on January 7, 1997, by announcing several short-term actions to stabilize milk prices. While these actions did have a small positive effect in increasing dairy prices, they did not provide adequate relief to our nation's dairy farmers.

In order to hear the problems that dairy farmers are facing first hand, I ask Secretary Glickman to accompany me to northeastern Pennsylvania, which he did on February 10. We met a crowd of approximately 750 angry farmers who complained about the precipitous drop in the price of milk.

During the course of my analysis of the pricing problem, I found that the price of milk depends on a number of factors, one of which is the price of cheese. For every 10 cents the price of cheese is raised, the price of milk would be raised by $1 per hundredweight. I further learned that the price of cheese was determined by the National Cheese Exchange in Green Bay, WI. According to a report created by the University of Wisconsin, there was an issue as to whether the price of cheese established by the Green Bay exchange was accurate or not. The authors of the report used a term as tough as manipulation. Whether that is so or not, there was a real question as to whether that price was accurate. Therefore, 3 days after the hearing in northeastern Pennsylvania, I introduced a sense-of-the-Senate resolution with Senators SANTORUM, FEINGOLD, KOHL, JEFFORDS, LEAHY, WELLSTONE, SNOWE, COLLINS, and GRAMS. The resolution, which passed by a vote of 83–15, stated that the Secretary of Agriculture should consider acting immediately to replace the National Cheese Exchange as a factor to be considered in setting the basic formula price for dairy.

In my discussions with Secretary Glickman, I found he had the power to raise the price of milk unilaterally by establishing a different price of cheese. Therefore, on March 10, I wrote to Secretary Glickman and urged him to take immediate action to establish a price floor at $13.50/cwt on a temporary, emergency, interim basis until he completed his action on delinking the National Cheese Exchange from the basic formula price.

This subject was aired during the course of a special hearing before the appropriations subcommittee on March 13. At that time, Secretary Glickman said that the Department of Agriculture had ascertained the identity of 118 people or entities who had cheese transactions that could establish a different price of cheese. He told me that the Department had written to the 118 and were having problems getting responses. I suggested it might be faster to telephone those people. Secretary Glickman provided my staff with the list of people, and we telephoned them and found, after reaching approximately half of them, that the price of cheese was, in fact, $.164 higher than was being reported on the Cheese Exchange. On March 19, I again wrote Secretary Glickman and informed him of the results of my staff's survey. This price difference translates to a $1.64 per hundredweight addition to the price of milk.

On April 17, I introduced two pieces of legislation to revise our laws so that they better reflect current conditions and provide a fair market for our Nation's dedicated and hard-working farmers. The legislation goes to two points. One is to amend the Agriculture Market Transition Act to require the Secretary to use the price of feed grains and other cash expenses in the dairy industry as factors that are used to determine the basic formula for the price of milk and other milk prices regulated by the Secretary. Simply stated, the Government should use what it costs for production to establish the price of milk, so that if farmers are caught with rising prices of feed and other rising costs of production, they can have those rising costs reflected in the cost of milk.

The second piece of legislation would require the Secretary of Agriculture to collect and disseminate statistically reliable information from milk manufacturing plants on prices received for bulk cheese and require the Secretary to report back to Congress within 150 days on the rate of voluntary compliance with the survey. This bill was successfully attached to the 1997 supplemental appropriations bill which was signed into law on June 12, 1997.

On Tuesday, May 6, 1997, the Department of Agriculture announced that they were replacing the National Cheese Exchange in Green Bay, WI, with a survey of cheddar cheese manufacturers in the United States in order to determine the price of cheese for use in setting the basic formula price. I am pleased to report that last Friday, the basic formula price jumped to $12.07, an increase of $1.21 over last month, as a result of increased cheese prices measured by this new cheese survey.

While we have made some progress in providing relief to farmers, there is much more that needs to be done. This sense-of-the-Senate resolution will ensure that farmers receive the necessary support they need to continue to produce milk. This resolution makes it clear that in emergency situations, the Secretary of Agriculture should set a temporary minimum price for dairy that is equitable to all producers nationwide and that provides price relief to economically distressed milk producers, I urge my colleagues to join with Senator FEINGOLD and me as we work together to revise the current dairy laws so that they better reflect current conditions and provide a fair market for our Nation's dedicated and hard-working farmers.

SENATE RESOLUTION 120—EXPRESSING THE SENSE OF THE SENATE ON THE OCCASION OF THE DEATH OF MOTHER TERESA OF CALCUTTA

Mr. NICKLES (for himself, Mr. DASCHLE, Mr. LOTT, Mr. MACK, Mr. BROWNBACK, Mr. HUTCHINSON, Mr. LEAHY, Mr. LEVIN, Mrs. FEINSTEIN, Mr. BUMPERS, Mr. ROBB, Mr. KOHL, Mr. BIDEN, Ms. LANDRIEU, Mr. SARBANES, Mr. REID, Mr. DODD, Mr. INOUYE, Mr. LIEBERMAN, Mr. KERREY, Mrs. BOXER, Mr. MOYNIHAN, Mr. DOMENICI, Mr. KENNEDY, Mr. HATCH, Mr. KERRY, Mr. LAUTENBERG, Ms. MOSELEY-BRAUN, Ms. MIKULSKI, Mr. JOHNSON, Mr. KYL, Mr. MURKOWSKI, Mr. ASHCROFT, and Mr. INHOFE) submitted the following resolution; which was considered and agreed to:

S. RES. 120

Whereas, the American people are greatly saddened by the death of Mother Teresa of Calcutta;

Whereas, Mother Teresa founded the Missionaries of Charity, which now operates numerous orphanages, hospices, and other centers of charitable activity in the United States and around the world, offering compassionate care to those who are too often shunned by other institutions;

Whereas, Mother Teresa has been recognized as an outstanding humanitarian and has received: the first Pope John XXIII Peace Prize (1971); the Jawaharlal Nehru Award for International Understanding (1972); the Nobel Peace Prize (1979); the Presidential Medal of Freedom (1985); and the Congressional Gold Medal (1997);

Whereas, Mother Teresa became only the fifth person ever awarded honorary U.S. Citizenship (1996);

Whereas, Mother Teresa inspired people worldwide through her selfless actions and altruistic life;

Whereas, Mother Teresa embodied benevolence, compassion, and mercy and brought the face of God to humanity: Now, therefore, be it

Resolved, That the Senate—

(1). Expresses our deep admiration and respect for the life and work of Mother Teresa, and extends to her missionaries of Charity our sympathy for the loss they share with the world;

(2). Recognizes that Mother Teresa's work improved the lives of millions of people in the United States and around the world, and her example inspired countless others;

(3). Encourages all Americans to reflect on how they might keep the spirit of Mother Teresa alive through their own efforts; and

(4). Designates September 13, 1997 as a National Day of Recognition for the humanitarian efforts of Mother Teresa and of those who have labored with her in service to the poor and afflicted of the world.

SEC. 2. The Secretary of the Senate shall transmit an enrolled copy of this resolution to the Calcutta, India, Mother Teresa's House of the Missionaries of Charity.

AMENDMENTS SUBMITTED

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

HARKIN (AND FEINGOLD) AMENDMENT NO. 1123

Mr. HARKIN (for himself and Mr. FEINGOLD) proposed an amendment to amendment No. 1111 proposed by Mr. SPECTER to the bill (S. 1061) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes; as follows:

At the end of line 3 in the pending amendment insert the following: *": Provided further,* That in carrying out its legislative mandate, the National Bipartisan Commission on the Future of Medicare shall examine the role increased investments in health research can play in reducing future Medicare costs, and the potential for coordinating Medicare with cost-effective long-term care services".

THE SMALL BUSINESS REAUTHORIZATION ACT OF 1997

BOND (AND KERRY) AMENDMENT NO. 1124

Mr. BOND (for himself and Mr. KERRY) proposed an amendment to the bill (S. 1139) to reauthorize the programs of the Small Business Administration, and for other purposes, as follows:

At the end of Section 201, insert the following:

"(d) TECHNICAL ASSISTANCE GRANTS.—Section 7(m)(4)(E) of the Small Business Act (15 U.S.C. 636(m)(4)(E)) is amended—

"(1) by inserting '(i)' before 'Each intermediary'.

"(2) by striking '15' and inserting '25',

"(3) by adding at the end of the paragraph, '(ii) The intermediary may expend up to 25% of the funds received under paragraph (1)(B)(ii) to enter third party contracts for the provision of technical assistance.'"

At the end of Section 504, insert the following new section:

"SEC. 505. ASSET SALES.—in connection with the Administration's implementation of a program to sell to the private sector loans and other assets held by the Administration, the Administration shall provide to the Committees on Small Business in the Senate and House of Representatives a copy of the draft and final plans describing the sale and the anticipated benefits resulting from such sale."

On page 76, line 1, strike "Administration" and add the following: "the technical and environmental compliance assistance programs established in each state under section 507 of the Clean Air Act Amendments of 1970, or state pollution prevention programs.".

On page 76, line 16, strike "regulations." and insert the following paragraph: "regulation including cooperating with the technical and environmental compliance assistance programs established in each state under section 507 of the Clean Air Act Amendments of 1970 or state pollution prevention programs in the provision of counseling and technology development to help small businesses find solutions for complying with environmental regulations.".

On page 16, line 8, after "used" add the following "to provide intensive management, marketing and technical assistance as well as".

At the appropriate place in the bill, add the following new section:

SEC. 506. SMALL BUSINESS EXPORT PROMOTION.

(a) IN GENERAL.—Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (Q), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by inserting after subparagraph (R) the following:

"(S) providing small business owners with access to a wide variety of export-related information by establishing on-line computer linkages between small business development centers and an international trade data information network with ties to the Export Assistance Center program.".

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out section 21(c)(3)(S) of the Small Business Act (15 U.S.C. 648(c)(3)(S)), as added by this section, $1,500,000 for each fiscal years 1998 and 1999.

On page 28, line 2, add the following new subsection:

"(E) COLLATERAL REQUIREMENTS.—Adequacy of collateral provided by the small business shall be one factor evaluated in the credit determination. Collateral provided by the small business concern generally will include a subordinate lien position on the property being financed, and additional collateral may be required in a case-by-case basis, as determined by the Administration."

Strike out sections 411 through 418 and insert in lieu thereof the following:

SEC. 411. CONTRACT BUNDLING.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end the following:

"(j) In complying with the statement of congressional policy expressed in subsection (a), relating to fostering the participation of small business concerns in the contracting opportunities of the Government, each Federal agency, to the maximum extent practicable, shall—

"(1) comply with congressional intent to foster the participation of small business concerns as prime contractors, subcontractors, and suppliers;

"(2) structure its contracting requirements to facilitate competition by and among small business concerns, taking all reasonable steps to eliminate obstacles to their participation; and

"(3) avoid unnecessary and unjustified bundling of contract requirements that precludes small business participation in procurements as prime contractors.".

SEC. 412. DEFINITION OF CONTRACT BUNDLING.

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

"(o) DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.—In this Act—

"(1) The term 'bundling of contract requirements' means consolidating two or more procurement requirements for goods or services previously provided or performed under separate smaller contracts into a solicitation of offers for a single contract that is likely to be unsuitable for award to a small-business concern due to—

"(A) the diversity, size, or specialized nature of the elements of the performance specified;

''(B) the aggregate dollar value of the anticipated award;

''(C) the geographical dispersion of the contract performance sites; or

''(D) any combination of the factors described in subparagraphs (A), (B), and (C).

''(2) The term 'separate smaller contract', with respect to a bundling of contract requirements, means a contract that has been performed by one or more small business concerns or was suitable for award to one or more small business concerns.

''(3) The term 'bundled contract' means a contract that is entered into to meet requirements that are consolidated in a bundling of contract requirements.''.

SEC. 413. ASSESSING PROPOSED CONTRACT BUNDLING.

(a) IN GENERAL.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended by inserting after subsection (d) the following new subsection (e):

''(e) PROCUREMENT STRATEGIES; CONTRACT BUNDLING.—

''(1) IN GENERAL.—To the maximum extent practicable, procurement strategies used by the various agencies having contracting authority shall facilitate the maximum participation of small business concerns as prime contractors, subcontractors, and suppliers.

''(2) MARKET RESEARCH.—

''(A) IN GENERAL.—Before proceeding with an acquisition strategy that could lead to a contract containing consolidated procurement requirements, the head of an agency shall conduct market research to determine whether consolidation of the requirements is necessary and justified.

''(B) FACTORS.—For purposes of subparagraph (A), consolidation of the requirements may be determined as being necessary and justified if, as compared to the benefits that would be derived from contracting to meet those requirements if not consolidated, the Federal Government would derive from the consolidation measurably substantial benefits, including any combination of benefits that, in combination, are measurably substantial. Benefits described in the preceding sentence may include the following:

''(i) Cost savings.

''(ii) Quality improvements.

''(iii) Reduction in acquisition cycle times.

''(iv) Better terms and conditions.

''(v) Any other benefits.

''(C) REDUCTION OF COSTS NOT DETERMINATIVE.—The reduction of administrative or personnel costs alone shall not be a justification for bundling of contract requirements unless the cost savings are expected to be substantial in relation to the dollar value of the procurement requirements to be consolidated.

''(3) STRATEGY SPECIFICATIONS.—If the head of a contracting agency determines that a proposed procurement strategy for a procurement involves a substantial bundling of contract requirements, the proposed procurement strategy shall—

''(A) identify specifically the benefits anticipated to be derived from the bundling of contract requirements;

''(B) set forth an assessment of the specific impediments to participation by small business concerns as prime contractors that result from the bundling of contract requirements and specify actions designed to maximize small business participation as subcontractors (including suppliers) at various tiers under the contract or contracts that are awarded to meet the requirements; and

''(C) include a specific determination that the anticipated benefits of the proposed bundled contract justify its use.

''(4) CONTRACT TEAMING.—In the case of a solicitation of offers for a bundled contract that is issued by the head of an agency, a small-business concern may submit an offer that provides for use of a particular team of subcontractors for the performance of the contract. The head of the agency shall evaluate the offer in the same manner as other offers, with due consideration to the capabilities of all of the proposed subcontractors. When a small business concern teams under this paragraph, it shall not affect its status as a small business concern for any other purpose.''.

(b) ADMINISTRATION REVIEW.—The third sentence of subsection (a) of such section is amended—

(1) by inserting after ''discrete construction projects,'' the following: ''or the solicitation involves an unnecessary or unjustified bundling of contract requirements, as determined by the Administration,'';

(2) by striking out ''or (4)'' and inserting in lieu thereof ''(4)''; and

(3) by inserting before the period at the end the following: '', or (5) why the agency has determined that the bundled contract (as defined in section 3(o)) is necessary and justified''.

(c) RESPONSIBILITIES OF AGENCY SMALL BUSINESS ADVOCATES.—Subsection (k) of such section is amended—

(1) by redesignating paragraphs (5) through (9) as paragraphs (6) through (10), respectively; and

(2) by inserting after paragraph (4) the following:

''(5) identify proposed solicitations that involve significant bundling of contract requirements, and work with the agency acquisition officials and the Administration to revise the procurement strategies for such proposed solicitations where appropriate to increase the probability of participation by small businesses as prime contractors, or to facilitate small business participation as subcontractors and suppliers, if a solicitation for a bundled contract is to be issued;''.

SEC. 414. REPORTING OF BUNDLED CONTRACT OPPORTUNITIES.

(a) DATA COLLECTION REQUIRED.—The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4)(A)) shall be modified to collect data regarding bundling of contract requirements when the contracting officer anticipates that the resulting contract price, including all options, is expected to exceed $5,000,000. The data shall reflect a determination made by the contracting officer regarding whether a particular solicitation constitutes a contract bundling.

(b) DEFINITIONS.—In this section, the term ''bundling of contract requirements'' has the meaning given that term in section 3(o) of the Small Business Act (15 U.S.C. 632(o)) (as added by section 412 of this title).

SEC. 415. EVALUATING SUBCONTRACT PARTICIPATION IN AWARDING CONTRACTS.

Section 8(d)(4) of the Small Business Act (15 U.S.C. 637(d)(4)) is amended by adding at the end the following:

''(G) The following factors shall be designated by the Federal agency as significant factors for purposes of evaluating offers for a bundled contract where the head of the agency determines that the contract offers a significant opportunity for subcontracting:

''(i) A factor that is based on the rate provided under the subcontracting plan for small business participation in the performance of the contract.

''(ii) For the evaluation of past performance of an offeror, a factor that is based on the extent to which the offeror attained applicable goals for small business participation in the performance of contracts.''.

SEC. 416. IMPROVED NOTICE OF SUBCONTRACTING OPPORTUNITIES.

(a) USE OF THE COMMERCE BUSINESS DAILY AUTHORIZED.—Section 8 of the Small Business Act (15 U.S.C. 637) is amended by adding at the end the following:

''(k) NOTICES OF SUBCONTRACTING OPPORTUNITIES.—

''(1) IN GENERAL.—Notices of subcontracting opportunities may be submitted for publication in the Commerce Business Daily by—

''(A) a business concern awarded a contract by an executive agency subject to subsection (e)(1)(C); and

''(B) a business concern which is a subcontractor or supplier (at any tier) to such contractor having a subcontracting opportunity in excess of $10,000.

''(2) CONTENT OF NOTICE.—The notice of a subcontracting opportunity shall include—

''(A) a description of the business opportunity that is comparable to the description specified in paragraphs (1), (2), (3), and (4) of subsection (f); and

''(B) the due date for receipt of offers.''.

(b) REGULATIONS REQUIRED.—The Federal Acquisition Regulation shall be amended to provide uniform implementation of the amendments made by this section.

(c) CONFORMING AMENDMENT.—Section 8(e)(1)(C) of the Small Business Act (15 U.S.C. 637(e)(1)(C)) is amended by striking ''$25,000'' each place that term appears and inserting ''$100,000''.

SEC. 417. DEADLINES FOR ISSUANCE OF REGULATIONS.

(a) PROPOSED REGULATIONS.—Proposed amendments to the Federal Acquisition Regulation or proposed Small Business Administration regulations under this subtitle and the amendments made by this subtitle shall be published not later than 120 days after the date of enactment of this Act for the purpose of obtaining public comment pursuant to section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b), or chapter 5 of title 5, United States Code, as appropriate. The public shall be afforded not less than 60 days to submit comments.

(b) FINAL REGULATIONS.—Final regulations shall be published not later than 270 days after the date of enactment of this Act. The effective date for such final regulations shall be not less than 30 days after the date of publication.

At an appropriate place, insert the following:

SEC. ___. DEFENSE LOAN AND TECHNICAL ASSISTANCE PROGRAM.

(a) DELTA PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Administrator of the Small Business Administration may administer the Defense Loan and Technical Assistance program in accordance with the authority and requirements of this section.

(2) EXPIRATION OF AUTHORITY.—The authority of the Administrator to carry out the DELTA program under paragraph (1) shall terminate when the funds referred to in subsection (g)(1) have been expended.

(3) DELTA PROGRAM DEFINED.—In this section, the terms ''Defense Loan and Technical Assistance program'' and ''DELTA program'' mean the Defense Loan and Technical Assistance program that has been established by a memorandum of understanding entered into by the Administrator and the Secretary of Defense on June 26, 1995.

(b) ASSISTANCE.—

(1) AUTHORITY.—Under the DELTA program, the Administrator may assist small business concerns that are economically dependent on defense expenditures to acquire dual-use capabilities.

(2) FORMS OF ASSISTANCE.—Forms of assistance authorized under paragraph (1) are as follows:

(A) LOAN GUARANTEES.—Loan guarantees under the terms and conditions specified under this section and other applicable law.

(B) NONFINANCIAL ASSISTANCE.—Other forms of assistance that are not financial.

(c) ADMINISTRATION OF PROGRAM.—In the administration of the DELTA program under this section, the Administrator shall—

(1) process applications for DELTA program loan guarantees;

(2) guarantee repayment of the resulting loans in accordance with this section; and

(3) take such other actions as are necessary to administer the program.

(d) SELECTION AND ELIGIBILITY REQUIREMENTS FOR DELTA LOAN GUARANTEES.—

(1) IN GENERAL.—The selection criteria and eligibility requirements set forth in this subsection shall be applied in the selection of small business concerns to receive loan guarantees under the DELTA program.

(2) SELECTION CRITERIA.—The criteria used for the selection of a small business concern to receive a loan guarantee under this section are as follows:

(A) The selection criteria established under the memorandum of understanding referred to in subsection (a)(3).

(B) The extent to which the loans to be guaranteed would support the retention of defense workers whose employment would otherwise be permanently or temporarily terminated as a result of reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

(C) The extent to which the loans to be guaranteed would stimulate job creation and new economic activities in communities most adversely affected by reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

(D) The extent to which the loans to be guaranteed would be used to acquire (or permit the use of other funds to acquire) capital equipment to modernize or expand the facilities of the borrower to enable the borrower to remain in the national technology and industrial base available to the Department of Defense.

(3) ELIGIBILITY REQUIREMENTS.—To be eligible for a loan guarantee under the DELTA program, a borrower must demonstrate to the satisfaction of the Administrator that, during any 1 of the 5 preceding operating years of the borrower, not less than 25 percent of the value of the borrower's sales were derived from—

(A) contracts with the Department of Defense or the defense-related activities of the Department of Energy; or

(B) subcontracts in support of defense-related prime contracts.

(e) MAXIMUM AMOUNT OF LOAN PRINCIPAL.—The maximum amount of loan principal for which the Administrator may provide a guarantee under this section during a fiscal year may not exceed $1,250,000.

(f) LOAN GUARANTY RATE.—The maximum allowable guarantee percentage for loans guaranteed under this section may not exceed 80 percent.

(g) FUNDING.—

(1) IN GENERAL.—The funds that have been made available for loan guarantees under the DELTA program and have been transferred from the Department of Defense to the Small Business Administration before the date of the enactment of this Act shall be used for carrying out the DELTA program under this section.

(2) CONTINUED AVAILABILITY OF EXISTING FUNDS.—The funds made available under the second proviso under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'' in Public Law 103–335 (108 Stat. 2613) shall be available until expended—

(A) to cover the costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees issued under this section; and

(B) to cover the reasonable costs of the administration of the loan guarantees.

SESSIONS (AND OTHERS) AMENDMENT NO. 1125

Mr. SESSIONS (for himself, Mr. CRAIG, and Mr. FAIRCLOTH) proposed an amendment to amendment No. 1078 proposed by Mr. DURBIN to the bill, S. 1061, supra; as follows:

At the end of the amendment, add the following:

SEC. . (a) GENERAL LIMITATION.—Notwithstanding any other provision of law, if any attorneys' fees are paid (on behalf of attorneys for the plaintiffs) in connection with an action maintained by a State against one or more tobacco companies to recover tobacco-related medicaid expenditures or for other causes of action involved in the settlement agreement, such fees shall—

(1) not be paid at a rate that exceeds $250 per hour; and

(2) be limited to a total of $5,000,000.

(b) FEE ARRANGEMENTS.—Subsection (a) shall apply to attorneys' fees provided for or in connection with an action of the type described in such subsection under any—

(1) court order;

(2) settlement agreement;

(3) contingency fee arrangement;

(4) arbitration procedure;

(5) alternative dispute resolution procedure (including mediation); or

(6) other arrangement providing for the payment of attorneys' fees.

(c) EXPENSES.—The limitation described in subsection (a) shall not apply to any amounts provided for the attorneys' reasonable and customary expenses.

(d) REQUIREMENTS.—No award of attorneys' fees shall be made under any national tobacco settlement until the attorneys involved have—

(1) provided to the Governor of the appropriate State, a detailed time accounting with respect to the work performed in relation to any legal action which is the subject of the settlement or with regard to the settlement itself; and

(2) made public disclosure of the time accounting under paragraph (1) and any fee agreements entered into, or fee arrangements made, with respect to any legal action that is the subject of the settlement.

(e) PROVISION OF FUNDS FOR CHILDREN'S HEALTH RESEARCH.—Any amounts provided for attorneys' fees in excess of the limitation applicable under this section shall be paid into the Treasury for use by the National Institutes of Health for research relating to children's health.

(f) EFFECTIVE DATE.—The limitation on the payment of attorneys' fees contained in this section shall become effective on the date of enactment of any Act providing for a national tobacco settlement.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to consider the nominations of Ernest J. Moniz to be Under Secretary, Department of Energy; Michael Telson to be chief financial officer, Department of Energy; Mary Anne Sullivan to be general counsel, Department of Energy; Dan Reicher to be Assistant Secretary for Energy, Efficiency, and Renewable Energy, Department of Energy; Robert Gee to be Assistant Secretary for Policy and International Affairs, Department of Energy; and John Angell to be Assistant Secretary for Congressional and Intergovernmental Affairs, Department of Energy.

The hearing will take place Thursday, September 18, 1997 at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Camille Flint at (202) 224–5070.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on Tuesday, October 7, 1997 at 9 a.m. in SR–328A. The purpose of this hearing is to examine food safety issues and recent food safety legislation proposed by the U.S. Department of Agriculture.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, September 9, 1997, at 10 a.m. in open session, to consider the nomination of Gen. Henry H. Shelton, USA, to be Chairman of the Joint Chiefs of Staff.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BROWNBACK. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee Special Investigation to meet on Tuesday, September 9, at 10 a.m., for a hearing on campaign financing issues.

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

ADDITIONAL STATEMENTS

ISLAMIC AND ARAB BUSINESS INVESTMENT CONFERENCE

● Mr. ABRAHAM. Mr. President, I rise today to express my sincere best wishes to those individuals who are participating in the Islamic & Arab Business Investment Conference in Detroit, MI. The objective of this Conference is to bring Islamic and Arab leaders together to focus upon business investment opportunities in North

America and around the world. This event which begins on September 12, 1997, is worthy of recognition.

Mr. President, I commend each person who will participate in this important conference, which in effect advances and demonstrates the continuing positive contributions of Muslim and Arab Americans. Through lectures, round table discussions, and exchange of ideas, I am confident that this conference will continue to build upon the relationships which exist between the United States and the Muslim and Arab communities.

Many in the Islamic and Arab communities have given generously of their time and energy in preparation for this conference. They are to be commended for their efforts and I am pleased to recognize this event in the U.S. Senate.●

TRIBUTE TO FLORIDA A&M UNIVERSITY: ''COLLEGE OF THE YEAR''

● Mr. GRAHAM. Mr. President, as we send our children and grandchildren back to school to begin another academic year, we as a nation focus on the vital role of education.

Florida is proud of its role in developing and nurturing colleges and universities of excellence that have educated generations of America's leaders. One of those institutions, Florida A&M University, has been cited as ''College of the Year'' by the editors of Time magazine and The Princeton Review.

The editors cited the school's outstanding enrollment of National Achievement Scholars, its position as the only historically African-American college to offer four Ph.D programs, and dramatic enrollment growth.

This well-deserved national recognition is a tribute to the students, alumni, and staff of Florida A&M University. It also reflects the outstanding leadership of President Frederick Humphries, who has led the institution with vision and dedication since 1985.

When classes began this academic year, enrollment exceeded 10,000 students, up from 3,200 in the mid-eighties. Florida A&M University enrolled its largest freshman class ever this fall.

Further, the number of bachelors' degrees awarded since 1991 has more than tripled, from 463 in 1991 to 1,524 last year, surpassing Howard University as America's leading granter of undergraduate degrees to African-American college graduates.

During this decade, Florida A&M University, along with Harvard, has been a leader in attracting National Achievement Scholars. Florida A&M University led the Nation in 1992 and 1995; Harvard in 1993 and 1994.

While all this was occurring—enrollment growth, more degrees awarded and more scholars enrolled—overall admission standards increased. In the past 10 years, Scholastic Aptitude Test scores of Florida A&M University-bound students rose more than 200 points.

Mr. President, I have been honored to visit Florida A&M University on many occasions. I have experienced the special spirit on campus, in the classrooms, and among the greater Florida A&M University family of alumni, faculty, administrators, and students.

Our State and Nation are better because of Florida A&M University and its commitment to educational excellence. Congratulations, Rattlers.

Mr. President, I ask that an editorial published in the Tallahassee Democrat newspaper on August 26, 1997, be printed in the RECORD.

The editorial follows:

WHY FAMU'S TOP ACHIEVEMENTS RATE NATIONAL PRESS

Vestiges of a past when men and women were judged by the color of their skin are still with us. And one of those monuments of intolerance ranks as one of Tallahassee's brighter stars, Florida A&M University.

In an age where segregation is illegal, the natural question is, Why have two universities: one white, one black?

But the reason for FAMU's existence is as strong today as it was when black people were driven from pillar to post and denied higher education. Time Magazine and the Princeton Review lauded FAMU as the premier producer of black graduates and for its work in establishing doctorate programs.

HE RECRUITED STUDENTS, LINED UP JOBS

Consider what wonders FAMU has performed with students in need of opportunity. Since 1991, the school tripled the size of its graduating classes. President Frederick Humphries' peripatetic efforts landed those graduates hundreds of jobs with major corporations, thus pumping into our mainstream new generations of black achievers able to earn their own way.

His development of new doctoral programs opened new avenues of academic success, and his linkages with the federal government brought dollars and prestige to FAMU and to Tallahassee.

We're still moving toward that day when we'll all be judged by the content of our character, not solely by the color of our skin. But until we get there, institutions such as FAMU are an integral and necessary part of the journey.

In an age of voluntary segregation—when the rich and well-to-do take their tax dollars, culture and opportunities beyond the pale of our cities—hundreds of thousands of blacks and poor whites are left to founder in the race for jobs and college placement.

For those students, the nurturing influence of institutions such as FAMU cannot be denied.●

TRIBUTE TO HONOR PETER WOLF TOTH

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Peter Wolf Toth who has completed a project to present each State with a handmade wooden totem pole that incorporates local and historical figures from all across the Nation. I commend his outstanding gift to our Nation.

Peter came to the United States through extraordinary circumstances. He escaped with his mother from the Soviet takeover in Russian-occupied Hungary. Traveling through Budapest, Yugoslavia, and Austria, Peter eventually settled in Akron, OH. His interests led him to educate himself in American history, specifically with a focus on native American lore, tribal cultures, and contributions to our lifestyle today.

Peter recently completed a project where he carved out enormous totem poles by hand and presented one to each of the fifty States to show his gratitude to our country.

His totem pole to New Hampshire was presented in 1984 and it stands in Opechee Park in Laconia, NH. The dedication ceremony that September drew a crowd of over 3,000 people.

Peter's immigration into this country, as well as his hard work, should stand as an example for all Americans. It is no doubt that he is worthy of great recognition and praise for his devotion to the United States.

Mr. President, I want to pay great homage to Peter Wolf Toth for his outstanding commitment to the United States. We are indebted to his amazing gifts and talents that he chose to share with all of us.●

TRIBUTE TO JUDGE ALAN GOLD

● Mr. GRAHAM. Mr. President, I am honored to welcome Judge Alan Gold to the Federal bench in the Southern District of Florida. For more than 25 years, Alan Gold has served the State of Florida with honor and distinction. I have no doubt that his outstanding service will continue in his new assignment. On September 15, Judge Gold will be sworn in, along with Mr. Donald Middlebrooks, in ceremonies in Miami, FL.

Much of my confidence in Judge Alan Gold comes from his lifelong commitment to the people of our State. He began his career more than 25 years ago, when he represented Dade County in both State and Federal courts.

In 1975, Alan Gold moved into private practice, where he developed wide recognition and respect as a leader in land use and environmental law.

In 1984, when I was Governor, I appointed Judge Gold to Florida's Land Management Study Committee, a vital post given our State's long period of rapid population growth. In addition, Judge Gold served Florida for 6 years as general counsel to the Florida High Speed Rail Transportation Commission, an entity created by the State legislature in 1984 to develop a high-speed rail transportation and magnetic levitation demonstration project.

Mr. President, in addition to his substantial professional experience, Judge Gold will bring respected academic credentials to the Federal bench. In 1989, nearly 25 years after completing a masters in law at the University of Miami School of Law, Judge Gold was invited to join his alma mater's faculty as an adjunct professor. It was a wise invitation to an outstanding role model for future generations of legal professionals.

As a result of his distinguished efforts in the public interest and in private practice, Alan Gold was appointed

to Florida's Eleventh Judicial Circuit Court, where he has served with integrity and competence. His peers and colleagues have overwhelmingly endorsed his abilities. In a 1994 survey of regional attorneys by the Dade County Bar, 92.8 percent of respondents rated Judge Gold's performance as qualified or exceptionally qualified.

As a circuit court judge, Alan Gold served both in the family and criminal divisions, where he presided over felony jury cases. Despite the demands of a heavy caseload, Judge Gold continued his efforts to improve the legal system for Florida communities, families, and individuals. He was appointed to the Florida Supreme Court's Family Court Steering Committee and has recently chaired an effort to develop a model family court.

During the confirmation process, Judge Gold's support transcended partisanship. In addition to the support from Senator CONNIE MACK and myself, he earned strong endorsements from U.S. Representatives LINCOLN DIAZ-BALART of Miami and E. CLAY SHAW of Fort Lauderdale.

Mr. President, Judge Alan Gold has long provided an example of academic diligence, legal acumen, judicial excellence, and determination to serve Floridians. I am pleased that he will join the Federal bench, and extend my congratulations to him, his family, and the Senate for its prompt review and confirmation of this worthy nominee.●

MICHIGAN STATE CONFERENCE OF THE NAACP

● Mr. ABRAHAM. Mr. President, I rise today to extend my best wishes to those who will participate in the 61st annual convention of the Michigan State Conference of the NAACP. This event will be held in Saginaw, MI, on September 12, 1997.

As race relations continue to be at the forefront of American life, this convention provides an opportunity for delegates to openly discuss issues which confront not only their communities, but everyday lives. The NAACP convention will focus on finding programmatic solutions to such issues as, education, violence, crime, homelessness, and drug abuse. It is through open dialog and the exchange of information that concrete solutions to these issues will be found. I commend the delegates and organizers of this convention for their steadfast desire to address the racial and social problems facing the United States today.

Again, I extend my heartfelt best wishes on this special occasion.●

TRIBUTE TO GUYANESE INDEPENDENCE

Mr. LAUTENBERG. Mr. President, I rise to commemorate the May 27, 1997 31st anniversary of the independence of the Republic of Guyana. The word ''Guyana'' is an indigenous word that means land of many waters. But Guyana is also a land of many peoples, with East Indians, Africans, Chinese, Amer-Indians, and Europeans counted among its ancestors. Guyana is also a country that embraces freedom of religion, which allows Christians, Muslims, and Hindus to worship side by side.

My colleagues may be aware that Guyana achieved independence and observed its first free and fair election in 1992, after more than three centuries of British, French, and Dutch colonialism. Guyana's first constitution bore the influence of British legal traditions, and former President Jimmy Carter supervised the team of international observers to guarantee the fairness of the 1992 elections.

Guyana's three decades of unpopular and repressive rule slowed economic progress, but Guyanese are working to overcome these hurdles. I hope that they will succeed.

Guyanese-Americans have much to be proud of. Their history is rich, and I hope the future of Guyana will be bright.●

TRIBUTE TO THE SHELBURNE MUSEUM

●Mr. JEFFORDS. Mr. President, I rise today to pay tribute to Vermont's Shelburne Museum on the occasion of its 50th anniversary. The museum, sometimes referred to as New England's Smithsonian, will celebrate its anniversary on September 27, 1997 with a myriad of activities for people young and old.

The museum's founder, Electra Havemeyer Webb, was a pioneer collector of Americana and American folk art. Today, the museum collects, preserves, and studies art as well as history with an emphasis on the New England area. Thirty-seven exhibit buildings spanning across 45 scenic acres include three galleries, 7 furnished historic homes and over 80,000 objects. The historic buildings and collections reflect our transition from an agricultural to an industrial nation.

The Shelburne Museum has become an important cultural resource for Vermont and the Nation. In a rapidly changing world its collections as well as its programs provide the public and scholars alike with an opportunity to reflect on and explore the central themes of ingenuity, craftsmanship and creativity.

The museum embodies a spirit of celebration which provides visitors from across the country and around the world with a unique perspective into the region's history. As a learning tool, it plays a significant role in reminding patrons that the past can often provide a key to the future.

Mr. President, I wish the Shelburne Museum many more years of continued success in service to our community.●

A MORE COMPLETE PICTURE

● Mrs. MURRAY. Mr. President, on September 3, during floor deliberations the senior Senator from Washington presented a story of a most tragic situation on the Yakama Indian Reservation in his call for support of an appropriations rider that would require tribal governments to relinquish their right to sovereign immunity in order to receive Federal funding.

In 1994, a tragic accident involving a tribal police officer en route to the scene of an ensuing robbery resulted in the death of 18-year-old Jered Gamache. Before I proceed, I want to express my deepest sympathies to the Gamache family for this devastating loss. As a mother of two, I find it almost unbearable to contemplate such a loss. It is always painful to lose a loved one, but the loss of a child is something no parent should have to face.

The issues involved here are very controversial and everyone involved has strong views. In the interest of airing views from all sides regarding section 120 of the Interior appropriations bill, I have agreed to submit a statement on behalf of the Yakama Indian Nation in response to the chairman's comments. I ask that the statement from the Yakama Indian Nation be printed in the RECORD.

The statement follows:

YAKAMA INDIAN NATION ASTONISHED BY GORTON FLOOR STATEMENT WHEREIN HE MADE ANALOGY OF TRIBAL POLICE OFFICER ACTING WITHIN HER SCOPE OF DUTY AND NEW YORK COPS WHO BRUTALIZED A HAITIAN IMMIGRANT

TOPPENISH, WASHINGTON.—The Yakama Indian Nation today responded with both amazement and sadness to statements made Wednesday on the Senate floor by Senator Slade Gorton (R-Wash.), wherein the Senator made an analogy of a 1994 accidental vehicular death involving a Tribal police officer responding to an emergency call (regarding an urgent armed robbery in progress), to the intentional brutal beating and sodomization recently inflicted by New York City policemen against Haitian immigrant Abner Louima.

In what appears to be an attempt to justify a far-reaching amendment he has inserted into an appropriations bill that would eradicate tribal sovereign immunity, the senior Senator from Washington has chosen to exploit the victimization of Abner Louima and a tragic car accident that occurred on our reservation.

The facts of the case cited by Gorton should be brought to light as should the point that a close associate of the Senator, Yakima County Prosecutor, Jeff Sullivan, declined to pursue a criminal prosecution (for ''disregarding the safety of others'') against the tribal police officer involved in the accident.

On October 25, 1994, Tiffany Martin, a fully trained police officer of the Yakama Indian Nation responded to an emergency call for assistance from the Yakama County Sheriff's office. There was a burglary in progress at a convenience store and the closer police force in the city of Wapato had not responded. Officer Martin proceeded in her police vehicle northbound on Route 97 with both sirens and overhead flashers on. During her response a second call came in indicating that gun shots had been fired and the situation was clearly quite urgent. As the officer approached a particular intersection, where she initially had a green light, she slowed her vehicle down (she estimates to between

30 and 35 miles per hour), noticing a van stopped at the intersection with its turn, signal on. Apparently next to the van and hidden from the officer's line of sight was another vehicle. Confirming that the stopped vehicle was aware of her presence, she accelerated and went through the intersection as the light turned yellow and then red. The van remained stopped but the vehicle next it, being driven by 18 year old Jered Gamache went forward and his vehicle and the police care collided. Gamache died as a result of injuries suffered in the collision. The tribal police force has expressed great remorse to the Gamache family and the officer herself has suffered tremendously and emotionally as a result of the accident.

While we have the greatest sympathy for the family of Jered Gamache and can understand their pain we can not understand how a member of the United States Senate could suggest that this accident is somehow analogous to the celebrated Louima beating in New York. Senator Gorton has stated that since Mr. Louima is going to be suing New York City for millions of dollars so too should the Gamache family be able to sue the Yakama Nation for a similar amount. With all due respect, this is not an analogy worthy of a former state Attorney General. The New York policemen who beat Louima broke the law. Our tribal police officer was acting within her scope of duty and following routine procedures. While it is tragic, there are unfortunately a large number of innocent bystanders all across this country who are accidentally hurt or killed by law enforcement officers discharging their duties. The fact remains that police officers and the governments they work for are protected by a sovereign immunity provided they have acted within the line of duty in a non-negligent manner. Would the Senator characterize, as he did on the floor, that a claim against, say, a King County, Washington policeman involved in an accidental vehicular death as ''identical or similar'' to the claim Mr. Louima will be pursuing against New York?

Contrary to the Senator's assertions, the Gamache family has not been denied legal recourse due to tribal sovereign immunity. In fact, the Gamache family has a filed civil suit which is currently pending in the Eastern District Federal Court of Washington state, trial is set for December 8, 1997. The Gamache family is pursuing this claim under the Federal Tort Claims Act (28 USC 2671), which is the same statute under which they would pursue a claim if any other federal law enforcement official (FBI, National Park Service ranger, etc.) has been involved in their son's death. The Federal Tort Claims Act (FTCA) is the statute involved as the Yakama Nation was operating its tribal police department under a contract with the Interior Department pursuant to the Indian Self-Determination Act and the tribal police officer was acting as a federal agent. United States District Judge Fred Van Sickle will determine whether the officer involved showed contributory negligence which led to the accident and will further determine whether she was properly acting within the scope of her duty. The standards for these terms under FTCA are the standards as they exist within Washington state law. Not only are the Gamache's being given legal recourse, but it is taking place in the ''neutral'' federal court which the Senator wants to direct all cases coming from Indian reservations.

Perhaps this is a good example of the dangers of making law based on anecdotal situations, particularly when the facts have not been properly brought to light.●

CONGRESSMAN GEORGE CROCKETT, JR.

● Mr. ABRAHAM. Mr. President, I rise today to pay my respects to former Michigan Congressman George Crockett, Jr. Congressman Crockett represented the people of Detroit in the House of Representatives from 1980–1991 and before that as a Recorder's court judge from 1966–78.

Undoubtedly, Congressman Crockett's legacy will be his tireless work on behalf of civil and human rights. As a private attorney, as a judge, and as an elected official Congressman Crockett sought to provide legal protection to all Americans, especially African-Americans and other minorities. As is always the case with dynamic leaders, there are many who disagreed with Congressman Crockett and his actions. Never questioned, however, was his integrity and honesty.

Congressman Crockett exemplified a lifetime of commitment to public service. In the words of Congressman Crockett's friend and colleague, Michigan State Representative Ted Wallace, ''Men like George Crockett never die. His spirit and name will live on forever.''●

MEDIA COVERAGE IN BOSNIA

● Mr. LEVIN. Mr. President, I rise today to talk about media coverage in Bosnia and the importance of a fair, free, and independent media to the safety of United States and allied forces, the implementation of the Dayton peace accords, and peace for the Bosnian people.

Recent events in the Serb area of Bosnia have served to highlight the disruptive role that the media, particularly television, can play as we have witnessed what Gen. Wesley Clark, NATO's Supreme Allied Commander, characterized as ''organized disorder.''

It was the potential for television-incited violence that led me to propose in my floor speech of July 30 the deployment of the EC–130E Commando Solo aircraft to jam Bosnian Serb television and to broadcast television and radio programming directly to the Bosnian people. I also made that proposal in writing to National Security Adviser Sandy Berger and Secretary of Defense Bill Cohen. I understand that the deployment of Commando Solo is under serious consideration at the Pentagon at the present time.

In making my proposal, I specifically cited a provision of the Agreement on the Military Aspects of the Dayton Peace Agreement that gives NATO's Stabilization Force Commander the authority to do all that he deems necessary and proper to protect the SFOR and to carry out its responsibilities.

I should note at this point that the High Representative, Mr. Carlos Westendorp, a position that was created by the Dayton peace accords to oversee the implementation of the civilian aspects of the accords, has been invested with similar authority. The Peace Implementation Council, in its May 30, 1997 Sintra Declaration, declared as follows:

> The authorities of Bosnia and Herzegovina, the Entities and the common institutions will be expected to give every possible form of practical assistance with respect to licenses, frequencies, free access by the High Representative to news media and the ability of the OBN (Open Broadcast Network) and other independent media to broadcast.
>
> The Steering Board is concerned that the media has not done enough to promote freedom of expression and reconciliation. It declared that the High Representative has the right to curtail or suspend any media network or programme whose output is in persistent and blatent contravention of either the spirit or letter of the Peace Agreement.

So there is ample authority in both the senior military and civilian authorities representing the international community in Bosnia to take action to address the misuse of Bosnian Serb television and other media outlets.

I was pleased to note that the North Atlantic Council, on August 30, acting pursuant to a request from the High Representative authorized SFOR ''to provide the necessary support to suspend or curtail any media network or programme in Bosnia and Herzegovina whose output is in persistent and blatant contradiction of either the spirit or letter of the Peace Agreement, in accordance with the Sintra Declaration.''

The North Atlantic Council further reaffirmed that ''SFOR will not hesitate to take the necessary measures including the use of force against media inciting attacks on SFOR or other international organizations.'' I ask unanimous consent that a North Atlantic Council press release that contains these decisions be printed in the RECORD at the conclusion of my remarks.

Mr. President, there have been a number of media reports and commentaries concerning the agreement that was reached on September 2 concerning the release of the Udrigovo television tower northeast of Tuzla. Several commentaries have criticized the agreement, under which the tower was returned to Pale's control, as being a capitulation to Karadzic. I believe this is a misreading of the situation.

Under the agreement, SFOR turned over the Udrigovo tower in return for four commitments from Pale. Those commitments are as follows:

First, all media will refrain from making inflammatory reporting against SFOR and international organizations supporting the execution of the Dayton accord. This includes television, radio, and the print media.

Second, television will regularly provide 1 hour of programming during prime time each day without exception, during which our political views will be aired.

Third, television will provide Ambassador Westendorp, the new High Representative, one-half-hour programming during prime time in the next few

days to introduce himself and explain the events which took place in Brcko, Bijelina, and Banja Luka. Such time will be unedited and not commented on in advance or after airing by TV commentators.

Fourth, Republika Srpska will participate in a full and consistent manner in a Media Support Advisory Group conducted by the Office of the High Representative to discuss and regulate the work of the media in accordance with the spirit and the letter of the General Framework Agreement for Peace, the formal name of the Dayton accord.

I ask that a copy of the Memorandum of Agreement that contains these conditions be printed in the RECORD at the conclusion of my remarks.

If fulfilled, these commitments should reduce the threat to United States, allied forces, and the personnel of the various international organizations in Bosnia. They will also ensure that the views of Karadjic's opponents will be heard, which is very important, particularly in the run-up to the municipal elections.

Mr. President, I am skeptical that Karadjic and his henchmen will live up to the terms of this agreement. It is most important to note, however, that Pale has for the first time formally acknowledged its media obligations and cannot complain if NATO uses force if it doesn't meet them. The ball is in Pale's court and I, for one, will strongly support decisive action by NATO, such as the use of Commando Solo, if Pale continues to misuse the media.

The material follows:

STATEMENT BY THE NORTH ATLANTIC COUNCIL, 30 AUGUST 1997

The North Atlantic Council met today to continue its consideration of the developing situation in the Republic Srpska. It reaffirmed yesterday's statement by the Secretary General condemning recent violence and confirming that SFOR will continue to carry out its mission firmly but fairly and will not tolerate the use of force or intimidation.

Council responded positively to a request by the High Representative to authorize SFOR to provide the necessary support to suspend or curtail any media network or programme in Bosnia and Herzegovina whose output is in persistent and blatant contradiction of either the spirit or the letter of the Peace Agreement, in accordance with the Sintra Declaration.

In addition, Council reaffirmed that SFOR will not hesitate to take the necessary measures including the use of force against media inciting attacks on SFOR or other international organizations.

DEPARTMENT OF THE ARMY,
HEADQUARTERS 1ST INFANTRY DIVISION,
Bosnia Herzegovina, 02 September 97.

MEMORANDUM OF AGREEMENT FOR RELEASE OF UDRIGOVO TOWER (CQ334489)

As per coordination between Ambassador Klein and Mr. Krajisnik, the turn over of the tower will occur with agreement of the following points:

1. RS media, TV, radio, print media, refrain from making inflammatory reporting against SFOR and international organizations supporting the execution of the Dayton Accord.

2. RS TV will regularly provide one hour of programming during prime time each day without exception, during which other political views will be aired.

3. RS TV will provide Ambassador Westendorp ½ hour during prime time in the next few days to introduce himself and explain the events which took place in Breko, Bijelina and Banja Luka. Such time will be unedited and not commented on in advance or after airing by RS TV commentators.

4. RS agrees to participate in a full and consistent manner in a Media Support Advisory Group conducted by OHR to discuss and regulate the work of the media in accordance with the spirit and the letter of the GFAP.

The signing of this document by the signatures below will release SFOR from the Udrigovo tower as soon as they can safely depart the morning of 2 September. The crowds at the tower will depart tonight, and 10 RS police and technicians may remain.

DAVID GRANGE.
DRAGO VUKOVIC.
GEN. KANSIK.●

SUBMITTING CHANGES TO THE BUDGET RESOLUTION ALLOCATION TO THE APPROPRIATIONS COMMITTEE

● Mr. DOMENICI. Mr. President, to comply with the provisions of Public Law 105–33, the Balanced Budget Act of 1997, that amend the Congressional Budget Act of 1974, I hereby submit a revised allocation for the Appropriations Committee pursuant to section 302(a) of the Budget Act.

This revised allocation includes all previous adjustments made to section 201 of House Concurrent Resolution 84, the concurrent resolution on the budget for fiscal year 1998, and to the Appropriations Committee budget authority and outlay allocations pursuant to section 302 of the Budget Act.

This revised allocation also includes an adjustment to the Appropriations Committee budget authority and outlay allocations pursuant to section 205 of House Concurrent Resolution 84 regarding priority federal land acquisitions and exchanges.

The revised allocation follows:

	Budget authority	Outlays
Defense discretionary	269,000,000,000	266,823,000,000
Nondefense discretionary	255,909,000,000	283,122,000,000
Violent crime reduction fund	5,500,000,000	3,592,000,000
Mandatory	277,312,000,000	278,725,000,000
Total allocation	807,721,000,000	832,262,000,000●

SENATE QUARTERLY MAIL COSTS

● Mr. WARNER. Mr. President, in accordance with section 318 of Public Law 101–520 as amended by Public Law 103–283, I am submitting the frank mail allocations made to each Senator from the appropriation for official mail expenses and a summary tabulation of Senate mass mail costs for the second quarter of fiscal year 1997 to be printed in the RECORD. The third quarter of fiscal year 1997 covers the period of April 1, 1997, through June 30, 1997. The official mail allocations are available for frank mail costs, as stipulated in Public Law 104–197, the Legislative Branch Appropriations Act for fiscal year 1997.

The material follows:

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING JUNE 30, 1997

Fiscal year 1997 official mail allocation	Total pieces	Pieces per capita	Total cost	Cost per capita
$143,028	2,550	0.00027	$562.32	$0.00006
43,336	0		0.00	
59,148	0		0.00	
97,617	0		0.00	
41,864	2,578	0.00313	2,080.10	0.00252
50,841	97,800	0.05394	14,656.48	0.00808
40,023	0		0.00	
50,582	0		0.00	
97,617	0		0.00	
382,528	0		0.00	
33,378	0		0.00	
82,527	0		0.00	
20,625	0		0.00	
52,198	0		0.00	
50,755	0		0.00	
62,350	0		0.00	
41,864	0		0.00	
53,135	0		0.00	
77,822	0		0.00	
43,394	0		0.00	
90,218	0		0.00	
100,503	0		0.00	
62,491	0		0.00	
12,042	0		0.00	
35,217	0		0.00	
38,762	0		0.00	
118,346	0		0.00	
44,496	0		0.00	
232,926	0		0.00	
39,578	0		0.00	
164,923	800	0.00007	227.88	0.00002
71,425	1,950	0.00059	1,645.26	0.00050
50,582	0		0.00	
38,762	0		0.00	
125,121	0		0.00	
28,054	0		0.00	
13,199	0		0.00	
121,600	0		0.00	
91,527	0		0.00	
382,528	0		0.00	
77,040	0		0.00	
96,062	0		0.00	
164,923	0		0.00	
97,506	2,200	0.00043	478.44	0.00009
230,836	0		0.00	
251,855	5,050	0.00029	1,153.77	0.00007
85,350	14,151	0.00316	11,691.64	0.00261
65,258	0		0.00	
44,910	0		0.00	
38,444	0		0.00	
65,258	0		0.00	
50,841	0		0.00	
18,477	0		0.00	
22,240	0		0.00	
121,600	0		0.00	
76,388	0		0.00	
47,286	0		0.00	
251,855	0		0.00	
73,454	0		0.00	
43,336	0		0.00	
38,357	5,420	0.00951	3,790.69	0.00665
29,826	0		0.00	
21,919	0		0.00	
16,457	0		0.00	
44,496	0		0.00	
104,638	0		0.00	
50,818	1,384	0.00086	1,129.45	0.00070
104,638	0		0.00	
91,527	0		0.00	
83,872	0		0.00	
62,755	0		0.00	
124,195	0		0.00	
38,357	3,670	0.00644	3,025.02	0.00531
143,028	0		0.00	
71,425	0		0.00	
62,491	0		0.00	
100,503	0		0.00	
230,836	0		0.00	
83,872	0		0.00	
77,040	0		0.00	
90,835	6,804	0.00139	1,050.96	0.00021
163,870	0		0.00	
232,926	0		0.00	
37,990	0		0.00	
97,506	6,325	0.00123	1,451.85	0.00028
73,454	0		0.00	
31,770	0		0.00	
11,158	0		0.00	
10,108	0		0.00	
16,371	0		0.00	
32,752	0		0.00	
50,755	0		0.00	
109,107	0		0.00	
47,525	0		0.00	
53,135	3,373	0.00186	3,111.39	0.00172
40,023	0		0.00	
176,220	0		0.00	
90,835	0		0.00	
63,649	0		0.00	
83,692	0		0.00	
44,289	0		0.00	
9,473	0		0.00	
44,910	0		0.00	
53,158	0		0.00	
46,609	0		0.00	
176,220	0		0.00	

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING JUNE 30, 1997—Continued

Fiscal year 1997 official mail allocation	Total pieces	Pieces per capita	Total cost	Cost per capita
37,990	0		0.00	
37,266	0		0.00	
96,062	0		0.00	
76,388	0		0.00	
94,702	0		0.00	
109,107	0		0.00	
85,350	0		0.00	
70,009	0		0.00	
Total	154,055	0.08317	46,055.25	0.02883•

CONFERRING STATUS AS AN HONORARY VETERAN OF THE U.S. ARMED FORCES ON LESLIE TOWNES (BOB) HOPE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 153, H.J. Res. 75.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 75) to confer status as an honorary veteran of the United States Armed Forces on Leslie Townes (Bob) Hope.

The Senate proceeded to consider the joint resolution.

Mr. SPECTER. Mr. President, it is my privilege today to ask that the Senate approve legislation to confer the status of honorary veteran of the U.S. Armed Forces to Leslie Townes (Bob) Hope. This resolution, House Joint Resolution 75, which was unanimously approved by the Senate Committee on Veterans Affairs on June 12, 1997, is identical to a companion resolution, Senate Joint Resolution 36, which I, as chairman of the Committee on Veterans Affairs, was honored to introduce on July 28, 1997. I am pleased to say that the ranking member of the committee, Senator JOHN D. ROCKEFELLER IV, and 47 other Members of the Senate joined me as cosponsors of this resolution when I introduced it.

Mr. President, the Members of this body, and the American people as a whole, are acutely aware of the contributions Bob Hope has made to the Nation. His service to country—and; most particularly, to its soldiers, sailor, marines, and airmen over a period exceeding 50 years—are legion. If any person in this country merits such an unprecedented honor—and Mr. President, it is my understanding that no person has ever before been conferred the status of honorary veteran of the U.S. Armed Forces—surely, it is Bob Hope.

As I have stated, Bob Hope's contributions to this Nation are well known to all of our citizens. Less well known is the fact that Bob Hope is a naturalized American, having emigrated from his native England when he was just a boy. I am the son of a naturalized American—an immigrant who walked across Europe with barely a ruble in his pocket so that he could make his way to this country. So I know first hand that person of humble origins can scale the heights of this country. Few, though, have scaled the heights that Bob Hope has scaled.

When I say Bob Hope has scaled the heights, I am not referring to his success as an actor, a comedian, or businessman—though his success in all three areas has been considerable. When I say Bob Hope as scaled heights, I am thinking of his place in the hearts of his adopted countrymen.

Who in this country is more beloved by a broader spectrum of his fellow citizens than Bob Hope—people of all ages, races, religions, and beliefs? Perhaps none more than Bob Hope. For the past 50 years, this country's fighting men and women could count on Bob Hope to lift their spirits and moral when they faced the prospect of making the ultimate sacrifice. In World War II, in Korea, in Vietnam and, most recently, in the Persian Gulf, Bob Hope and his troupe were there to remind our fighting men and women that they were not forgotten, that their suffering was appreciated. Bob Hope was always with the troops—especially during the holidays—enduring hardship, and often significant physical danger, so that he might encourage those facing greater hardship and danger. Three generations of veterans will never forget how much he cared.

Those three generations of veterans wonder how they might properly recognize Bob Hope. He is already a recipient of the Nation's highest civilian decorations, the Congressional Gold Medal and the Presidential Medal of Freedom. President Carter hosted a White House reception in honor of his 75th Birthday. President Clinton bestowed upon him the Medal of the Arts. He has received more than 50 honorary doctorates, and innumerable awards from civic, social, and veterans organizations. But Bob Hope cannot say that he is a veteran—in my mind, one of the most honorable appellations one can carry. This legislation will remedy that.

I ask that all of my colleagues join me in approving legislation designating Bob Hope an honorary veteran of the U.S. Armed Forces. And I thank the former Commandant of the U.S. Marine Corps and the current president of the USO, Gen. Carl Mundy, for spearheading this effort.

Mr. SESSIONS. Mr. President, I ask unanimous consent the joint resolution be considered read a third time and passed, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The joint resolution (H.J. Res. 75) was considered read the third time and passed.

The preamble was agreed to.

ORDERS FOR WEDNESDAY, SEPTEMBER 10, 1997

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m. on Wednesday, September 10. I further ask that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately resume consideration of the second-degree amendment of the Senator from Alabama, Senator SESSIONS, No. 1125, to the amendment of Senator DURBIN, No. 1078, to S. 1061, the Labor-HHS appropriations bill.

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

PROGRAM

Mr. SESSIONS. In accordance with the previous order, I announce that tomorrow the Senate will immediately resume consideration of Senator SESSIONS' second-degree amendment, No. 1125, to Senator DURBIN's amendment No. 1078 to S. 1061, the Labor-HHS appropriations bill.

As Members are aware, the Senate has been able to dispose of all but a few amendments remaining in order to the bill this evening. Time agreements were able to be reached on a couple of the pending amendments.

With that in mind, all Members' cooperation will be appreciated in scheduling time agreements and floor actions on the remaining amendments. Therefore, Members can anticipate rollcall votes throughout the Wednesday session of the Senate, as we attempt to complete action on this important legislation.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:20 p.m., adjourned until Wednesday, September 10, 1997, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 9, 1997:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

ROBERT H. BEATTY, JR., OF WEST VIRGINIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 30, 1998, VICE JOYCE A. DOYLE, RESIGNED.

DEPARTMENT OF STATE

EDWARD M. GABRIEL, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF MOROCCO.

U.S. POSTAL SERVICE

ERNESTA BALLARD, OF ALASKA, TO BE A GOVERNOR OF THE U.S. POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2005, VICE SUSAN E. ALVARADO, TERM EXPIRED.

DEPARTMENT OF STATE

ROBIN LYNN RAPHEL, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF

MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TUNISIA.

WITHDRAWAL

Executive message transmitted by the President to the Senate on September 9, 1997, withdrawing from further Senate consideration the following nomination:

EXECUTIVE OFFICE OF THE PRESIDENT

PATRICIA M. MCMAHON, OF NEW HAMPSHIRE, TO BE DEPUTY DIRECTOR FOR DEMAND REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY, VICE FRED W. GARCIA, WHICH WAS SENT TO THE SENATE ON JANUARY 9, 1997.