and I say again, that I would recommend my Uncle Joe. The reason I recommend Uncle Joe is the Federal Reserve Board doesn't have anybody serving on the board like my Uncle Joe. My Uncle Joe actually has made a lot of things in his life. He fixed generators and starters on cars. He has a lot of common sense, understands what it is to start a business, borrow some money, make a product, sell a product. So I recommended my Uncle Joe. I have been doing that for a number of years and Joe hasn't gotten a call yet. So I expect that the Federal Reserve Board will not be blessed by the membership of my Uncle Joe.

I say this because I would like to see some new blood at the Fed, some new energy and new direction that doesn't just buy into this mantra that what we need is more unemployment and slower economic growth, and somehow that represents the future of our country. The Fed is wrong. The numbers demonstrate that the Fed is wrong. I hope as we go down the road talking about this, as well as filling the positions at the Fed that are going to be open, we can have a broader discussion. I wanted to at least acknowledge today that this new information exists. I encourage the Fed to buy the morning paper.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ASSISTED SUICIDE FUNDING RESTRICTION ACT OF 1997

The Senate continued with the consideration of the bill.

Mr. NICKLES. Mr. President, I rise in support of the legislation pending before us, a bill to prohibit Federal funds being used to assist in suicides.

I wish to compliment my colleague, Senator ASHCROFT, and also my colleague, Senator DORGAN, for their leadership. I am happy to cosponsor this legislation. I think it is important that we pass this legislation today. I am pleased that the House passed it overwhelmingly by a vote of 398 to 16. It is not often that we find such an overwhelming vote.

Frankly, I can't see how anyone would vote against this legislation. This legislation makes sense. It is needed. Some may ask, ''Why is it needed?''

You might be aware of the fact that the Supreme Court held hearings earlier this year on whether or not there is a legal right for assisted suicide. I have read the Constitution many times. I don't find that right in there. That doesn't mean the Supreme Court might not, nor does it mean that some other judge might say yes, you have a constitutional right for assisted suicide, and someone else say yes, that is a constitutional right; therefore, it should be covered by Medicare or Medicaid, and, therefore, be paid for by the Federal Government.

So maybe this is a preemptive strike. It is unfortunate to think it might even be needed. But it is needed. We want to make sure it doesn't happen. We want to make sure that we don't have more Dr. Kevorkians running around the country saying, ''You have a legal right to kill yourself, and therefore, we will help you; and, oh, yes, we want the taxpayers to pay for it.'' We don't want the taxpayers to pay for it. We want to send a signal to Dr. Kevorkian that we don't agree with him.

Dr. Kevorkian made a statement which was reported in the New York Times on April 5 talking about the fact that he publicly burned a cease and desist order from the State. He said, ''If you want to stop something, pass a law.''

That is what we are trying to do today. We are trying to make it very clear that the Congress of the United States overwhelmingly believes that you should not use Federal funds to assist in something like suicides, something that is as deadly as suicide.

This would clarify the law. If assisted suicide is legalized by the Supreme Court, or in any individual State, all it would take is one district court judge to rule that assisted suicide fits under the Medicare statute's guidelines. On January 8, 1997, the Supreme Court heard oral arguments in two cases in which the Federal courts of appeals have declared a constitutional right to assisted suicide.

Mr. President I think we want to send a very clear signal. I might mention that this Congress has already passed a ban. In 1995, I offered legislation banning the use of Medicaid and Medicare funds for assisted suicide in the balanced budget amendment which passed this Congress. Unfortunately, President Clinton vetoed the legislation. But he didn't veto the legislation because of this.

An amicus brief, filed by the American Medical Association, to the Supreme Court on November 12, 1996, contends that assisted suicide ''will create profound danger for many ill persons with undiagnosed depression and inadequately treated pain for whom assisted suicide rather than good palliative care could become the norm. At greatest risk would be those with the least access to palliative care—the poor, the elderly, and members of minority groups.''

Acting Solicitor Gen. Walter Dellinger recently said in opposing the idea of a right to assisted suicide, ''The systemic dangers are dramatic . . . the least costly treatment for any illness is lethal medication.'' That is reported in the New York Times on January 9 of this year.

We are a nation built on the principle that human life is sacred, to be honored and cherished. As public servants, we deal with issues that affect the lives of people every day. Caring for people is the underlying aspect of nearly every piece of legislation dealt with in this Senate.

Dr. Joanne Lynn, board member of the American Geriatrics Society, and director of the Center to Improve Care of the Dying at George Washington University, said, ''No one needs to be alone or in pain or beg a doctor to put an end to misery. Good care is possible.''

Cardinal Joseph Bernardin, while dying last November, took the time to write the Supreme Court on assisted suicide, saying,

> There can be no such thing as a ''right to assisted suicide'' because there can be no legal and moral order which tolerates the killing of innocent human life, even if the agent of death is self-administered. Creating a new ''right'' to assisted suicide will endanger society and send a false signal that a less than ''perfect'' life is not worth living.

There are a lot of groups and a lot of individuals who have endorsed this legislation.

The American Medical Association said,

> The power to assist in intentionally taking the life of a patient is antithetical to the central mission of healing that guides physicians. The AMA continues to stand by its ethical principle that physician-assisted suicide is fundamentally incompatible with the physician's role as healer and that physicians must instead aggressively respond to the needs of patients at the end of life.

That was signed by John Seward, executive vice president of the AMA, on April 15.

Mr. President, this legislation is endorsed by not only the American Medical Association but also the National Conference of Catholic Bishops, American Academy of Hospice and Palliative Medicine, American Geriatrics Society, Christian Coalition, Family Research Council, Free Congress, National Right to Life, Physicians for Compassionate Care, and the Traditional Values Coalition.

In addition, I ask unanimous consent that letters be printed in the RECORD at this point from the Catholic Health Association and also the Christian Coalition in support of this legislation.

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

CHRISTIAN COALITION,
CAPITOL HILL OFFICE,
Washington, DC, April 16, 1997.

DEAR SENATOR: As of this morning, the Majority Leader was trying to work out an agreement to bring up the Assisted Suicide Funding Restriction Act for a vote this afternoon.

On behalf of the members and supporters of the Christian Coalition, we urge you to vote for the Assisted Suicide Funding Restriction Act. This legislation overwhelmingly passed the House of Representatives by a vote of 398–16.

The Assisted Suicide Funding Restriction Act restricts the use of tax dollars for the purpose of assisted suicide, euthanasia, or mercy killing. The overwhelming majority of American taxpayers oppose the use of tax

dollars for assisted suicide and euthanasia, with 87 percent of Americans opposing the use of tax dollars for these purposes. This widespread support, as well as the moral grounds for opposing the funding of assisted suicide, compels passage of this legislation.

This is a carefully-crafted bill and we would like to see it pass in its present form. Please vote for H.R. 1003, the Assisted Suicide Funding Restriction Act. Thank you for your consideration of our views.

Sincerely,

BRIAN LOPINA,
Director, Governmental Affairs Office.

CATHOLIC HEALTH ASSOCIATION
OF THE UNITED STATES,
Washington, DC, April 16, 1997.

Senator TRENT LOTT,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LOTT: I understand that H.R. 1003, the Assisted Suicide Funding Restriction Act, will soon be considered by the full Senate. On behalf of more than 1,200 health care facilities and organizations, the Catholic Health Association of the United States (CHA) urges the Senate to give this legislation swift and favorable consideration.

As health care providers, members of CHA reject physician-assisted suicide as antithetical to their religious beliefs and their mission as healers. Because assisted suicide offends the basic moral precepts of our culture and poses a grave danger to those at the margins of our society, state governments have consistently outlawed its practice. Unfortunately, a Florida state court and two federal Courts of Appeals recently have misconstrued the Constitution to ''discover'' a constitutionally protected liberty interest in physician-assisted suicide.

In response to the threat of these cases and a recent referendum in Oregon, Congress should establish the principle that federal tax dollars will not be expended for the purposeful taking of human life. While none are being used for this purpose today, judicial activism threatens to undermine our long-established societal consensus against assisted suicide.

The legislative proposal before you properly distinguishes between the withholding or withdrawing of burdensome and ineffective medical treatment and the aiding of another in purposefully taking human life. Catholic teaching and common sense support this distinction.

The most important reason to pass this legislation is to send a signal to disabled persons, the elderly and other vulnerable people that they are valued members of the human community. They enrich rather than burden society. The late Joseph Cardinal Bernardin said it best in his letter to the Supreme Court: ''There can be no such thing as a 'right to assisted suicide' because there can be no legal or moral order which tolerates the killing of innocent human life, even if the agent of death is self-administered. Creating a new 'right' to assisted suicide will endanger society and send a false signal that a less than 'perfect life' is not worth living.''

CHA has a long and distinguished record of supporting the goal of universal health care coverage. In addition, we support meaningful efforts to improve care for the dying. Yet, we do not support the views of those opposing this bill on the grounds that it does not accomplish all of these worthy goals in one bill. Congress should pass this bill and then move on to legislation that increases health care coverage and helps to provide those at the end of life with the care and comfort that they deserve.

Sincerely,

WILLIAM J. COX.
Executive Vice President.

Mr. NICKLES. Mr. President, again, I wish to thank sponsors of this legislation. I have had the pleasure of working with both Senators from Missouri. Both Senators made outstanding statements in support of this legislation. In addition, Senator DORGAN—we appreciate his support for this legislation. It has bipartisan support. We have a lot of cosponsors on both sides of the aisle.

It is my hope that the Senate will pass the identical bill that the House passed and that we will send it to the President.

Also, I have a statement from the administration. The Clinton administration issued a statement of administration policy on April 10, 1997, which states, ''The President made it clear that he does not support assisted suicide. The administration, therefore, does not oppose enactment of H.R. 1003.''

Mr. President, there is no reason for us to amend this legislation. There is no reason for us to delay this legislation. Let's pass this legislation and send a message to Dr. Kevorkian and others that Federal funding will not be tolerated and that it will not be legal to assist in assisted suicide.

Mr. President, I yield the floor.

Mr. ASHCROFT. Mr. President, thank you.

Mr. President, I want to thank my colleague from Oklahoma for his excellent statement on this issue. I appreciate his leadership on this issue. When this legislation was initially filed last year, I was not aware of the fact that he had previously included it in other matters. But he has been a leader in respecting the will of the American people not to participate in the funding of assisted suicide.

Mr. President, I might add as well that while House bill 1003 is largely consistent and almost totally compatible with the bill that Senator DORGAN and I filed here in the U.S. Senate, the House added some provisions which I think improve the measure. Both bills were narrowly and tightly drawn and focused on the fact that we didn't believe there should be Federal funding for assisted suicide.

The House measure includes provisions designed to reduce the rate of suicide, including assisted suicide, among persons with disabilities or terminal or chronic illness, by furthering knowledge and practice of pain management, depression identification, palliative care, and other issues related to suicide prevention. The bill would amend the Public Health Service Act to use existing Federal funds to establish research, training, and demonstration projects intended to help achieve the goal of reducing the rate of suicide. That would also, of course, include reducing the rate of individuals interested in assisted suicide. It also includes a provision directing the General Accounting Office to analyze the effectiveness and achievements of the grant programs that are authorized by the Public Health Service Act.

So, resources now available to the public through the Public Health Service Act can be used in accordance with this measure to reduce the rate of suicide. It is important for us not just to be concerned about Federal funding for suicide, but where possible to help individuals understand the potential for hope in the situation rather than despair.

I might just also point out that assisted suicide and the potential for assisted suicide or funding for assisted suicide in a culture are not really conducive to the development of other therapies. It is interesting to note that Justice Breyer pointed out a number of important facts during the Supreme Court's recent oral arguments regarding the right to assisted suicide. He indicated that supportive services for vulnerable patients remain undeveloped once a society has accepted assisted suicide as a quick and easy solution for their problems. In particular, he noted that in England, which prohibits assisted suicide, there are over 180 hospices for people who are terminally ill; 180 facilities designed for compassionate care to help these people. In a sense, each of us is terminally ill. Each of us ultimately will die. In the Netherlands, on the other hand, which allows assisted suicide, rather than having 180 hospices, they have only 3.

It may be inappropriate to draw a conclusion here, but it seems to me that once a culture decides that the thing to do with terminally-ill patients is to help them die quickly, they neglect and otherwise refuse to develop the kinds of institutions which would help people who really ought to live and want to live and have many things to contribute.

It is with that in mind that I think it is peculiarly and singularly important that this Congress respond to the voice of the American people, which with near unanimity is calling for us to prohibit Federal funding of assisted suicide. It is with that in mind that I urge my colleagues to join by voting in favor of this proposal.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, Senator ASHCROFT has just outlined a provision that was included in the legislation enacted by the House of Representatives. Frankly, I think this addition improves the legislation that we introduced here in the Senate. The amendment that was accepted by the House and is in this legislation provides for the prevention of suicide, including assisted suicide. It provides authorization for the Secretary of Health and Human Services to fund research and demonstration projects using existing Public Health Service dollars to prevent suicide among people with disabilities or terminal or chronic illnesses. That amendment addresses an issue that is very significant and serious, and I think it adds to this legislation.

With this legislation, we are not only saying that we want to prevent Federal funding of assisted suicide, but also that we want to improve the availability of compassionate end-of-life care so that terminally or chronically ill individuals do not feel that assisted suicide is their only option for relief.

So I think this amendment is a good amendment, and I support it.

Mr. President, I hope we can move along to final passage on this legislation.

I don't know whether there are those who intend to offer amendments. I see Senator WELLSTONE from Minnesota is on the floor. My hope is that we can proceed on this noncontroversial piece of legislation and finish it today.

Mr. MCCONNELL. Mr. President, today the U.S. Senate considers H.R. 1003, the Assisted Suicide Funding Restriction Act of 1997. As an original cosponsor of S. 304, the Senate companion to H.R. 1003, I rise in support of this measure's reasonable and responsible action in prohibiting the use of Federal funds to support physician-assisted suicide.

Modern medical technology has made a significant difference in the health care challenges that patients and providers face today. While few Americans fear death from scarlet fever or cholera, a growing number are concerned about the potential for a slow, painful death from cancer or a degenerative neurological disorder. Advocates for physician-assisted suicide package the concept as purely an issue of patient choice and personal liberty in seeking relief from suffering. Moreover, they argue that this choice harms no one. I respectfully but stringently disagree. Physician-assisted suicide condones the intentional killing of a human being as a valid method for relieving pain and suffering when other means are available to address a patient's critical medical needs.

Advocates for physician-assisted suicide point to secondary effect, the circumstance where a patient dies during treatment for pain, as a factor lending legitimacy to the legalization of euthanasia. Again, I disagree. A large number of Americans and a majority in the medical community identify the critical difference between the administration of pain medication and physician-assisted suicide. In the former, a physician makes a medical assessment and administers the level of medication necessary to relieve a patient's pain and suffering. Though the action is taken with the knowledge that the treatment could cause death, the physician's sole medical goal is helping the patient attain relief from suffering. In contrast, physician-assisted suicide is the intentional administration of a drug, not for pain relief, but to kill. H.R. 1003 recognizes the critical difference between secondary effect and physician-assisted suicide.

While patients' rights have been raised in the debate over physician-assisted suicide, I want to draw attention to the broader implications of this action on the health care community. The American Medical Association makes clear in its Code of Medical Ethics that the intentional act of killing a patient is antithetical to the central mission of healing that bonds the physician-patient relationship. The AMA fully endorses H.R. 1003's purpose to assure that the integrity of doctors working for Federal health care programs and in Federal health care facilities is not compromised by the act of physician-assisted suicide. Without H.R. 1003, doctors face a painful dilemma of whether they are expected to conduct assisted suicide as a form of medical treatment. The AMA rejects such a concept, and 87 percent of Americans agree that Federal tax dollars should not support such a questionable practice.

It is clear to all that patient concerns regarding the health care threats of degenerative and painful disease must be addressed. This critical need is one of the reasons why I and other Members of the U.S. Senate support Federal investment in medical research. The Federal Government should not invest in physician-assisted suicide as a legitimate option for pain control however. Medicine today is capable of managing physical pain, but patients are forced to endure pain and suffering because this information is not applied uniformly. For the welfare of patients and families, we should focus our energies on correcting these failures in medical care delivery, rather than diverting critical attention toward the questionable promotion of assisted suicide.

Mr. President, I support the right of Americans to decide whether or not to withdraw or withhold medical treatment. I also appreciate the difference between acts to relieve the pain of a dying patient and acts that intentionally produce pre-mature death. H.R. 1003 does the same. This measure makes clear that Federal funds do not and will not support physician-assisted suicide to the detriment of patients, families, and the medical community. I urge my colleagues to join in support of H.R. 1003's intent to ensure that this vital concern for millions of Americans is properly addressed.

Mr. COATS. Mr. President, I rise in support of H.R. 1003 and I urge my fellow Senators also to vote in favor of this legislation.

This bill simply prohibits the use of Federal funds for the controversial and immoral practice of assisted suicide. It rightly keeps the Federal Government out of the business of killing.

The bill prevents the use of funds to provide health care items or services ''furnished for the purpose of causing * * * the death of any individual, such as by assisted suicide, euthanasia or mercy killing.'' Death of the individual has been included because proponents of assisted suicide, mercy killing, and euthanasia often use other terms to describe these activities, such as physician aid in dying. In fact, the Oregon Death with Dignity Act, which legalizes these actions under certain circumstances, specifically provides that ''actions taken in accordance with [this law] shall not, for any purpose, constitute assisted suicide, mercy killing, or homicide''—even though the actions precisely are assisted suicide or mercy killing! The bill is very clear about the activity that should not receive Federal funds: an item or service furnished for the purpose of causing the death of any individual will not be funded by American taxpayers.

Close observers will note that this broad language is used in sections 3, 4, and 7 of the bill, while more narrow language is used in sections 2, 5, and 6, where funds are prohibited for ''causing the suicide, euthanasia, or mercy killing of any individual. The broad language is used with regard to the general prohibition on health care funding (section 3), the prohibition on the use of funds under the Developmental Disabilities Assistance Act (section 4), and the Patient Self Determination Act (section 7) to ensure that the activities and actions intended not to receive Federal funds in fact do not receive them. The broad language is necessary because proponents often describe these activities in different terms; it is used without concern of unintended consequences because the programs covered in these instances are clearly and narrowly defined.

The narrow language is used in the bill's findings and purposes provisions (section 2, which does not have the force of law), restrictions on advocacy programs (section 5), and restrictions on funding for mercy killing, euthanasia, and assisted suicide in national defense and criminal justice programs (section 6) because broad language, if applied to these programs, could have unintended consequences. For example, if the broad language were used with respect to criminal justice enforcement, it may have the effect of prohibiting capital punishment. But this bill is only about funding for assisted suicide—mainly in Federal health care programs, because proponents of assisted suicide are successfully legitimizing assisted suicide—for some—as a form of health or medical care.

Assisted suicide is not health care. Or medical care. The Federal Government, supported by all American by all American tax payers, should not pay for this. This carefully crafted bill will ensure that that does not happen. It deserves our support.

Some questions have arisen as to whether H.R. 1003 applies to the provision or withholding or withdrawing of medical treatment, medical care, nutrition, or hydration. My reading of the bill indicates that the bill does not address such situations.

H.R. 1003 is a deliberately narrow piece of legislation. It deals with the issue of Federal subsidies for direct killing, as by a lethal injection or a lethal drug. It is not designed to address

or affect in any way, positively or negatively, Federal funding for the withholding or withdrawal of medical treatment and medical care, nutrition or hydration. Nor is it designed to address affect in any way, positively or negatively, such withholding or withdrawal in veterans' hospitals, military hospitals, or other Federal facilities.

Therefore, Mr. President, no one should read into the adoption of this legislation any expression of blanket congressional approval for the practice of withholding or withdrawing of nutrition and hydration or, for that matter, of any lifesaving medical treatment. This Senator, for one, is convinced that causing a patient to die of starvation or dehydration is absolutely wrong. I, for one, would not have supported this bill as an original cosponsor if I believed that it authorized the use of Federal funds to withhold or withdraw nutrition and hydration from a patient.

Indeed, I am convinced that every Member of this body, and I dare say of the other body as well, can think of at least some circumstances in which he or she would agree that denial of medical treatment, or of food and fluids, is wrong and should not be subsidized with Federal tax dollars. Plainly, then in voting for this legislation we do not intend some broad sanction for denial of nutrition, hydration, medical treatment and care.

All we do in section 3(b) of H.R. 1003 is make clear the narrow scope of this bill: that it deals with direct killing only, and not with these other practices. Thus, section 3(b) should be read simply as a scope limitation for this legislation, and not as expressing a substantive policy position on withholding or withdrawing medical treatment, medical care, nutrition or hydration. That is a matter for another day.

In conclusion, Mr. President, I want to express my firm belief that ours is a Nation that should direct itself to expanding the scope of the human community; to ensuring that all its members enjoy full access to the protection of life, liberty, and happiness. Our culture is one that increasingly commits itself to death, to killing those that some do not consider to be part of the human family. For years some in this country have treated the preborn child as unworthy of that protection. Recently, the President has vetoed a ban on partial-birth abortions—has allowed the killing of a child just three inches and 3 seconds from full protection of the law. Now our culture is moving toward promoting the killing of the elderly, the handicapped, those who suffer desperately—instead of offering them support, resources, and hope.

I commend the Senator from Missouri for his excellent work on this bill and his steadfast efforts to prevent taxpayers from being forced to support a culture of death. His work reclaims some of our hope that America can again be a beacon of light in a culture of life.

Mr. ROCKEFELLER. Mr. President, I thought it would be helpful to share some thoughts about other important issues that I hope the Congress will address once action is taken on the bill before us to prohibit Federal funding for physician-assisted suicide.

Because of my involvement in health care issues and the Medicare Program specifically, I have spent some time in recent months taking another look at the concerns and dilemmas that face patients, their family members, and their physicians when confronted with death or the possibility of dying. In almost all such difficult situations, these people are not thinking about physician-assisted suicide. The needs and dilemmas that confront them have much more to do with the kind of care and information that are needed, sometimes desperately.

I am learning more and more about the importance of educating health care providers and the public that chronic, debilitating, terminal disease need not be associated with pain, major discomfort, and loss of control. We need to focus on the tremendous amount that can be done to control a wide range of symptoms associated with terminal illness, to assure that the highest level of comfort care is provided to those who are dying or have chronic, debilitating disease.

The tremendous advances in medicine and medical technology over the past 30-50 years have resulted in a greatly expanded life expectancy for Americans, as well as vastly improved functioning and quality of life for the elderly and those with chronic disease. Many of these advances have been made possible by federally financed health care programs, especially the Medicare Program that assured access to high quality health care for all elderly Americans, as well as funding much of the development of technology and a highly skilled physician work force through support of medical education and academic medical centers. These advances have also created major dilemmas in addressing terminal or potentially terminal disease, as well as a sense of loss of control by many with terminal illness.

I believe it's time for Medicare and other federally funded health care programs to assure that all elderly, chronically ill, and disabled individuals have access to compassionate, supportive, and pain-free care during prolonged illness and at the end of life. As we discuss restructuring Medicare during the present session of Congress, this will be one of my primary goals.

Much of the knowledge necessary to assure individuals appropriate end-of-life care already exists. Much needs to be done, however, to assure that all health care providers have the appropriate training to use what is known already about such supportive care. The public must also be educated and empowered to discuss these issues with family members as well as their own physicians so that each individual's wishes can be respected. More research is needed to develop appropriate measures of quality end-of-life care and incorporate these measures into medical practice in all health care settings. And finally, appropriate financial incentives must be present within Medicare, especially, to allow the elderly and disabled their choice of appropriate care at the end of life.

I will soon be introducing legislation that addresses the need to develop appropriate quality measures for end-of-life care, to develop models of compassionate care within the Medicare Program and to encourage individuals to have open communication with family members and health care providers concerning preferences for end-of-life care. These are the issues that truly need to be addressed by Congress and encouraged through Federal financing programs for health care, and I am very committed to promoting the action that Americans and their physicians are looking to us to help them with. By addressing end-of-life issues in this manner, there may be a day when the divisive debate over physician-assisted suicide will become unnecessary.

Mr. FRIST. Mr. President, I rise today to address the legislation before us which would further codify and clarify existing Federal law, practice, and policy on the prohibition of the use of Federal funds, whether directly or indirectly, for physician-assisted suicide. This proposal has received broad bipartisan support within the Congress, within the administration, and in the medical community.

This is an issue that supersedes the politics of the present, and cuts to the heart of our concept of respect for life. As a physician, I took an oath, like physicians for centuries before me, to ''first do no harm.'' While there are times when the best in medical technology and expertise cannot save or prolong life, we should never turn those tools into instruments to take life, and we must preserve the sacred trust between physician and patient.

I am pleased that this bill is tightly focused and disciplined in its approach to this controversial issue. However, I am concerned that the most important issue may be obscured by this debate. Physicians have a responsibility to ensure that patients are both comfortable and comforted during their last precious days on Earth. As legislators responsible for policy decisions impacting the federally funded health care programs, we also have a responsibility. We must continue to look for ways to support efforts to provide palliative care, as well as to support efforts to educate physicians, patients, and families about end-of-life issues.

We have made enormous progress in treating and managing illness at the end of life. Over the last 50 years, life expectancy has risen dramatically as we have learned to manage the complications of illnesses which were previously considered terminal. The issue of physician-assisted suicide is an indication of our need to focus on other

ways of relieving suffering, while maintaining the dignity of the terminally ill and their families.

While I do not believe that it is the role of the Government to intrude upon the relationship between a physician and patient, I do believe that policymakers have an obligation to create an environment which supports the quality of care in this country. Therefore, our votes in support of this bill must also be seen as our decision to take up a new challenge—that of finding new ways to facilitate the compassionate care of the dying.

Mr. HELMS. Mr. President, when the able Senators ASHCROFT and DORGAN invited me to cosponsor S. 304, a bill to prohibit the use of Federal funds for assisted suicide, I unhesitatingly accepted. Now today, I do hope the Senate will promptly approve H.R. 1003, now pending which is nearly identical to S. 304 and which was passed overwhelmingly by the House this past Thursday.

The Supreme Court's tragic Roe versus Wade decision in 1973 established that human beings—unborn children—at one end of the age spectrum are expendable for reasons of convenience and social policy; euthanasia is now the next step. Many, including this Senator who in 1973 had just been sworn in, argued that if we can justify in our own minds the destruction of the lives of those whose productive years are yet to come, what is to prevent our destroying or agreeing to end the lives of men and women who can no longer pull their own weight in society?

That day may arrive as early as this summer. The Supreme Court is currently reviewing two circuit courts of appeals decisions which, if upheld, will affirm the constitutional right of individuals to terminate their own lives with the assistance of Dr. Kevorkian or other like-minded physicians. But inevitably, those who demand that this become an acceptable right are also expecting the taxpayers to furnish the money for it.

At a minimum, Mr. President, surely the Senate will reject the notion that tax funded programs, such as Medicaid and Medicare, should be used to terminate the lives of human beings. Despite anybody's looking with favor on euthanasia, it is absurd to suggest that the American people must sponsor it with their already-high taxes.

The American people emphatically reject this idea. A poll conducted last year by Wirthlin Worldwide revealed that 87 percent of people oppose Federal funding of assisted suicide.

So, Mr. President, the bill under consideration will not outlaw euthanasia. But it will forbid the use of Federal tax dollars to fund assisted suicides. And more importantly, the Senate will heed the American people's belief that paying for such a morally objectionable procedure is just going too far.

Mr. DOMENICI. Mr. President, I rise today in support of the Physician Assisted Suicide Funding Restriction Act of 1997. This bill would maintain current Federal policy to prevent the use of Federal funds and facilities to provide and promote assisted suicide. It would not nullify any decision by a State to legalize assisted suicide, nor restrict State or privately financed assisted suicide; nor will it affect any living will statutes or any limitation relating to the withdrawal or withholding of medical treatment or care.

The bill is urgently needed to protect Federal programs which have traditionally been designed to protect the health and welfare of our citizens. The ninth circuit recently reinstated an Oregon statute which provided for physician-assisted suicide through the State's Medicaid Program. This program is funded in part with Federal tax dollars. Unless we enact this statute, Federal dollars will be used to fund physician-assisted suicide. There is an immediate and pressing need for the Senate to act on this matter now. Our Nation has always been committed to the preservation of the lives of its citizens. The American people expect that tradition to continue.

Last week, the House of Representatives acted in a decisive vote of 398 to 16 to ban the use of Federal funds to support physician-assisted suicide and the President has indicated that he does not oppose this legislation. Mr. President, the American people do not want their tax dollars spent to assist individuals to commit suicide.

This legislation simply prohibits the use of Federal funds for assisted suicide. It does not address the issue that is currently before the Supreme Court in Washington versus Glucksburg. The issue in that case is whether there is a liberty interest in committing suicide, and if so, whether that interest extends to obtaining the assistance of a doctor to do the same. Mr. President, nothing in this legislation will affect the decision that the Supreme Court will announce later this summer. What this bill does is maintain the longstanding Federal policy of preventing Federal funds from being used for this purpose. The American taxpayer shouldn't be forced to pay for the activities of Dr. Kevorkian and other physicians who may be engaged in assisting suicide.

Mr. President, we are not acting prematurely by passing this legislation. The State of Oregon already has decided that physician-assisted suicide is legal and that State Medicaid funds may be used for that purpose. The long-standing policy against the use of Federal tax dollars is now in jeopardy, and congressional action is now needed. Tax dollars ought to be used to extend life, not cause death.

Finally, I am pleased to see that this legislation contains a provision to allow for research into ways we can reduce the rate of suicide among individuals with disabilities and chronic illnesses. Modern pain management techniques are improving rapidly, and it is my hope that this research will reduce the demand for assisted suicide, whether legal or illegal, in the future. We need to continue pain research, and make resources available to ensure that health care professionals are capable of administering these new treatments as they develop. This is a forward-looking approach and we should encourage this sort of research—it will improve the quality of life for those with debilitating diseases.

Mr. President, I think I speak for the vast majority of the American people when I say that their Federal tax dollars should not be used to fund physician-assisted suicide. I am very pleased to support this bill. I commend Senator ASHCROFT for bringing this issue to the attention of the Senate. I hope my colleagues will support the bill, and I yield the floor.

Mr. BIDEN. Mr. President, I wish we were not here debating this legislation today—not because I don't think it is right; I do, and I am a cosponsor of the bill; but because I wish there was no need to take up a bill like this in the first place.

Unfortunately, our hands have been forced, largely by the courts.

In March of last year, the Ninth Circuit Court of Appeals ruled that a Washington State law prohibiting physician-assisted suicide was unconstitutional under the constitutional right of privacy.

Then, a month later, the Second Circuit Court of Appeals struck down a similar New York State law, arguing that the equal protection clause of the Constitution gives the terminally ill the same rights to hasten their own death through drugs as other patients have to refuse artificial life support.

Although implementation has been delayed by the courts, in 1994, Oregon voters approved a referendum making physician-assisted suicide legal in that State.

The Supreme Court has heard oral arguments on the matter—and it is expected to rule before the end of this term.

Now, if physician-assisted suicide does become legal—through the courts or through State referendums or by some other means—there will be no doubt an attempt made to have the Federal Government pay for this.

I can hear the arguments already. People will demand that Medicare or Medicaid reimburse physicians who help people commit suicide. Mr. President, this is not such a farfetched notion.

After the voters approved the Oregon referendum in 1994, Oregon officials actually admitted they would seek Medicaid reimbursement if the law were to go into effect.

Now, truth in advertising here, Mr. President. I am opposed to physician-assisted suicide becoming legal in this country, period. So I don't want to hide under some false cloak here. I am one of those who does not support abortion, but I acknowledge that my personal religious view should not be imposed upon the rest of the world because, for

me, it is hard to determine and insist that my view on when there is a human life in being is more accurate than someone who is equally as religious as me, but might have a different view. But a suicide is a different story. There is no question that there is a human life in being. Physician-assisted suicide is the most dangerous slippery slope, in my view, that a nation can embark upon.

So I make it clear that this has nothing to do with whether physician-assisted suicide should be allowed. I don't think it should be. But that is beside the point today. What is at issue is—if it becomes legal in one State, several States, or all States—is the Federal Government going to have to pay for it?

To that, I hope we will emphatically say ''no,'' regardless of what each of us thinks about the legality or constitutionality of physician-assisted suicide.

No matter where you are on the issue, under no circumstances should the Federal Government be paying physicians to help people kill themselves.

Let me say what else this debate today is not about. It is not about refusing to accept medical treatment. The Supreme Court has already ruled that individuals have a right to refuse unwanted medical treatment. I am not sure how a physician or a hospital would bill Medicare or Medicaid for not providing a treatment that the patient did not want. But, regardless of that, this bill explicitly states that the funding prohibition does not apply in such circumstances and does not apply to drugs given to alleviate pain.

What we are talking about is when physicians specifically give a patient a drug to kill them—when there is a proactive attempt to kill a patient. That is what we are talking about—no Federal dollars allowed.

I commend Senator ASHCROFT and Senator DORGAN for their work on this bill. This has been a bipartisan effort from the start—going back to when this bill was first put together last summer.

Mr. President, it is important that we swiftly and definitively resolve this issue.

Mr. President, I yield the floor.

Mr. SMITH of New Hampshire. Mr. President, I rise in support of H.R. 1003, the Assisted Suicide Funding Restriction Act of 1997.

I am pleased to be a cosponsor of S. 304, the Senate companion bill to H.R. 1003. As a cosponsor, I was especially gratified to learn of the overwhelming bipartisan vote of 398 to 16 by which H.R. 1003 passed the House of Representatives on April 10, 1997.

With its resounding votes to pass both the Assisted Suicide Funding Restriction Act and H.R. 1122, the Partial-Birth Abortion Ban Act of 1997, the House of Representatives has taken two major actions aimed at restoring respect for the sanctity of human life in our great Nation. I trust that in the weeks ahead, the Senate will join the House by passing both of these bills by large majorities and sending them to the President.

Mr. President, before he passed away last November, Joseph Cardinal Bernadin left a moving testimony to the sanctity of life. ''I am at the end of my earthly life,'' Chicago's Cardinal wrote in a letter addressed to the U.S. Supreme Court. ''Our legal and ethical tradition has held consistently that suicide, assisted-suicide, and euthanasia are wrong because they involve a direct attack on innocent human life,'' Cardinal Bernadin continued. ''Creating a new 'right' to assisted suicide,'' the Cardinal concluded, ''will . . . send a false signal that a less than perfect life is not worth living.''

Mr. President, by enacting H.R. 1003, the Congress will be moving to defend the sanctity of human life by preventing the use of Federal funds and facilities to provide and promote assisted suicide. This is indeed a worthy goal and I am honored to be a part of this effort.

Mr. KENNEDY. Mr. President, I support the ban on the use of Federal funds for assisted suicide, and I commend Senator DORGAN and Senator ASHCROFT for their leadership on this issue.

The disabled, the elderly, low-income and other Americans in need are often totally reliant on federally financed health care. Allowing Federal funds to be used for assisted suicide, euthanasia, or mercy killing could lead to situations in which terminally ill or seriously ill individuals are coerced into choosing assisted suicide over traditional medical treatments or pain management therapies. In addition, many seriously ill people who suffer transient depression could choose suicide, when, if their depression were treated, they would not make this irrevocable choice.

I also support the intent of the legislation to exclude certain medical treatments and procedures from the provisions of the ban. Evidence of this intent is found in both the language of the Senate bill and the language contained in the House report concerning section 3(b). This subsection clarifies the exact nature of the medical procedures and services which are not intended to be covered by the prohibition on the use of Federal funds. It is important to emphasize that the ban does not cover individuals who do not want their lives prolonged by heroic medical treatments or the other specific treatments identified in the language of the House report on this subsection.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. WELLSTONE. Madam President, I am going to in a short period of time offer two amendments which I hope will be really noncontroversial. I just would like to talk about both of them in general terms and then I will come back in time to offer these amendments.

One of these amendments has to do with what I think is, unfortunately, very germane and it has to do with our failure still to provide the kind of mental health services, the kind of mental health coverage that is so direly needed. I know my colleagues have said one of the things that concerns them and concerns others is that all too often some of the people who take their lives are people in a severe state of depression, people who have not been treated. And then, of course, you really wonder whether or not this ever should have happened and this is the last thing you would like to see assisted.

So I really feel that if, in fact, we are saying we do not want to see this kind of assisted, physician-assisted suicide, or people taking their lives, that is to say, then I think we really want to make sure we do not get to the point where some people, some who really want to take their lives are taking their lives not even necessarily because they are in terrible pain with a terrible illness but having more to do with a terrible mental illness. This is an amendment we will come to in a little while.

The first amendment that I will offer shortly is an amendment which says it is the sense of the Senate that the Senate supports firm but fair work requirements for low-income unemployed individuals. I do not think my colleagues would disagree with that. And low-income workers who are jobless but are unable to find a job should look for work, they should participate in workfare or job training programs but they should not be denied food stamps without these opportunities.

Again, I am just waiting for response from a couple other Senators before I introduce these amendments, but just in very broad outline the why of this amendment.

I am going to draw from a study which comes out from the Department of Agriculture February 13, 1997, which really points to the characteristics of childless unemployed adult food stamp and legal immigrant food stamp participants.

Madam President, this is not a pretty picture. We are talking about the poorest of poor people. If we are going to have vehicles out in the Chamber and there is going to be an opportunity—and these are just sense-of-the-Senate amendments—to really try and get the Senate on record to correct some problems that have to be corrected, then I want to take full advantage of it. In this particular case, we are talking about people who are very poor, many

of them women, many of them minorities.

What we are saying is, yes, work, but if there is not a workfare program available and someone cannot find a job, then do not cut people off food stamp assistance, do not say that in a 3-year period you can only get 3 months' worth of food stamp assistance.

Why in the world would we want to create the very situation we are now creating which is you are basically taking the most vulnerable citizens, the poorest of poor people and you are putting them in a situation where they want to work, they cannot find a job, there is not a workfare program available, there is not a job training program available, they are suffering, struggling with HIV infection or dying from AIDS, they are struggling with mental illness, they did not even have a high school education, there are no opportunities for the training, and we are now saying that we are going to cut you off food stamp assistance. This was the harshest provision of the welfare bill that we passed.

And so, Madam President, I come to the floor, and I will in a moment suggest the absence of a quorum just for a moment and then we will move forward with both of these amendments. But I come to the floor to introduce both of these amendments. These are sense-of-the-Senate amendments. I hope they will command widespread support. I say to my colleagues I am really hopeful for a very strong vote. I know they are anxious to have the bill come through. I do not think these amendments—I made them sense-of-the-Senate amendments. I think the language is very reasonable, and I do not mean to hold up the legislation at all, but on the other hand I do mean to get some attention focused on some areas that we really need to address.

Madam President, just for a moment, I would suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ASHCROFT. I would ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ASHCROFT. The Senator from Minnesota suggests that these are merely sense-of-the-Senate amendments and that they would not impair the progress of the bill substantially. If by adding these amendments to the bill we send the bill to conference, we delay substantially our ability to move this legislation to the President of the United States for his signature.

Throughout our comments and remarks, I think it has been clear we are simply at present awaiting judicial decisions which might authorize on a momentary basis Federal funding of assisted suicide, so that it is crucial we not delay this process. And sending this measure to conference would in fact delay the process.

Second, I should indicate that this is not a measure which is designed to prohibit assisted suicide. Some suggestions seem to have been made that this is a measure which would attempt to control whether or not States could authorize assisted suicide or whether they could fund it on their own or whether we would be intervening by this legislation in the capacity of States to determine what is appropriate or inappropriate for their citizens. Nothing could be further from the truth.

This is not a measure that relates to the commission of suicide. It relates to Federal funding of assisted suicide. This bill—and many people think it unfortunate it would not—does not prevent Kevorkian from acting. That would be controlled by local jurisdictions and what the law in those jurisdictions is. So that the alleged relevance of some of the proposed amendments simply is not consistent with the content of the measure.

I think it is important for us to understand we ought to act quickly. We are fortunate that the courts have not already authorized Federal payments for assisted suicide. But for the injunction of a court in Oregon, that would have been the case, according to the director of Medicaid and the Health Services Commission chair in Oregon. And now the Ninth Circuit Court of Appeals has overturned that lower court's decision and the matter is still suspended in the limbo of the legal proceedings. But as soon as the ninth circuit's opinion would become final, the Oregon officials have indicated they intend to call for Federal resources to participate in the funding of what they call ''comfort care.'' I would be uncomfortable myself to receive the ''comfort care'' offered there.

But it is, in my judgment, a matter of importance that we act promptly, that we act with dispatch. The attempt to bring unrelated issues to this measure is counterproductive, particularly inasmuch as it is likely to send this legislation to conference and to delay substantially the ability to move the will of the American people into the law of the American people, and that will is that we not fund with Federal resources assisted suicide.

Madam President, I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

Mr. ASHCROFT. I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk continued with the call of the roll.

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

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

Mr. WELLSTONE. I ask unanimous consent that Margaret Heldring have the privilege of the floor during the debate on this bill.

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

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

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

Mr. ASHCROFT. Madam President, I ask unanimous consent that no amendments or motions be in order to the pending legislation, and that there be 10 minutes for debate to be equally divided in the usual form, to be followed by third reading and final passage of H.R. 1003.

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

Mr. ASHCROFT. I now 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. ASHCROFT. For the information of all Senators, a vote will occur within the next 10 minutes on passage of the assisted suicide bill. I thank my colleagues for their cooperation.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I ask unanimous consent to have printed in the RECORD a statement of administration policy on H.R. 1003, including a letter to Senator TRENT LOTT by the Assistant Attorney General, Andrew Fois.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, April 16, 1997.

STATEMENT OF ADMINISTRATION POLICY

H.R. 1003—Assisted Suicide Funding Restriction Act of 1997

The President has made it clear that he does not support assisted suicides. The Administration, therefore, does not oppose enactment of H.R. 1003, insofar as it would reaffirm current Federal policy prohibiting the use of Federal funds to pay for assisted suicides and euthanasia.

However, the Department of Justice advises (in the attached letter) that section 5 of the bill, which would prohibit the use of any federal funds to support an activity that has a purpose of ''asserting or advocating a legal right to cause, or to assist in . . . the suicide . . . of any individual,'' exceeds the intent of the legislation and raises concerns regarding freedom of speech. Therefore, the Administration urges the Senate to address

this concern as the legislation moves forward, in order to avoid potential constitutional challenges and implementation problems.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, April 16, 1997.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: This presents the views of the Department of Justice on H.R. 1003, the ''Assisted Suicide Funding Restriction Act of 1997.'' As you know, the President has made it clear that he does not support assisted suicides. The Administration therefore does not oppose enactment of H.R. 1003. We do, however, have a concern that we would like to bring to your attention.

Section 5 of H.R. 1003 provides that ''no funds appropriated by Congress may be used to assist in, to support, or to fund any activity or service which has a purpose of assisting in, or to bring suit or provide any other form of legal assistance for the purpose of . . . asserting or advocating a legal right to cause, or to assist in causing, the suicide, euthanasia, or mercy killing or any individual.'' This restriction, by its plain terms, would apply without limitation to all federal funding. As a result, we believe that the proposed bill would constitute a constitutionally suspect extension of the type of speech restriction upheld in *Rust* v. *Sullivan*, 500 U.S. 173 (1991).

In *Rust*, the Supreme Court upheld a program-specific funding restriction on the use of federal family planning counseling funds to provide abortion-related advice. It explained that the restriction constituted a permissible means of furthering the government's legitimate interests in ensuring program integrity and facilitating the government's own speech. See id. at 187–194. The Court stressed, however, that its holding was not intended ''to suggest that funding by the Government, even when coupled with the freedom of the fund recipients to speak outside the scope of a Government-funded project, is invariably sufficient to justify Government control over the content of expression.'' Id. at 199. For example, the Court emphasized that the First Amendment analysis might differ for restrictions on federally funded services that were ''more all encompassing'' than the limited pre-natal counselling program at issued in *Rust*. Id. at 200. In addition, the Court explained that the government's authority to place speech restrictions on the use of governmental funds in ''a traditional sphere of free expression,'' such as a forum created with governmental funds or a government-funded university, was far more limited. Id. at 200.

The Court affirmed the limited nature of *Rust* in *Rosenberger* v. *Rectors and Visitors of the University of Virginia*, 115 S.Ct. 2510 (1995). There, the Court explained that *Rust* applies where the government itself acts as the speaker. ''When the government disburses public funds to private entities to convey a governmental message,'' the Court explained, ''it may take legitimate and appropriate steps to ensure that its message it neither garbled nor distorted by the grantee.'' Id. at 2519. The government may not, however, impose viewpoint-based restrictions when it ''does not itself speak or subsidize transmittal of a message it favors, but instead expends funds to encourage a diversity of views from private speakers.'' Id.

Here, the bill places a speech restriction on all uses of federal funds. It would move beyond speech restrictions on the use of federal funds in specific, limited programs, such as the one identified in *Rust*, to establish a viewpoint-based restriction on the use of federal funds generally. As a result, the bill's restriction on speech could apply to an unknown number of programs that are designed to ''encourage a diversity of views from private speaker, ''*Rosenberger*, 115 S.Ct. at 2519, and to which the Court has held application of a viewpoint-based funding limitation unconstitutional. The bill could also apply to a number of services that are ''more all encompassing'' than the counselling program at issue in *Rust*, see 500 U.S. at 200, and to which application of a viewpoint-based funding restriction would be subject to substantial constitutional challenge.

Moreover, the general approach that the bill employs is itself constitutionally suspect. Unlike the regulation at issue in *Rust*, H.R. 1003 does not attempt to identify a particular program, or group of programs, in which a funding restriction would serve the government's legitimate interests in ensuring program integrity or facilitating the effective communication of a governmental message. It would instead impose a broad and undifferentiated viewpoint-based restriction on all uses of federal funds. As a result of the unusually broad and indiscriminate nature of the proposed funding restriction, the bill does not appear to be designed to serve the legitimate governmental interests identified in *Rust*. Thus, the bill is vulnerable to arguments that it reflects on ''ideologically driven attempt [] to suppress a particular point of view [which would be] presumptively unconstitutional in funding, as in other contexts.'' ''*Rosenberger*, 115 S.Ct. at 2517 (internal quotations omitted). We therefore recommend that this provision be deleted from the bill.

Thank you for your consideration of this matter. Please do not hesitate to call upon us if we may be of additional assistance in connection with this or any other matter. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

ANDREW FOIS,
Assistant Attorney General.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

All time has expired. If there be no amendment to be offered, the question is on the third reading of the bill.

The bill (H.R. 1003) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina [Mr. FAIRCLOTH] is necessarily absent.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—99

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

NOT VOTING—1

Faircloth

The bill (H.R. 1003) was passed.

Mr. ASHCROFT. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, parliamentary inquiry: Can I use time as if in morning business to introduce a bill?

The PRESIDING OFFICER. The Senator needs consent to do that at this time.

Mr. DOMENICI. That is not infringing on anything planned?

The PRESIDING OFFICER. We have no orders at this time.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak for up to 10 minutes on court-appointed attorney's fees and the taxpayers' right to know how much they are paying.

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

The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 598 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

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

MORNING BUSINESS

Mr. FRIST. 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 FISCAL YEAR 1998 DEFENSE BUDGET AND THE MILITARY SERVICES' UNFUNDED PRIORITY LISTS

Mr. LEVIN. Mr. President, during the consideration of the annual defense budget in each of the last several years, the Armed Services Committee has asked each of the military services to provide a list of unfunded priorities—that is, programs that were not included in the defense budget request submitted to the Congress. For obvious and very understandable reasons, the military services have responded to these requests with a great deal of enthusiasm.

Again this year, the chairman of the Armed Services Committee, Senator THURMOND, asked each of the military service chiefs to indicate to the committee how they would allocate up to $3.0 billion in additional funds above the fiscal year 1998 budget request. Last month each of the four service chiefs provided the committee with a list of $3.0 billion for specific programs not funded in the budget request.

Mr. President, the Armed Services Committee needs to hear the priorities of the military services—but we also have a responsibility to view these priorities in a broader context. The so-called unfunded priority lists submitted to the committee reflect only individual service priorities. They do not necessarily reflect the joint service priorities of the Chairman of the Joint Chiefs or the warfighting commanders in chief.

General Shalikashvili made this point earlier this year to the committee when he said during our February 12 hearing in reference to these unfunded priority lists:

> I would put in as strong a plea as I can that you then ask what the overall prioritization is within the joint context, because we are talking of a joint fight. And so to understand why one system should be put forward versus another, you really ought to see what the joint priority on it is, and how that particular system, in the eyes of the joint warfighter, then contributes to the overall fight. Obviously then you will make a judgment. But I would ask that you do not look at service lists without putting it in the context of a joint view on the importance of that item or the other.

Mr. President, one of the driving forces behind the Armed Services Committee's work on the landmark Goldwater-Nichols Department of Defense Reorganization Act 10 years ago—which our former colleague and now Secretary of Defense Bill Cohen played a key role in—was the need to enhance the joint perspective within the Defense Department. I agree very strongly with General Shalikashvili's view that the Armed Services Committee—and the Senate—should have the benefit of the joint perspective before we take any action on any of the items on the military services' unfunded priority lists. We have a responsibility to ensure that the programs we fund make the greatest possible contribution to the joint warfighting capability of our Armed Forces.

For this reason, when the committee received the four unfunded priority lists from the military service chiefs last month totaling $12.0 billion, I sent all four lists over to Secretary Cohen and General Shalikashvili and asked two questions.

First, I asked which of the specific programs on the military services unfunded priority lists, if any, were programs for which funds are not included in the Defense Department's current Future Years Defense Program.

Second, I asked for Secretary Cohen's and General Shalikashvili's views on the individual programs on the services' lists from a joint warfighting perspective, and whether there were any programs not included in these lists that in their view had a higher priority from the joint perspective.

Mr. President, I recently received letters from both Secretary Cohen and General Shalikashvili in response to my letter. I ask unanimous consent that my letter and their responses be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. LEVIN. Secretary Cohen indicates in his letter that while the military services' unfunded priority lists ''provide useful ways that the Defense Department could apply additional funds, the President's budget already provided for the Department's essential priorities.'' With the exception of four specific items, Secretary Cohen also noted that the items on the services' lists are included in the fiscal year 1998–fiscal year 2003 Future Years Defense Program.

General Shalikashvili's response to my letter outlines his views on the most important programs on the services' lists from a joint warfighting perspective. General Shalikashvili's joint list totals about $4.0 billion, or about one-third of the total $12 billion on the four lists that the service chiefs submitted. His list includes three command, control, communications and intelligence programs that were not on the services' original list. Unfortunately, General Shalikashvili does not indicate relative priorities within the programs on his joint list, but I intend to pursue this question further.

Mr. President, I think Secretary Cohen's and General Shalikashvili's personal involvement in this issue of unfunded priority lists represents an important step forward in what some people have called the wish list process in the last several years—a process that in my view had gotten a little out of hand. It is still too early to tell how relevant these various lists will be this year. The outcome of the budget discussions between Congress and the administration is unclear. I don't believe we should or need to increase the fiscal year 1998 defense budget this year. If Congress does decide to make adjustments to the fiscal year 1998 budget, I think we are much better off with a $4.0 billion joint list than with four $3.0 billion lists that have not had the benefit of a joint review.

I want to thank Secretary Cohen and General Shalikashvili for their cooperation in this effort.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, March 18, 1997.

Hon. WILLIAM S. COHEN,
Secretary of Defense.

Gen. JOHN M. SHALIKASHVILI,
USA, Chairman, Joint Chiefs of Staff, Department of Defense, Washington, DC.

DEAR SECRETARY COHEN AND GENERAL SHALIKASHVILI: At the request of the Committee, each of the Chiefs of the military services has provided the Committee with a list of their program priorities in the event that Congress decides to provide additional funding to the Defense Department for fiscal year 1998 above the President's budget request. I have enclosed a copy of each of these four lists.

I would appreciate your response to two issues concerning these lists which were raised during your testimony before the Committee on February 12, 1997.

First, please indicate which programs, if any, on these lists are programs for which funds are not included in the Department's current Future Years Defense Program.

Second, during the Committee's February 12 hearing, you requested that we look at the prioritization of these programs within the joint context. Accordingly, please indicate your views on the priority of the individual programs on these lists from the joint warfighting perspective. You should also indicate whether there are any programs not included on these lists that have a higher priority from the joint perspective.

I would appreciate your response to these questions by April 1, 1997. Thank you for your assistance in this important matter.

Sincerely,

CARL LEVIN,
Ranking Minority Member.

THE SECRETARY OF DEFENSE,
Washington, DC, April 10, 1997.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR CARL: I welcomed your letter of March 18, 1997, to General Shali and me because it gives me the opportunity to provide my perspective on the Service unfunded priority lists. While the lists provide useful