amendment to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the end of title II, add the following:

SEC. ___. REQUIREMENT TO OFFSET DIRECT SPENDING INCREASES BY DIRECT SPENDING DECREASES.

(a) SHORT TITLE.—This section may be cited as the ''Surplus Protection Amendment''.

(b) IN GENERAL.—In the Senate, for purposes of section 202 of House Concurrent Resolution 67 (104th Congress), it shall not be in order to consider any bill, joint resolution, amendment, motion, or conference report that provides an increase in direct spending unless the increase is offset by a decrease in direct spending.

(c) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(d) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the concurrent resolution, bill, or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(e) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of direct spending for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, March 31, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 1100, a bill to amend the Covenant to Establish a Commonwealth of the Northern Marina Islands in Political Union with the United States of America, the legislation approving such covenant and for other purposes; and S. 1275, a bill to implement further the Act (Public Law 94–241) approving the Covenant to Establish a Commonwealth of the Northern Marina Islands in Political Union with the United States of America, and for other purposes.

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

COMMITTEE ON FINANCE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet Tuesday, March 31, 1998 beginning at 2:00 p.m. in room SH–215, to conduct a markup. Note this markup was originally scheduled to begin at 10:00 a.m.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Charter Schools during the session of the Senate on Tuesday, March 31, 1998, at 10:00 a.m.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. DOMENICI. The Committee on Veterans' Affairs requests unanimous consent to hold a hearing on tobacco-related compensation and associated issues. The hearing will take place on Tuesday, March 31, 1998, at 10:00 a.m., in room 106 of the Dirksen Senate Office Building.

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

SPECIAL COMMITTEE ON AGING

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Special Committee on Aging be permitted to meet on March 31, 1998 at 10:00 a.m. for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet on Tuesday, March 31, 1998 at 9:30 am to receive testimony on strategic nuclear policy and related matters in review of the Defense authorization request for fiscal year 1999 and the future years Defense program.

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION/MERCHANT MARINE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation/Merchant Marine of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, March 31, 1998, at 2:30 pm on reauthorization of the surface transportation board.

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

ADDITIONAL STATEMENTS

PEDIATRIC EMERGENCY MEDICAL SERVICES PROGRAM

● Mr. INOUYE. Mr. President, the Pediatric Emergency Medical Services Program was enacted into public law on a truly bipartisan basis on October 30, 1984. Children are not ''merely little adults.'' They have their own unique health care needs, respond to illness and trauma in their own individualized manner, and although children constitute between 20 to 35 percent of hospital emergency department services, too often their families are not really considered an integral component of their treatment and eventual rehabilitation. When President Reagan signed Public Law 98–555, a new era of hope and opportunity had arrived.

Over the years, I have been very pleased with the steady growth this program has experienced. The landmark 1993 Institute of Medicine report reminded us, however, that much more still needs to be done. ''Each year, injury alone claims more lives of children between the ages of 1 and 19 than do all forms of illness. . .. Overall, some 21,000 children and young people under the age of 20 died from injuries in 1988. . .. Clearly, preventing emergencies is the best 'cure' and must be a high priority, but as yet, prevention is far from foolproof. When prevention fails, families should have access to timely care by trained personnel within a well-organized emergency medical services (EMS) system. Services should encompass prevention, prehospital care and transport, ED and inpatient care at local hospitals and specialty centers, and assistance in gaining access to appropriate follow-up care including rehabilitation services. For too many children and their families, however, these resources have not been available when they were needed. . ..'' I would suggest that the Institute of Medicine has raised a very critical issue for all of us in our nation, and particularly for the well-being of our families.

This year, the Administration in its Fiscal Year 1999 budget requested $11 million to continue the Pediatric Emergency Medical Services Program. This figure represents a decrease of $2 million from last year and we might be somewhat distressed by the recommendation. However, I am very pleased that in this time of significant budgetary constraints, Secretary Shalala requested funding. And, I am confident that again this year our colleagues serving on the Appropriations Committees, on both sides of the aisle and in the House and Senate, will enthusiastically respond to the truly pressing needs of our nation's children. I am also confident that we will continue to have the vocal support of the American Academy of Pediatrics and the National Association of Children's Hospitals. But for their active support in the past, it is fair to say that Congressman BILL YOUNG and I would not have been able to be as effective as we have wished.

The Department's budget justification continues to point out all too graphically the real need for this program. They point out that: ''Each year over 20,000 children die from injuries. Another 31,447,000 children and adolescents are seen in emergency departments, accounting for $8.6 billion per year in medical costs. Government sources pay all or part of 40 percent of the pediatric emergency department visits, or about $3.4 billion. . ..'' Without question, having appropriate and high quality care available in a timely fashion is an investment in our nation's future.

Every one of us should be aware that there is still much to be accomplished in our efforts to protect the lives and future of our loved ones. Even today, only two states require that Basic Life Support vehicles carry all the equipment needed to stabilize a child and

only five states require all such equipment for Advanced Life Support ambulances. 34 percent of EMTs and paramedics report that they still do not feel comfortable treating children. In 1996, 66 percent of persons who failed the national EMT exam did so because they failed the pediatric/OB section. A recent study found that paramedics' skills and knowledge for treating critically ill or injured children completely decayed by six months post-training; yet no state requires even annual retraining in pediatric care. Children with special health care needs present major complications for emergency treatment. Yet, only six states have approved continuing education courses that address this topic. Only nine states have the capacity to produce reports on pediatric emergency medical services care using statewide emergency medical services data. Perhaps most significantly, however, is the finding that LESS THAN HALF (46 percent) of hospitals with emergency departments have necessary equipment for stabilization of ill and injured children, and only 40 percent of our nation's hospitals with emergency departments have written transfer agreements with a higher level facility to ensure that children receive timely and appropriate hospital care when they need it. Many public policy experts have also raised the issue of how pediatric emergency care is being covered under managed care programs.

Earlier, I referred to the impressive report which the Congress had received from the experts at the Institute of Medicine. In my judgment, perhaps the most critical Institute of Medicine recommendation is that the Congress should provide $30 million annually for this special program. Those of us from Hawaii truly appreciate on a first-hand basis the many far reaching health policy recommendations that have been made over the years by our visionary pediatrician, Dr. Calvin Sia. I, as one U.S. Senator, shall continue to do my best to implement Dr. Sia's recommendations. Our nation's children and families deserve no less.●

NOMINATION OF JUDGE PAEZ

Mr. ABRAHAM. Mr. President, I wanted to make a few comments about Judge Paez's nomination, which was recently reported out of the Judiciary Committee with six Members noting dissents. Because I had a prior commitment, when the markup was moved from 10:00 A.M. to 5:30 P.M. Thursday afternoon I was not able to be there and accordingly did not record a position on this matter, which was voted on by voice vote with those wishing to note a dissent doing so. I would like the record to reflect, however, that I have serious objections to this nominee's confirmation. My reasons center around some comments Judge Paez made about two California initiatives while he was serving as a district judge.

In a speech given at Boalt Hall in April of 1995 as part of a series of lectures on Law & Cultural Diversity honoring Judge Mario Olmos, a Boalt Hall graduate, Judge Paez said the following:

> The Latino community has, for some time now, faced heightened discrimination and hostility, which came to a head with the passage of Proposition 187. The proposed anti-civil rights initiative [which was eventually placed on the ballot as Proposition 209] will inflame the issues all over again, without contributing to any serious discussion of our differences and similarities or ways to ensure equal opportunity for all.

Here are my concerns. In the case of Proposition 187, an initiative barring receipt of state-funded benefits by illegal aliens, at the time Judge Paez made these remarks, he was a sitting district court judge, and there was litigation pending in Judge Paez's own court regarding the constitutionality of this initiative. That court had granted a t.r.o. and had before it a request for a preliminary injunction, which the district court did not rule on until November 1995, seven months after Judge Paez made this speech. Assuming some aspects of the initiative ultimately survived this facial constitutional challenge, a question that I believe has just gone to the Ninth Circuit, there was also certain to be litigation over how it should be interpreted.

Judge Paez's comments on the initiative, it seems to me, at a minimum at least unnecessarily raise a question as to whether he will be able to decide cases presenting issues relating to Proposition 187 impartially. Indeed, at his hearing, when asked about these remarks, Judge Paez practically acknowledged this problem in that he cited the pending cases as a reason why he needed to be cautious in answering Judiciary Committee Members' questions about what he had said. That is the very reason he should not have said what he did in the first place. Accordingly, I think these comments are inconsistent with Canon 4 of the Model Code of Judicial Conduct, governing judges' extra-judicial activities. Under that canon, off the bench a judge is supposed to conduct himself or herself so as not to ''cast reasonable doubt on the judge's capacity to act impartially as a judge.''

As for Judge Paez's comments regarding Proposition 209, barring racial preferences in the provision of public services, I believe they raise similar concerns and some additional ones as well. Proposition 209 had not even been placed before the voters at the time these comments were made, and so as far as I am aware, there was no pending litigation about it at the time Judge Paez made these comments—although we have had before us another nominee for the Ninth Circuit who tried to get an injunction against circulating petitions to place an initiative on the ballot, so such litigation certainly was not an impossibility even at that stage of the process. Even if no challenge along those lines were brought, however, it was crystal clear that there certainly would be ample litigation about it if the initiative was placed on the ballot and passed, and that again, it was likely to be in Judge Paez's court. Indeed we know that is in fact what happened. So in that instance as well, it seems to me that these comments are dubious under Canon 4.

In addition, I think they are problematic under Canon 5(D). That canon generally prohibits judges from engaging in political activity. Judge Paez gave this speech on April 6, 1995. The next day, the California Democratic Party opened its State convention, where press reports say that the question of how to respond to the circulating initiative was one of the central issues on the table. One day later, President Clinton went out to California to give a speech on the subject. According to the press, at the time many were arguing that given California's significance in Presidential politics, this issue could play a critical role in the Presidential election.

Given this context, Judge Paez's comments look a lot like a judge intervening in a hot political controversy. Granted, the forum where Judge Paez made these remarks—a lecture series at a law school—may insulate them from actually violating Canon 5. And it is possible that Judge Paez was just unlucky about the timing of his remarks, and had no intention of affecting the California Democratic Party's position (although in answer to a question at his hearing about how an initiative that tracks the Fourteenth Amendment could be ''anti-civil rights'', he said that at the time he was giving his remarks, he remembered ''just reading in the papers there was a lot of debate going on as to how it should actually be formulated,'' suggesting that perhaps he was following that debate). Regardless of his actual intention, however, the appearance that a judge is injecting himself into politics is exactly what Canon 5(D) is designed to avoid, and that is presumably why it is formulated as a flat prohibition.

When he was asked about these comments at his hearing, Judge Paez said ''we shouldn't and I wasn't trying to take a political position. We were bound by certain ethics. Nonetheless, as I said a minute ago, we are—we have a life outside of our role as a judge as well, and it was an—I was trying to address a particular broad issue, and so I made those remarks.'' He also said that he regretted having used the particular words he did. In written answers to follow up questions, he also explained why in his view his remarks did not violate Canon 3A(6) (prohibiting judicial comments on the merits of pending cases) and how ''upon reflection, [he] underst[ood] how [his] reference to the proposed initiative could have led some to believe that [he] might have a biased view of the constitutionality of Proposition 209.'' He continued ''I regret that anyone would have that perception, as I assure you that was not