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Senate

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

PRAYER

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

Lord of history, we gain perspective on the perplexities of the present by remembering how Your power has been released in response to prayer in the past. Gratefully, we remember Your answers to prayers seeking Your strength in struggles and Your courage in crises. We remember those times when Your guidance brought consensus out of conflict and creative decisions out of discord.

Once again, we need Your divine intervention and inspiration. Watch over the Senators as they unite in seeking Your best for the future of our Nation. Give them strength to communicate their perception of truth with mutual respect and without rancor. We are of one voice in asking for Your blessing on this Senate as it exercises the essence of democracy in its vital debates. You have been our Guide over the years of United States Senate history, and we trust You to lead us forward today. Through our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the distinguished Senator from New Mexico.

SCHEDULE

Mr. DOMENICI. Mr. President, on behalf of the leader, I announce that this morning the Senate will resume consideration of S. Con. Res. 86, the budget resolution. Under a previous unanimous consent agreement, at 10 a.m. the Senate will resume consideration of the Sessions amendment, No. 2166, with 30 minutes of debate equally divided, with a vote occurring on or in relation to the amendment at approximately 10:30 a.m. Following that vote, the Senate will resume debate of the Murray amendment, No. 2165.

During today's session of the Senate, Members can anticipate debate on a number of amendments expected to be offered to the budget resolution. Any Members wishing to offer amendments should contact the managers with their intentions. Any Members, I repeat, wishing to offer amendments should contact the managers with their intentions.

In addition, the Senate may consider any executive or legislative business cleared for Senate action. Therefore, Members can anticipate a very busy day of floor action. As a reminder to all Senators, the first vote will occur at approximately 10:30 a.m.

Mr. President, the distinguished Senator from Indiana, Senator COATS, wishes a few moments on the Sessions sense-of-the-Senate resolution. He cannot be here at 10 or later, which is the time prescribed for discussion on that resolution, so I ask consent it be in order for the distinguished Senator from Indiana to discuss this sense-of-the-Senate resolution that Senator SESSIONS offered before 10 o'clock, as he arrives on the Senate floor. I will yield time to him off our side of the bill at that point.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEARS 1999, 2000, 2001, 2002, AND 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. Con. Res. 86, which the clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 86) setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

The Senate resumed consideration of the concurrent resolution.

Pending:

Murray amendment No. 2165, to establish a deficit-neutral reserve fund to reduce class size by hiring 100,000 teachers.

Sessions/Enzi amendment No. 2166, to express the sense of Congress that the Federal Government should acknowledge the importance of at-home parents and should not discriminate against families who forego a second income in order for a mother or father to be at home with their children.

Gregg amendment No. 2167, to express the sense of the Senate that this resolution assumes that no immunity from liability will be provided to any manufacturer of a tobacco product.

Gregg/Conrad amendment No. 2168 (to amendment No. 2167), of a perfecting nature.

Kyl amendment No. 2169, to express the sense of the Congress regarding freedom of health care choice for medicare seniors.

Conrad (for Dodd) amendment No. 2173, to establish a deficit-neutral reserve fund for child care improvements.

Conrad/Lautenberg/Bingaman/Reed amendment No. 2174, to ensure that the tobacco reserve fund in the resolution protects public health.

Conrad (for Moseley-Braun) amendment No. 2175, to express the sense of the Senate

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

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regarding elementary and secondary school modernization and construction.

Conrad (for Boxer) amendment No. 2176, to increase Function 500 discretionary budget authority and outlays to accommodate an initiative promoting after-school education and safety.

Brownback amendment No. 2177, to express the sense of the Senate regarding economic growth, Social Security, and Government efficiency.

Burns amendment No. 2178, to express the sense of the Senate regarding the use of agricultural trade programs to promote the export of United States agricultural commodities and products.

The PRESIDING OFFICER. Under the previous order, the time until 10 a.m. shall be equally divided between the two managers.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum with the time to be equally charged.

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

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2166

Mr. COATS. Mr. President, I would like to take just a few moments, no more than 5 minutes, if that is acceptable, to speak about the pending amendment.

Mr. President, just a couple of weeks ago I was privileged to chair a congressional symposium on the question of child care and parenting held by the Subcommittee on Children and Families. The purpose was to examine many of the issues surrounding the whole question of child care and the needs of America's working families.

We tried to do what very few policymakers do these days. Instead of starting with an assumption that a certain program and place ought to just be expanded, we went back to the basics, back to fundamentals. We asked the questions: What do the experts think is best for children? What do families think is best for them? What do they think they need? Politics aside, special interests aside and, in the best of all worlds, if we were starting over, where would we start?

What we learned from that symposium, convening experts from all across the political spectrum, different philosophies represented, but experts in the field, including mothers who have spent a great deal of time raising their families and studying these issues is that families want more time with their children, not less time. They want Government to allow them to keep more of their hard-earned dollars so that they have more choices in terms of how they spend those dollars, rather than deciding here that we are just simply going to spend more money on new programs or new bureaucracies.

We learned that they want to rely less on child care, to have more flexible work hours, comptime and other profamily benefits that many Federal employees currently enjoy. We learned what children have is what Dr. Stanley Greenspan calls ''irreducible needs.'' He indicated the studies have shown there is a significant concern that our society ''has begun to advocate out-of-home care as the desired option rather than as a backup system for those who need it.''

According to experts like Jay Belsky of Penn State University, prolonged exposure to out-of-home care can have very serious results on long-term child development, because it impacts adversely on the way a child relates and bonds with his mother. It appears to have a negative impact on maternal sensitivity to the child, which is critical, as these experts have said, to child development.

These are facts, Dr. Belsky said, that are overwhelming and should not be dismissed. He said they—this early interaction and bonding between mother and child—are as profound as the effects of child care on cognitive and social development.

We have invested very heavily in the question of child care, but we ought to be wary of proposals which fail to address the needs and desires of a majority of American children and American families. So instead of choosing to promote a continuation of the current system, we ought to look at what these experts are telling us and at least try to find a way to balance what we do to provide incentives for parents who often, at considerable financial sacrifice, choose to stay home with their children, particularly in the early months and early years.

We need to talk about positive family-friendly policies, extended job leaves, part-time work, flextime, comptime, job sharing, telecommunicating and other corporate policies which allow families to have more time with children, not less time with children.

We ought to encourage ways in which we can increase parental involvement through tax fairness. Anybody who studies the Tax Code knows it is the families raising children that are most discriminated against in our Tax Code. We have often allowed more tax credits, as a former Representative used to say, for breeding racehorses than for raising children, because we penalize families that choose to stay home with their children by narrowly linking tax benefits to day care expenses. The dependent-care tax credit says that the more time you spend away from your children, the more time in out-of-home care, the greater the expense, the greater the credit.

The Sessions amendment, which I am here to advocate support for and vote for, is a good first step, hopefully the beginning of an extensive congressional recognition of the importance of at-home care.

We do need a strong, quality child care program for parents who work out of the home. We need to make sure that it is available to parents, but we also need to make sure that what is available to parents is maximum choices in terms of how they determine the best way to raise their children. They need to be treated equally, and the experts tell us that they need to be treated equally because ultimately this is the best for children. We recognize that not every working family can afford a stay-at-home parent, but we also recognize and need to understand that what the experts are telling us is that this is the preferred option, this is the option for which we ought to be providing incentives.

This sense-of-the-Senate amendment before us today is a way that we as a body can recognize that fact and we can endorse, so that in our debates about how we expand the Tax Code, in our debates about how we address work policies, in our process of determining what is best for children, we will focus on what is best for children and look at the balance that is necessary to address those families that want a parent to stay at home and take care of their children, primarily because that is what is best for children. If we are talking about cognitive development, if we are talking about social development, we are talking about uniting parents and children at the earliest stages of their lives.

There is no child care provider who can provide what a motivated mother and informed mother can provide for their child. There is no child care provider who can provide the love and nurturing necessary for the development of that child, and we need to have incentives built into our law that don't discriminate against but actually encourage and enhance that selection.

Mr. President, I am pleased to support the amendment of Senator SESSIONS that we will shortly be voting on and trust that it will receive an overwhelming bipartisan encouragement and affirmation.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I say to Senator COATS, I was very hopeful that in spite of your schedule you would have time to speak here this morning. Your staff spoke to us about it. I am very pleased you did that.

Mr. COATS. I thank the Senator from New Mexico for providing the time.

Mr. DOMENICI. The reason I am is because I really believe when it comes to this issue, while there are many people involved and many people who work on the issue, I listened tentatively to the Senator's observations and his rationale, his common sense applied to it, and I think he articulated the very best American approach to this.

While we may not be able to get policy adopted that accomplishes that—it is always difficult—I compliment the

Senator from Indiana because, indeed, I think what he said today and what he said before is right for the country and right for our children and right for the American system of work, people working to get ahead and people who want to take care of their children instead of going to work for part of their lives. I really commend him for that.

Mr. COATS. I thank the Senator.

Mr. DOMENICI. Mr. President, even though it is 5 minutes of 10 and the order said we will start debating the Sessions amendment at 10, I ask unanimous consent that, since we already discussed it, we start the discussion now and it be equally divided over the next 30 minutes.

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

Under the previous order, the Senate will now resume consideration of the Sessions amendment No. 2166, on which there shall be 30 minutes of debate equally divided.

Mr. DOMENICI. I note the presence of the sponsor of the amendment, Senator SESSIONS, on the floor.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I am one of the cosponsors of the amendment. I yield myself 5 minutes for comments.

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

Mr. DOMENICI. Mr. President, I want to make sure that he does speak, but time is controlled.

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. The sponsor is on the floor, and he controls the time. Will Senator SESSIONS designate that to me for now to try to use our time?

Mr. SESSIONS. I will be pleased for Senator ENZI to have 5 minutes.

Mr. DOMENICI. All right.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 5 minutes.

Mr. ENZI. Mr. President, I am an original cosponsor of the Sessions sense-of-the-Congress amendment No. 2166. I firmly believe that the at-home parents who forgo a second income so that one parent can raise their children do deserve some formal recognition by their Federal Government. That is a tough decision for parents to make, but it is one that is being made every day, and it is making a difference to kids. All this sense-of-the-Congress amendment does is to give some extra emphasis to say to parents, if you are making this decision, consider it carefully, consider having one of the parents forgo their income and stay at home and make a better life for the kids. The purpose of it isn't to make anybody feel guilty. The purpose of it is simply to make sure that when we are building basic policy, that basic policy includes families and basic policy includes an emphasis on families, and basic policy makes it possible, in any way that we can do it, of keeping parents with their kids.

All forms of day care touch on one of our Nation's most important resources—our children. If Congress is serious about addressing day care, then we must do so in a fairminded way and not exclude at-home care from the debate. It is unfortunate that at-home care has not received its day in the spotlight. There are more families that fit this mold than I think many of us are aware.

We have an opportunity through this body to change that and should change it in any way we can. Conditions are difficult for two-income families. It is even harder for single working moms to raise children. Few would argue differently.

To be fair, however, we must not imply that families who choose to keep one parent at home with their children are not making any sacrifices. They are sacrificing, too. For years, the subtext of Federal family policy is that everyone should work and that the burden of accommodation should be on those parents who choose to stay at home to raise their children. But if the debate revolves around the quality of care our children receive, we must modify existing Federal policy and end this senseless discrimination.

If we are really concerned about the quality of care for our children, then single-income families should be formally recognized. America's tax burden has grown so large in many instances that a second parent has to work just to pay the family's tax burden.

A 1993 survey found that more than 50 percent of working women would stay at home if money were not an issue. These parents should not be discriminated against by their own Federal Government simply because they sacrifice greater financial gain for their children.

The financial penalty inherent in having one parent stay at home to raise their children is large indeed. I do not believe that a majority of single-income families pursue such an arrangement because they can easily afford it. They do it because they believe it is best for their kids. They do it as a conscious decision. It should not be the work of this body to second-guess their judgments and their values.

Parents who decide to forgo a second income so that one parent might be at home during their children's formative years incur quite an expense, as several Members of my own staff can attest. And I am proud of them for the sacrifices that they are making. But I do not think it is fair, when we talk about Federal policy, that we should build a special policy that discriminates against them. We should be encouraging that kind of behavior.

It is quite clear that at-home care is beneficial to our Nation's kids. If this viable alternative is excluded from debate, then the message this body sends about the quality of care for America's children is shortsighted, at best. This amendment is geared to provide the recognition that at-home care and the parents who utilize it deserve some recognition.

This amendment is supported by Democrats and Republicans alike. That is how families are, and it should pass unanimously. I encourage all Members of the Senate to read this amendment, cosponsor it, and vote in favor of its passage.

Mr. President, I yield the floor.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I rise to associate myself with the comments of my friend from Wyoming and as a strong supporter of the Sessions amendment, a sense-of-the-Senate amendment, on the importance of at-home parents and the Government role in child care.

I am a proud cosponsor of this amendment and thank Senator SESSIONS, the Senator from Alabama, for his leadership in this area. The Clinton child care policy is always a direct or indirect subsidy to the marketplace day care industry. The President only seeks to help a small portion of working parents, ruling out those who wish to stay at home and take care of a child and those who do not want to use the marketplace day care.

Government policy ought not to discriminate against the best form of child care—where a child is taken care of by his or her parents or family. I believe that the Federal Government should subsidize the family, just as it subsidizes the workplace, giving money back to the family. The family can make the best choices in child care. At best, President Clinton's day care policy is only a subsidy of another workplace, the institutionalized day care industry.

Mr. President, I will soon be introducing legislation to change the Tax Code to put stay-at-home parents on at least an equal footing with two-income families. My legislation will increase the current $500 per child tax credit to $1,500 per child for children up to 6 years of age. This credit would replace the current dependent-care tax credit with real money that directly benefits families and restores equality and fairness in child care.

I think this is an important piece of legislation, Mr. President. And if, in fact, we go forward in this session of Congress and the President's idea comes forward—an idea that costs roughly $20 billion—then I suggest my bill ought to replace it. My bill ought to replace it because it does not discriminate between stay-at-home parents or those who choose to work. It affects each of them equally, because they all have children and needs with respect to those children.

Mr. President, I thank again Senator SESSIONS for bringing this important issue to the floor as part of the budget resolution. I urge every Senator to strongly support his amendment. I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Chair recognizes the Senator from Alabama.

Mr. SESSIONS. Mr. President, I am very proud of the excellent comments that have been made by a group of distinguished Senators today regarding this amendment. It is not an itty-bitty matter; it is a very serious matter. And it reflects a reevaluation by this body of the priorities we are placing on helping families raise children. It reflects a change in what we have been doing, because we have been, in fact, subsidizing one form of child care, a form of child care used by only a few American families, and have been taxing all the other American families to support that one form, which is institutional public day care essentially. And I do not believe that is good policy.

As Senator COATS mentioned earlier, mothers want, if they are given a choice, to be at home with their children, for the most part, during their formative years. We know that. Scientists and people also, who have studied this, have concluded that it is better for them to be at home, when they can. So we need to subsidize and support equally all forms of child care, if we do so, and we ought to do it in a way that allows parents the choices that they prefer.

All right. Let me just mention, first, the background on which we are operating. This is from the census report, the last census report. This is titled: ''Patterns of Child Rearing for Children Under Age 5.''

The mother is not employed; the care is by the mother in the home—almost 50 percent; 48 percent of mothers with children under age 5 raise them in their home. The President's proposal in current law provides no benefit for those families—zero—even though they may be giving up substantial income because the mother has been in the workplace before and chooses to stay at home because they believe, after prayerful thought and concern in the family, that this is the best way to raise their children. We ought to affirm that. We ought not to penalize that by taxing the decision to support this decision.

The mother is employed, and the child is in a group day care preschool program—16 percent. That is what we have been subsidizing. That is the group we have been subsidizing. You have the mother who is working, but the child is taken care of by a nonrelative, somebody in the home. Maybe it is a nanny who comes and stays in their home and takes care of the children because parents feel, where possible, they would like their children to grow up in their home and have the stability and the confidence that comes from that kind of environment. And 11 percent do that. They get no benefits under this proposal.

The mother is employed and the care is by a relative, an aunt, a mother, a grandmother or sister. They are taken care of. That is 13 percent. They have no benefit under the current law or the President's proposal.

The mother is employed—employed—and the care is by the father or the mother—12 percent.

For all of these, only this group gets compensation. That is not good policy. This Congress, this Government in America ought to adopt public policy that in fact encourages our highest and best choices. We ought to do that, and I think we can do that.

Now, to point out the unfairness of it, look at this chart. This is where a husband and a wife are employed, both of them employed, one may not be full time. Their average income is $57,000.

Where there is a dual-earner family, both husband and wife work and are employed full time, their average salary is $64,000.

But where you have a single earner, a husband is employed and the wife not employed, and the husband may not be employed full time—and many do not have full-time jobs; they cannot get them—their average income is $38,000.

Where the husband is employed and the wife is not employed, the husband is employed full time, the average income is $42,000.

You see the difference. We are subsidizing this choice. We are not subsidizing this choice where parents stay at home. That is not good public policy, and I think we need to change it.

I congratulate Senator SMITH, who just spoke, because he is asking us to consider what we are going to do to eliminate this imbalance. I think he has thought the matter through, and he has come up with some conclusions that he has put in legislation to which this body needs to give serious thought.

Of course, this resolution basically does not suggest a solution to the problem. It just says we are going to set a policy here to change the way we have been doing business. I think we ought to affirm parents who, after prayerful, careful, serious thought among themselves, conclude that it is best for their children to forgo a second income and stay at home. I think we ought to affirm that with public policy.

Finally—I know my time is about up—this is a matter of significance. I have been delighted to see Senators calling our office the last 2 days wanting to sign on as cosponsors of this amendment. While I was on the floor yesterday, three Senators asked me could they join as a cosponsor of this amendment. It has broad bipartisan support—Democrats and Republicans. I hope we have a unanimous vote on this issue.

But what I want to say is this: Do not sign on as a cosponsor, do not vote for this resolution, if you are not prepared to back it up by votes on the floor when we start setting tax policy and we start appropriating funds. If you are not prepared to support this philosophy, do not sign on because that is what erodes public confidence in America.

We talk a good game, but when the chips are down we often find reasons not to follow through on our commitments. I believe this is good public policy. I believe it is a resolution that sets the tone for this Congress. The House has passed a similar resolution, 419–0. I think that says something. I believe this body will be virtually unanimous, if not unanimous. After that, we are going to have to talk with Senator SMITH and other Members of this body to figure out a way to implement that policy.

It is a challenge to all the committees that are going to be dealing with these issues. They are going to have to reflect this view. I hope that they will. If they don't, we need to stand up and say we are not going to pass or support legislation that is not consistent with this resolution that treats all parents equally.

Mr. President, thank you for the time.

I thank my fellow Senators for their support for this resolution. I believe it is a great step forward in improving child care and development in America. Thank you, and I yield the floor.

Mr. DODD. Mr. President, I would like to applaud the Senator from Alabama for focusing attention on the important concerns of stay-at-home parents. I have said repeatedly, and continue to believe, that the best child care providers, particularly in the earliest months and years, are parents. Clearly, where both parents must work, we should try to help them provide the best possible care of their children. However, we should also help parents who make the difficult decision to forego a second income so that one parent can stay at home to care for a child.

That is the reason why I introduced legislation, S. 1610, the Child Care ACCESS Act, that will, for the first time, extend the Dependent Care Tax Credit to parents who stay at home to care for their young children. In fact, this piece of legislation, co-sponsored by 26 of my Democratic colleagues, does more for stay-at-home parents than any other proposal that has been introduced. Only this legislation would extend this important financial assistance to stay-at-home parents earning less than $30,000. For such families, the financial sacrifice of forgoing a second income is severe. They certainly deserve as much, if not more, support in staying home to care for their children as families earning more than $30,000.

Mr. President, if we are serious about helping parents who want to be home with their children, we should also promptly enact an expansion of the Family and Medical Leave Act of 1993. I have introduced legislation which would extend the benefits of the Family and Medical Leave Act to allow an additional 13 million parents to stay at home for up to 12 weeks to care for a newborn or sick child without fear of job loss.

I think we would all agree that we must support all parents —mothers and

fathers—in the decisions they make, whether it is to work in the paid labor force, to stay home with their children, or do some of each. Indeed, many parents move in and out of the labor force at different points in their children's lives—depending on the ages and needs of their children and their financial situations. All families deserve our help in raising the next generation of Americans. We must invest in our future if that future is to hold promise for our children, for our families, and for our country.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. With regard to the amendment we have been discussing this morning and the fact that families are choosing to give up a second income in order that they may have a parent stay home with their children in the early, formative years, I want to share a few thoughts with this body.

As I traveled my State last month and I discussed this issue, time and time again families would come up to me after my remarks and say, ''Thank you for saying that. We made that exact decision in our family. My wife had worked, and she decided she wanted to stay home with the children while they are young. It costs us a lot of money. We don't regret it. We are glad you have considered us raising children and you believe we ought to have a fair shake in that regard.''

My wife taught school for 4 years. When we had children, we made a decision she would cease teaching. I was able to have a decent income and take care of the family. We were not rich, but that was a decision we made, and we were very glad we did that. In fact, we probably would not have qualified for benefits under this program because this would be a program favoring lower income people.

Additionally, I wanted to share some numbers with the Members of this body. According to the most recently available data from the Census Bureau, a dramatically different picture is showing up than the one many would project. The facts show that although day care use did increase rapidly through the 1980's, the increase in the use of day care has come to a halt. The percentage of children under age 5 with employed mothers nearly doubled from the mid-1970's through 1998, but in subsequent years maternal employment remained fixed. In 1994, the last year recorded by the Census, the percentage of preschool children with employed mothers was still 52 percent, the same as it was in 1998.

My personal observations of the people I associate with, that my children have gone to school with, are that people are questioning the mentality that it is always best for both parents to work, and they are making different decisions. It is time for us to have Government policy that reflects that. I am very pleased with the bipartisan support this amendment is receiving. I think it reflects a serious reevaluation on behalf of this Congress on how to spend money in aid of children. I solicit the support of all Senators for this amendment.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey.

Mr. LAUTENBERG. I want to clarify exactly where we are, what the schedule calls for.

The PRESIDING OFFICER. The Senate is voting on Sessions amendment No. 2166 at 10:30. The remaining time is under the control of the Senator from New Jersey.

Mr. LAUTENBERG. I am pleased to support the amendment that the distinguished Senator from Alabama offers, because I think we all share the view that if a parent can stay at home—mother can stay at home, typically—then that is the best way to go and there ought not to be any discrimination against that kind of a policy or program. But people are forced, because of the pressure on incomes, to often look for the second or even the third job in the household.

As we examine the programs that will promote the parents at home, I think we have to consider this amendment as an indication of where we all stand. The amendment, as I see it, simply affirms the view that families should not be punished for their child care choice. There is no better babysitter, no better caregiver, than the mother of the child. I don't think anyone will disagree with that.

Democrats are proud of our long record of helping families with a stay-at-home parent to make ends meet. When you got to a particular vintage, kind of like mine—advanced middle-age, I think we call it—it was typical, regardless of the difficulty that existed financially in the household; somehow or other it all came together.

My mother was widowed when she was 36. I had already enlisted in the Army. I had a little sister at home. Mom managed to take care of my sister, get a modest allotment from my military pay, and at the same time have a job. She made all those arrangements, and my sister was never neglected and grew up a happy, fulfilled person, as did my mother and I. But things are different now. We live in a pressure-cooker world where people just can't seem to get by unless there are multiple jobs in the household. For the middle-income family, it is not atypical.

So Democrats, maybe we kind of harken back to a different day and say those were the proper kinds of functions to be going on in the household. Things were modest, but people accepted their fate and tried to work their way out of it. In 1993, what we tried to do was to establish the opportunity for a family to take care of their kids. We secured an expansion of the earned-income tax credit, giving a refund to those people who just didn't make enough to care for their families. In 1996, we secured an increase in the minimum wage. Last year, we won the $500-per-child tax credit.

Now, all of these initiatives put more money in the pockets of American workers, and I, as a Democrat, and those of us who are Democrats were happy to see that. This is not to suggest that many of our Republican friends were not happy, but it put a Democratic stamp on these programs. I am sure, again, many of our colleagues on the other side of the aisle support it. These things have made a real difference. Also, the Family and Medical Leave Act, signed into law by President Clinton, has given parents the flexibility to take time off to care for a newborn or a sick child. When it comes to helping working moms, I think we are all on the same page.

Once again, I commend Senator SESSIONS for offering this amendment. I am pleased to support it.

I yield the floor.

Mr. SESSIONS. I express my appreciation to the Senator from New Jersey for his support.

I add as original cosponsors of this legislation the names of Senators ROTH and KAY BAILEY HUTCHISON, who have asked to be cosponsors. I ask unanimous consent they be added as cosponsors.

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

Mr. SESSIONS. I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. I wonder, Senator LAUTENBERG, if I could offer three amendments now—not speaking to them, but allowing them to be read.

Mr. LAUTENBERG. I have no objection to the Senator from Oregon offering his amendments, but we are on a 10:30 schedule and I think it is important we preserve that schedule.

I am happy to yield the floor to the Senator from Oregon.

AMENDMENT NO. 2179

Mr. SMITH of Oregon. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. SMITH] proposes an amendment numbered 2179.

Mr. SMITH of Oregon. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following new section, and renumber the remaining sections accordingly:

SEC. . SENSE OF THE SENATE ON SOCIAL SECURITY TAXES.

(A) FINDINGS.—The Senate finds that—

(1) financing for Social Security Old Age, Survivors, and Disability Insurance (OASDI) is provided primarily by taxes levied on wages and net self-employment income. The level of these tax rates is set permanently in the law at the rate payable today;

(2) more than ninety-five percent of the work force—an estimated 148.2 million workers in 1998—is required to pay Social Security taxes;

(3) Social Security taxes are paid both by employees and employers and the self-employed on earnings up to a maximum amount of $68,400 in 1998, the amount increasing at the same rate as average earnings in the economy;

(4) the Social Security tax was first levied in 1937 at a rate of 1% on earnings up to $3,000 per year;

(5) the rate in 1998 has risen to 6.2 perecent—an increase of 620 percent, and a majority of American families pay more in Social Security taxes than income taxes;

(6) in his State of the Union message on January 27, 1998, President Clinton called on Congress to ''save Social Security first'' and to ''reserve one hundred percent of the surplus, that is any penny of the surplus, until we have taken all the necessary measures to strengthen the Social Security system for the twenty-first century.''

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the provisions of this resolution assume that when the Congress moves to work in a bipartisan way on specific legislation to reform the Social Security system, it will not consider increasing Social Security tax rates on American workers, beyond the permanent levels set in current law nor increase the maximum earnings subject to Social Security taxation beyond those prescribed by the wage indexing rules of current law.

Mr. SMITH of Oregon. Briefly, Mr. President, this amendment is a very simple sense of the Senate on Social Security that says that when we act to save Social Security, we will not be doing so by increasing Social Security taxes.

AMENDMENT NO. 2180

(Purpose: To clarify Federal law with respect to the use of marijuana)

Mr SMITH of Oregon. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. SMITH] proposes an amendment numbered 2180.

Mr. SMITH of Oregon. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of title III, add the following:

SEC. . GENERAL PROHIBITION ON THE USE OF MARIJUANA FOR MEDICINAL PURPOSES.

It is the Sense of the Senate that the provisions of this resolution assume that no funds appropriated by Congress should be used to provide, procure, furnish, fund or support, or to compel any individual, institution or government entity to provide, procure, furnish, fund or support, any item, good, benefit, program or service, for the purpose of the use of marijuana for medicinal purposes.

Mr. SMITH of Oregon. Briefly, Mr. President, this is a sense-of-the-Senate amendment on an issue that has become of great concern to me and to many in my State, the legalization of marijuana for medical use. I will speak to this later.

AMENDMENT NO. 2181

(Purpose: To express the sense of the Senate concerning increases in the prices of tobacco products)

Mr. SMITH of Oregon. I send an additional amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. SMITH] proposes an amendment numbered 2181.

Mr. SMITH of Oregon. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 53, strike lines 1 through 22 and insert the following:

SEC. 316. SENSE OF THE SENATE ON PRICE INCREASE ON TOBACCO PRODUCTS.

(a) FINDINGS.—The Senate finds that—

(1) the use of tobacco products by children and teenagers has become a public health epidemic and according to the Centers for Disease Control and Prevention, more than 16,000,000 of our Nation's children today will become regular smokers;

(2) of the 16,000,000 children who become regular smokers, approximately one-third or 5,000,000 children will die of tobacco-related illness;

(3) the Centers for Disease Control and Prevention reports that tobacco use costs medicare approximately $10,000,000,000 per year, and the total economic cost of tobacco in health-related costs is more than $100,000,000,000 per year; and

(4) the public health community recognizes that by increasing the cost of tobacco products by $1.50 per pack, the rate of tobacco use among children and teenagers will be reduced.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the provisions of this resolution assume that, if comprehensive tobacco legislation requires an increase in the price of cigarettes, any such revenue should be used to restore solvency to the medicare program under title XVIII of the Social Security Act.

Mr. SMITH of Oregon. Briefly, this amendment is a sense of the Senate regarding the use of tobacco revenue to restore the solvency of the Medicare Program, an amendment similar to the one that Senator LAUTENBERG introduced in the Budget Committee.

I yield the floor.

VOTE ON AMENDMENT NO. 2166

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 2166.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Utah (Mr. HATCH), the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote ''yea.''

Mr. FORD. I announce that the Senator from Maryland (Ms. MIKULSKI) is necessarily absent.

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 49 Leg.]

YEAS—96

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

NOT VOTING—4

Bennett	Inhofe
Hatch	Mikulski

NOT VOTING—4

Bennett	Inhofe
Hatch	Mikulski

The amendment (No. 2166) was agreed to.

Mr. KENNEDY addressed the Chair.

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

Mr. KENNEDY. Mr. President, I ask unanimous consent that the pending amendments be temporarily set aside for up to 1 minute so that I may offer three amendments to be sequenced just as the Senator from Oregon did for his three amendments before the vote.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object. What was the request?

Mr. KENNEDY. It was to temporarily set aside, for 1 minute, the pending amendment so I may offer three amendments to be sequenced just as the Senator from Oregon did for his three amendments before the vote. I ask that they be sequenced in an order that would be satisfactory to the minority leader.

Mr. DOMENICI. I have no objection.

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

AMENDMENTS NOS. 2183 THROUGH 2185, EN BLOC

Mr. KENNEDY. Mr. President, I send three amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mrs. BOXER, proposes amendments numbered 2183 through 2185, en bloc.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 2183

(Purpose: To express the sense of the Senate concerning the enactment of a patient's bill of rights)

At the end of title III, add the following:

SEC. ___. SENSE OF THE SENATE CONCERNING A PATIENT'S BILL OF RIGHTS.

(a) FINDINGS.—Congress finds that—

(1) patients lack reliable information about health plans and the quality of care that health plans provide;

(2) experts agree that the quality of health care can be substantially improved, resulting in less illness and less premature death;

(3) some managed care plans have created obstacles for patients who need to see specialists on an ongoing basis and have required that women get permission from their primary care physician before seeing a gynecologist;

(4) a majority of consumers believe that health plans compromise their quality of care to save money;

(5) Federal preemption under the Employee Retirement Income Security Act of 1974 prevents States from enforcing protections for the 125,000,000 workers and their families receiving health insurance through employment-based group health plans; and

(6) the Advisory Commission on Consumer Protection and Quality in the Health Care Industry has unanimously recommended a patient bill of rights to protect patients against abuses by health plan and health insurance issuers.

(b) SENSE OF THE SENATE.—It is the sense Senate that the assumptions underlying this resolution provide for the enactment of legislation to establish a patient's bill of rights for participants in health plans, and that legislation should include—

(1) a guarantee of access to covered services, including needed emergency care, specialty care, obstetrical and gynecological care for women, and prescription drugs;

(2) provisions to ensure that the special needs of women are met, including protecting women against ''drive-through mastectomies'';

(3) provisions to ensure that the special needs of children are met, including access to pediatric specialists and centers of pediatric excellence;

(4) provisions to ensure that the special needs of individuals with disabilities and the chronically ill are met, including the possibility of standing referrals to specialists or the ability to have a specialist act as a primary care provider;

(5) a procedure to hold health plans accountable for their decisions and to provide for the appeal of a decision of a health plan to deny care to an independent, impartial reviewer;

(6) measures to protect the integrity of the physician-patient relationship, including a ban on ''gag clauses'' and a ban on improper incentive arrangements; and

(7) measures to provide greater information about health plans to patients and to improve the quality of care.

AMENDMENT NO. 2184

(Purpose: To increase Function 500 discretionary budget authority and outlays to support innovative education reform efforts in urban and rural school districts)

On page 16, line 9, increase the amount by $200,000,000.

On page 16, line 10, increase the amount by $10,000,000.

On page 16, line 13, increase the amount by $318,000,000.

On page 16, line 14, increase the amount by $146,000,000.

On page 16, line 17, increase the amount by $386,000,000.

On page 16, line 18, increase the amount by $276,000,000.

On page 16, line 21, increase the amount by $359,000,000.

On page 16, line 22, increase the amount by $358,000,000.

On page 16, line 25, increase the amount by $272,000,000.

On page 17, line 1, increase the amount by $359,000,000.

On page 25, line 8, strike ''−$300,000,000'' and insert ''−$500,000,000.''

On page 25, line 9, strike ''−$1,900,000,000'' and insert ''−$1,910,000,000.''

On page 25, line 12, strike ''−$1,200,000,000'' and insert ''−$1,518,000,000.''

On page 25, line 13, strike ''−$4,600,000,000'' and insert ''−$4,746,000,000.''

On page 25, line 16, strike ''−$2,700,000,000'' and insert ''−$3,086,000,000.''

On page 25, line 17, strike ''−$3,000,000,000'' and insert ''−$3,276,000,000.''

On page 25, line 20, strike ''−$3,800,000,000'' and insert ''−$4,159,000,000.''

On page 25, line 21, strike ''−$7,000,000,000'' and insert ''−$7,358,000,000.''

On page 25, line 24, strike ''−$5,400,000,000'' and insert ''−$5,672,000,000.''

On page 25, line 25, strike ''−$5,000,000,000'' and insert ''−$5,359,000,000.''

AMENDMENT NO. 2185

(Purpose: Expressing the sense of Congress regarding additional budget authority for the Equal Employment Opportunity Commission.)

At the appropriate place, insert the following:

SEC. . SENSE OF CONGRESS REGARDING EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

It is the sense of Congress that the functional totals in this concurrent resolution on the budget assume that the Equal Employment Opportunity Commission should receive $279,000,000 in budget authority for fiscal year 1999.

Mr. KENNEDY. Mr. President, I ask that the three amendments be sequenced after amendments to be offered by Senators HOLLINGS, LAUTENBERG and DASCHLE, and that they alternate with Republican amendments, in whatever form——

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Yes. I object. I thought your request was that you send them to the desk and that they be sequenced as the leadership is sequencing in a manner we consider to be fair.

Mr. KENNEDY. That is exactly what I am requesting.

Mr. DOMENICI. I thank the Senator.

AMENDMENT NO. 2165

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the Murray amendment No. 2165.

The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, we are about to consider, I believe, one of the most important amendments that this body faces. It has to do with public education and the direction that this Congress, this Senate, this budget is going in that will affect the lives of thousands of students and their families and their neighborhoods and communities across this country.

Mr. President, I believe one of the main principles that this country was founded on was that of education, public education, the ability for every child in this country, no matter who they are, where they come from, what their financial background is, to have a strong education, an education that will allow them to learn how to read, how to write, how to participate in a democracy, and how to be a contributing citizen to our economy once they have reached the adult age.

Mr. President, I think it is very shocking that this budget which sits before us and the policies we are about to put in place say to students and their parents across this country that education is no longer a top priority in this country. I think that is a terrible message and one that we have to change with this budget today. Now is the time.

Mr. President, it is amazing to me that in the fiscal year 1998 budget, the entire budget—look at this chart—2 percent of our entire Federal budget goes to education. Yet, when you ask parents and families and people across this country whether or not we are spending enough on education, only 9 percent of this country think we are spending too much; only 26 percent think we are spending the right amount; and 58 percent of the people in this country believe we are spending too little on education. Mr. President, I could not agree more.

Two percent of our budget is not enough. It is not enough funds for our children, and it is the wrong message in this country, where we believe that democracy will survive if every one of our children has the access they need to a quality education—be it public or private. But in particular, in terms of what we spend here in the Nation's Capital for students across this country, it is far too little.

The amendment that we now have before us simply establishes a deficit-neutral reserve fund for class size improvement, especially in the early grades. It was used as an offset for any available mandatory savings or revenues, with the exception of tobacco revenues. What this amendment does is put in place a placeholder, if you will, in the budget so when this Congress begins to listen to parents and students and families and teachers and communities across this country, we will have a placeholder in the budget that we can at our discretion put available funds into to make sure that we address the issue of class size.

I know that class size reduction makes a difference. Every parent in this country knows that, every teacher knows that, businesses know that, and communities know that. And throughout this morning's debate, I will talk about what parents say, what students say, and what teachers say, because I believe if we begin to fundamentally address the issue of class size and the

tremendous loads in our classrooms today, we will begin to address the critical need of education and make a tremendous difference for our country in the future.

Mr. President, at this time, I will yield such time as he may need to Senator WELLSTONE to speak on behalf of this amendment, and then I will go into detail about my amendment and what I want to do in this budget.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Chair. First of all, let me thank Senator MURRAY for her leadership. Senator MURRAY has an unusual background. She comes to the U.S. Senate having been a teacher.

Mr. President, if I might ask the Senator, what level did she teach? I believe it was elementary school or preschool.

Mrs. MURRAY. Mr. President, I taught at the community college level, parent education, and I taught preschool, 4- and 5-year-olds.

Mr. WELLSTONE. Mr. President, my colleague from Washington really brings to this debate her own life experience, both at the higher education level, training other men and women to be teachers, and also herself having taught really at the critical age, in the very early years of a child's education. We don't have that many Senators with this background. I think all of us are lucky that the State of Washington has sent Senator MURRAY here to the U.S. Senate. Quite often when we get into these discussions, they are very abstract and very theoretical and all about strategy. But Senator MURRAY has really lived this debate. She brings, I think, a special expertise and a special passion. I wish more Senators, as we get into this debate, could draw from the same kind of background.

Mr. President, I did not teach at the elementary school level or early childhood development; I was a college teacher. But in the last 7 years I tried my very best to be in schools around the country, but in the main in Minnesota. I think I have been in a school probably about every 2 weeks. What I try to do is turn these assemblies or classes—and there can be anywhere from 100 or 200 to 1,000 students and teachers and support staff in town meetings like all of us have in our States. I say to the students, look, it is kind of like everybody is talking about you but very few people are talking to you or with you. Give me your best wisdom as to what would make for the best education reform. What makes for a good education from your point of view? I say to my colleague from Washington, by coming to the floor with this amendment, she is right on target. Students talk about smaller class size everywhere I go.

Now, I personally think—and my colleague from Washington mentioned this—that especially at the elementary school level, small class sizes really make a huge difference. I think actually as you look at from K through 12—actually, I argue, after that, in colleges and universities as well—smaller class sizes make a huge difference. With a smaller class size, we have an opportunity to get to know our teachers, they say, to have more rapport with teachers. Our teachers can give us more special attention. We have an opportunity to have teachers that can fire our imagination, teachers that are really free to teach. And teachers say it as well.

So let me just be clear with colleagues. I remember when I first came here—and I haven't changed my view at all, I say to my colleague from Washington—I was debating with a good friend, Senator HATCH from Utah. I said to the Senator from Utah, ''I just feel that this debate is ahead of the story.'' When you can come to the floor, or any Senator can come to the floor, and say we have made the commitment to public education—we made the commitment to smaller class size; we made the commitment to making sure that children, by kindergarten, come ready to learn; made the commitment by way of equity financing to schools in districts where people don't have all the financial resources, don't have the good facilities and the textbooks, the buildings are in disrepair; we made the commitment to summer institutes for teachers to meet other teachers and get renewed and fired up about teaching—we have made all those commitments, and it still isn't working, then I say let's consider something else.

But we have an amendment on the floor that Senator MURRAY has now introduced, based upon her own life's work, upon what people in communities around the country tell us is important for their children, tell us what is important to them—that is to get some additional Federal resources back at the school district level to reduce class sizes, so all of our children have an opportunity to do well in school, all of our children have an opportunity to reach their full potential. No one amendment, no one expenditure of money accomplishes this goal.

I say to my colleague from Washington that I thank her for being out here on the floor with this amendment, because this is a concrete step that can make a very positive difference in the improvement of the lives of children in our country.

I yield the floor.

Mrs. MURRAY. Mr. President, I yield 5 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. I thank the Senator from Washington. I speak in strong favor of her amendment. The resolution offers a deficit-neutral reserve fund for class size improvement. Specifically, it states that if funds become available, budget levels may be adjusted for legislation to improve, or in effect lower, class size for students, especially in the earliest grades.

I thank the Senator from Washington, Senator MURRAY, for being the leader on this issue of class size for public schools. She and I share the same commitment to public education and believe strongly that the Federal Government has a limited but very important role in supporting public education.

Today's resolution, Mr. President, is very important because it demonstrates a commitment by the U.S. Senate to dedicate available Federal funds to reduce class size in the earliest grades.

Parents, teachers and school administrators are increasingly aware of the very positive impact smaller class size can have on student achievement. It is about time that the Senate goes on record in support of smaller classes for our public school children in the earliest grades.

The positive impact of smaller classes came to my attention in my State of Wisconsin, and that is because Wisconsin, as is often the case in public education, has been a leader on this issue. In 1995, the Wisconsin State Legislature created the successful pilot program called the Student Achievement Guarantee in Education program, known as the SAGE program.

Wisconsin's SAGE program has demonstrated again and again what we really know instinctively: Students in smaller classes benefit from more attention from teachers, and teachers with fewer students will have more time and energy to devote to their jobs.

A December 1997 study found that the first-graders participating in the Wisconsin SAGE program scored higher on standardized tests than other students in comparison schools.

It is my hope that the SAGE program and this budget resolution offered by the Senator from Washington reinforce what should be good common sense. If you have smaller classes, children will get more attention from teachers, and it stands to reason that more attention will translate into greater learning.

In supporting this resolution, Mr. President, I want to clearly state that I believe there is a great national purpose in trying to reduce class sizes for children in the earliest grades. However, I do not support a national mandate for smaller classes. Instead, I support smaller classes as a national goal that would be primarily controlled by the local government and local school boards and the administrators.

Additionally, I want to be sure that any distribution formula for the funds that would become available to reduce class size should give credit to States, like my State of Wisconsin, which have already invested substantial resources in this effort.

Finally, I want to again stress the importance of this resolution being deficit neutral. The Senator from Washington has been sensitive to that. The resolution is deficit neutral. The days of deficit spending and borrowing from Social Security have to be over.

To conclude, Mr. President, I think this resolution takes a very positive step toward helping school districts reduce class size as a part of an overall effort to improve education and ensure that our children have the best chance to excel and reach their full potential. Let me finally thank the Senator from Washington again. I have heard her speak both publicly and privately on this issue of class size. She speaks with experience, but she also speaks with great feeling and eloquence on this subject. She knows what she is talking about, and she is a great force in the Senate and in the Congress on this issue.

I thank the Chair.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleagues from Minnesota and Wisconsin for their support of this issue, for their understanding of this issue, for their backing and their commitment to making sure that we set as a priority in this country the issue of education and, most critically, the issue of class size across this country.

Mr. President, I came to the Senate 5 years ago. And I was frustrated when I came, and I felt that leaders in Washington, DC, were not really dealing with the issues that I talked about and I worried about at home at my kitchen table every night 2,500 miles away in the State of Washington.

I have to say that over the past 5 years we have begun to make progress and talk about the real issues that everyday families talk about at their kitchen tables every night. Certainly we have finally balanced the budget and stopped deficit spending, something that families worry about. But, more importantly, we have faced issues such as family medical leave that allows parents to take time off from their jobs to take care of a sick child. We have put 100,000 police officers on the streets because many families across this country at their kitchen tables worry about the safety of their families on a daily basis. We have addressed some of those critical issues and much more.

But today on the floor of the Senate, I can say with certainty that this Congress, under this proposed budget, is badly missing the mark when it comes to addressing the most important concern that every parent faces today and every family talks about at their kitchen table at night. Families ask: Will my child get a good education? Will my child get the attention they deserve? Will they be safe? Will they be taught the skills they need to get a job in tomorrow's economy? Those are the kitchen table conversations that worry every single family in this country.

Mr. President, I can tell you today I feel absolutely confident that I can speak to this issue with a lot of background and understanding. I came to the Senate with a daughter who was in 7th grade and a son who was in 10th grade. They both have spent their entire K–12 years in public education. I am a product of public education.

Today my daughter is a senior in high school, and she is my best adviser about what is happening in our public education system. And what they say to me—what my daughter and my son say to me—is, it is difficult to learn the skills that they need when they are in crowded classrooms. They do not get the attention they need in math or science or English, and they tell me that there is what they call ''hall rage'' in our classrooms because of crowded classrooms with a lot of kids in our classrooms. It tends to generate a lot of frustration and rage among our children, and safety is a concern.

Mr. President, as Senator WELLSTONE said, I come here as an educator. I am a former community college instructor. I taught parent education, and I also taught preschool. I had in my class twenty-four 4- and 5-year-olds. I know what a difference it makes when you reduce the number of children that are in a classroom.

When I had 18 children in my classroom, I could take the individual time that I needed to work with these young children to help them get a grasp on the alphabet, to begin to learn to spell their names, to understand the world around them, to sit down in groups with other children and learn how to ''get along'' —a skill too many kids do not have today. I know what happened the next year when I had 24 children in my class—much less individual attention; it became no longer teaching, it became crowd control.

I know as a teacher that reducing class size, particularly in the young grades, will make a difference for children across this country.

I also come here with experience being a school board member. I have managed budgets at the school district level. I know how tough those decisions are. I know how difficult it is to meet the demands that everyday school districts have. As a school board director in a suburban district, I was frustrated with the lack of funding that we got. We were frustrated with the lack of priority that education had at the Federal level, and we were constantly frustrated that we could not do the right thing.

I can tell you, as a schoolboard member who has managed thousands of dollars in education funding at the local level, this amendment, this goal, this direction for our country, is badly needed.

I also come here as a former State senator. I served on the budget-writing committee in my State senate. I know what a priority education is for our States, and I know how difficult it is for them to address this issue. My State of Washington has the fourth worst class size in the Nation.

If my State and other States across this country were told that this was a national priority and one that they would not just be told is a priority they have to do, but one that they got a jump-start with from the Federal level, it would make it easier for them and a priority for them to do what we are asking them to do and what they know they need to do.

I come here today as a budget writer in the U.S. Senate. I have served on the national budget-writing committee for 5 years. I have worked diligently to reduce the deficit and to make sure that we put our priorities in place. That is why, when I look at the budget that is on the floor today, I say the priorities are not in the right place. My amendment simply puts aside a reserve fund so that when this Congress begins to do what parents are asking them to do across this country, and to make this a national priority, we have in place a deficit-neutral account that we can begin to put funds in so that we can address this absolutely critical issue.

I have told you what my personal experience is. You have heard from several of my colleagues. But most importantly, studies back up what I have just told you. A 1989 study of the Tennessee STAR Program, which compared the performance of students in grades K through 3 in small and regular-sized classes, found that students in small classes—13 to 17 students—significantly outperformed other students in math and reading every year at all grade levels across geographic areas.

Mr. President, I have heard a number of my colleagues come to the floor and worry and fret over the fact that students are not graduating from high school with the skills they need to get into the job market. Class size makes a difference in their ability to get these skills. The studies show it. The follow-up study of the STAR Program in 1995 found that students in small classes in grades K through 3 continued to outperform their peers at least through grade 8 with achievement advantages, especially large for minority students. Class size reduction makes a difference. How long are we going to ignore these studies on the floor of the Senate? How long are we going to say no, not here?

Other State and local studies have since found that students in smaller classes outperform their peers in reading and math, they perform as well or better than students in magnet or voucher schools, and that gains are especially significant among African American males. The studies back up what my experience shows, and the studies back up what every single Senator and Congressman says that they have as a goal today, which is to improve math and science and reading skills across this country.

But we do not just have to listen to what the studies say; we should listen to what parents say. When any parent is sitting there the afternoon that their child comes home from their very first day of school in September, there are two questions that every single parent in every household across this country asks their child on that first

day of school when they come home. They say: ''Who is your teacher? How many students are in your classroom?'' Who is your teacher? Universal questions in every home across this country. Why? Because parents know that who that teacher is and the quality of that teacher is critical to their child's learning for the next entire 9 months:

''How many children are in your classroom?'' Every single parent intuitively knows that their child will get a better education the smaller the class size. And I can tell you, when that student answers, ''35 children, 40 children,'' that parent feels, ''This is not going to be a great year.'' Parents know that the skills their child needs to succeed will be better learned in a smaller class size. And that is why they ask on the first day of school, ''How many students are in your classroom?''

Parents today are also concerned about children's safety. No surprise. And I can tell you as a teacher, and I know that every parent knows, that if a teacher has the ability to listen to their children, to work with their children, to prepare their children, and to really get to know those young people in their classrooms, their safety will be much, much better. And discipline will be much less of a problem, because that teacher has time to work with those tough kids that are in their classes today.

But, we have heard what parents say. We know what the studies say. What are teachers saying? I have taken some time over the last few weeks to ask teachers what they said about class size. These are the people, the professionals that are in our classrooms every day with our young people.

Here is what some teachers have said to me: This ''is the most important improvement we can make. A working condition that in many ways is [far] more important [to me] than salary. If teachers feel like they are making progress, other complaints seem minimal. If teachers feel behind, at a loss, and overwhelmed by large classes, any other problems loom large.''

''It's not only important for classroom management, but also for time spent evaluating each student's work, and time for individual attention with each student.''

One teacher told me: ''The difference between teaching a class of 31 high school students and teaching 28 is the difference between lion-taming and teaching.''

Mr. President, students and teachers and parents know that class size reduction makes a difference.

I also have a young group of students that I work with in my home State. They are called my Student Advisory Youth Involvement Team. I go to them on a regular basis, and I tell them, as young people under the age of 18, that their voice is important here in the Nation's Capital and their priorities are important as well. And I ask them how they feel about different issues that are coming before the Senate.

I took some time to talk to some of those young students over the past several weeks about class size and what is happening in their schools and what could make a difference. Christopher Shim, who is a 17-year-old from Mercer High School, said, ''In elementary school, I actually felt I was pretty lucky. I was able to get personal time with the teacher, even though we had 30–35 students in my elementary classrooms.'' He continued, ''In high school, I have 40 people in my calculus class. This means any time I have a question, there are 10 people in line.''

Mr. President, we stand out here on the floor of the Senate and we talk about how important it is for our young people to get math and science skills, and yet here is a student who says when he needs help with a question in calculus, there are 10 people consistently in line. Smaller class sizes make a difference.

I had another student who said to me, ''In [my] high school civics class, there is only one teacher teaching two classes of 40 students each. It's harder to get through the curriculum and get answers to your questions.''

Mr. President, consistently students gave me comments. And I will be reading more of them throughout the debate. But one after the other, what these young people—who are in the classrooms today, where the stress is on them to get the good grades, to go on to college, to get a good job—what they told me consistently was that they felt that reducing class size was important.

Are we going to listen to parents? Are we going to listen to teachers? Are we going to listen to the young people themselves? Are we going to listen to the thousands of families across our communities today who know this makes a difference, who say to their child when they come home, ''How many kids are in your classroom?'' because they know? Are we going to listen to the studies? Are we going to say it is the right thing to do to make this a national priority? Or today on the floor of the Senate, are we going to say no? Are we going to say that 2 percent is enough? Are we going to say that education is no longer a priority of this Government?

I have heard too many people say, ''Leave it to the local school boards. Leave it to the States. It should not be a national priority.'' I could not disagree more. We cannot pass the buck any longer. Making sure that every one of our children gets a good education is a priority for every adult in this country, whether they are a parent, a community leader, a State leader, or a national leader. It is our responsibility to set the priorities within this budget. My amendment allows us to do that as the debate progresses across the rest of this year.

Mr. President, as you know, I feel strongly about this, and I know there are a number of my colleagues who are here today who support this as well.

I yield to the Democratic ranking member at this time for a statement.

Mr. LAUTENBERG. I will try not to take more than 5 minutes, but I appreciate having 5 minutes.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I rise in support of the Murray amendment because it very simply focuses on a problem that is of critical importance. It establishes a deficit-neutral reserve fund to help reduce class sizes. I have to commend the Senator from Washington because her focus on children extends to the whole range, from nutrition, health, education, and child care. She is right, in my view, to bring this amendment up before the Senate, and now before the American people.

What she is saying is young people need more attention from their teachers and thus the class size reduction is a perfect avenue toward getting them more attention. The capacity for the child to learn increases when class sizes are smaller.

Once again, I commend our friend and colleague from Washington. She is one among several of our colleagues who call education focus of their agenda. The reserve fund would allow the Congress to help the States and local educational agencies recruit, train, and hire the 100,000 additional teachers by the year 2005. These teachers would reduce class sizes in grades 1 to 3 to an average of 18 students per classroom. Mr. President, this is a very important initiative and deserves our support.

I will now speak for a moment about a personal experience. I grew up in what is now one of America's poorest cities, an industrial city, in New Jersey. The city is called Paterson, NJ. I was born there. I and a couple of my business associates decided to try to help out because of our good fortune and our interest in what was taking place within that old favorite city of ours. We provided a program for extending free tuition—we paid for it—for students who, from the sixth grade, our targeted grade, went on to pass their high school requirements and we would pay for their education in college. I thought it was a pretty significant inducement. We had academic counselors that worked with these students. Then-Vice President Quayle was very kind, spending 45 minutes with these youngsters. It was a real treat for them. We took them on various trips and tried to help them along.

I am ashamed to say, pained to say, really, that the program did not do a lot of good. We are reexamining why. The principal thing that jumped out at us was that the sixth grade was too late to start, too late to make a difference with these youngsters.

When examined it further, we look to the earliest grades, grades 1, 2, and 3. We found that those early learning experiences matter most. So I think that this amendment helps us to concentrate on putting our resources where they will do the most good. It is

critical to get the kids off on a good start at that tender age. That is why President Clinton proposed this major national effort to limit class sizes in the early grades. That is why the proposal enjoys such strong support among the American people.

Unfortunately, the budget now before the Senate rejects this proposal. Frankly, I believe it is one of the major shortcomings of the resolution. Senator MURRAY offered this amendment in the Budget Committee's markup, but it was defeated on a straight party line. I hope today's vote will be different. I urge my colleagues to support this amendment and, once again, commend the distinguished Senator from Washington for her leadership on this issue. Since coming to the Senate, she has been an outspoken advocate for education, for our children in all aspects. I know she speaks not just for America's parents, grandparents, but families all across our country in urging this Nation to make education our top priority.

I yield the floor.

Mr. KENNEDY Mr. President, the Republican budget is anti-education It sets up too many roadblocks to a brighter future for the nation's children We should be doing more, not less, to improve the nation's public schools.

The budget should reflect our true national priorities The American people give top priority to education, and Congress should too But, the Republican education budget goes against what the American people want by cutting education funding.

Republicans say that they are pro-education But, there is a massive disparity between their rhetoric and the reality of their budget Our Republican colleagues say that they support education and children But their current tax proposal and their current budget proposal make it very clear that they are no friends of public education

If Republicans were friends of public schools, they would not divert $1.6 billion of scarce resources to private schools.

They would not cut education by $400 million next year, and prohibit funding for any new programs.

They would not ignore the pressing need to repair our crumbling schools—to train more teachers, to reduce class sizes, to provide more after-school programs to keep children off the streets, away from drugs and guns, and out of trouble.

They would not propose tax breaks that benefit wealthy families who send their children to private schools.

There are many good ideas to improve education that deserve support We need to increase our investment in public schools We need to raise academic standards We need to modernize school buildings We need to reduce class size We need to support more teachers and better training for current teachers We need to expand after-school programs.

Students deserve modern schools with world-class teachers But too many students in too many schools in too many communities across the country fail to achieve that standard The latest international survey of math and science achievement confirms the urgent need to raise standards of performance for schools, teachers, and students alike It is shameful that America's twelfth graders ranked among the lowest of the 22 nations participating in this international survey of math and science.

Schools across the nation face serious problems of overcrowding Antiquated facilities are suffering from physical decay, and are not equipped to handle the needs of modern education.

Across the country, 14 million children in a third of the nation's schools are learning in substandard buildings Half the schools have at least one unsatisfactory environmental condition It will take over $100 billion to repair existing facilities nationwide.

America's children are learning in overcrowded classrooms This year, K–12 enrollment reached an all-time high, and it will continue to grow over the next 7 years Communities will need to build 6,000 new public schools to maintain current class size Due to overcrowding, schools are using trailers for classrooms and teaching students in hallways, closets, and bathrooms Overcrowded classrooms undermine discipline and decrease student morale.

In Springfield, Massachusetts, student enrollment has increased by over 1,500 students, or 6 percent, in the last two years, forcing teachers to hold classes in storage rooms, large closets and basements.

In addition, too many schools are already understaffed During the next decade, rising student enrollments and massive teacher retirements mean that the nation will need to hire 2 million new teachers Between 1995 and 1997, student enrollment in Massachusetts rose by 28,000 students, causing a shortage of 1,600 teachers—without including teacher retirements.

The teacher shortage has forced many school districts to hire uncertified teachers, and ask certified teachers to teach outside their area of expertise Each year, more than 50,000 under-prepared teachers enter the classroom One in four new teachers does not fully meet state certification requirements Twelve percent of new teachers have had no teacher training at all Students in inner-city schools have only a 50% chance of being taught by a qualified science or math teacher In Massachusetts, 30% of teachers in high-poverty schools do not even have a minor degree in their field.

Incredibly, the Republican budget ignores these pressing needs The Republican plan cuts funding for education It refuses to provide key new investments to improve public education If their anti-education plan is passed, schools and students will get even less help next year than they are getting this year, just when they need help the most.

The Republican budget cuts discretionary funding by $1.6 billion below the President's budget It cuts funding for education and Head Start by $1 billion below the level needed to maintain current services In fact, it cuts education and Head Start funding by $400 million below last year And to make matters worse, the Republican budget prohibits funding for new education programs.

It denies 3.7 million students the opportunity to benefit from smaller class sizes.

It denies 900,000 disadvantaged students the extra help they need to improve their reading and math skills.

It denies 400,000 students the opportunity to attend after-school programs.

It denies 6,500 middle schools serving 5 million students extra help to ensure that they are safe and drug free.

It denies 1 million students in failing schools the opportunity to benefit from innovative reforms.

It denies 3.9 million needy college students an increase in their Pell grants.

The Republican anti-education budget does nothing to help recruit and train qualified teachers.

It does nothing to improve failing schools by creating Education Opportunity Zones.

It does nothing to help disadvantaged students attend college and graduate from college.

It does nothing to increase funding for Title I to improve students' math and reading skills.

It does nothing to increase funding for Pell grants.

The challenge in education is clear. We must do all we can to improve teaching and learning for all students across the nation.

That's why I strongly support the amendment by Senator MURRAY to reduce class size in grades K–3 across the country. A necessary foundation for success in school is a qualified teacher in every classroom, to make sure that young children receive the individual attention they need. That's why it is so important that we help bring 100,000 new qualified teachers into the public schools and reduce class size in the elementary grades.

Research has shown that students attending small classes in the early grades make more rapid progress than students in larger classes. The benefits are greatest for low-achieving, minority, and low-income children. Smaller classes also enable teachers to identify and work effectively with students who have learning disabilities, and reduce the need for special education in later grades.

A national study of 10,000 fourth graders in 203 school districts across the country and 10,000 eighth graders in 182 school districts across the country found that students in small classes performed better than students in large classes for both grade levels.

Gains were larger for fourth graders than eighth graders. Gains were largest

of all for inner-city students in small classes—they were likely to advance 75 percent more quickly than students in large classes.

Another significant analysis called Project STAR studied 7,000 students in grades K to 3 in 80 schools in Tennessee. Again, students in small classes performed better than students in large classes in each grade from kindergarten through third grade. And the gains were larger for minority students.

We also know that overcrowded classrooms undermine discipline and decrease student morale.

Many states and communities are considering proposals to reduce class size. But you can't reduce class size without the ability to hire additional qualified teachers to fill the additional classrooms. The federal government should lend a helping hand.

This year, California Governor Wilson proposed to spend $1.5 billion to reduce fourth-grade classes to 20 students or less, after having reduced class sizes for students in grades K–3 last year.

In Pennsylvania, a recent report by the bipartisan legislative commission on urban school restructuring recommended capping class sizes in kindergarten through grade 3 in urban districts at 20 students per teacher.

In Wisconsin, the Student Achievement Guarantee in Education program is helping to reduce class size in grades K–3 in low-income communities.

In Flint, Michigan, efforts over the last three years to reduce class size in grades K–3 have led to a 44% increase in reading scores and an 18% increase in math scores.

Congress can do more to encourage all of these state and local efforts across the country. We can help lead the way in reducing class size. I urge my colleagues to support Senator MURRAY's amendment and to increase our investment in education. The nation's children deserve our support.

Mrs. FEINSTEIN. Mr. President, I am pleased to support Senator MURRAY's amendment today to create a reserve fund for adding 100,000 public school teachers and to reduce class sizes in the early grades to 18 students per classroom.

CALIFORNIA'S SCHOOLS ARE OVERWHELMED

I come from the State that has some of the largest class sizes in the Nation in our public schools. In 1994, California's schools averaged about 30 students per class, the highest in the country. In 1995–1996, when the average pupil teacher ratio for all grades, elementary and secondary in the Nation was 17.3 students per teacher, in California, it was 24.0.

In the 1993–1994 school year, in elementary schools, California had 29.4 students per class while the U.S. average was 24.1. For secondary schools in 1993–1994, the average California classroom had 29.7 students while the average U.S. classroom had 23.6 students, according to the National Center for Educational Statistics.

When one computes total teaching staff per pupil, again, California's number are substantially higher than national rates, says NCES. In 1995–1996, California's pupil-teacher ratio was 24.0, compared to the U.S. average of 17.3 pupils per teacher. The 1997 estimate likewise has California exceeding national rates: California, 22.7 students per teacher; U.S. 17.0 students per teacher.

Today, many classes have 40 or more students per teacher. Our students and teachers are crammed into every available closet, cafeteria and temporary building available. At John Muir Elementary School in San Bruno, one class spent much of the year on the stage of the school's multipurpose room as it waited for portable rooms to arrive. Los Angeles Unified School District has 560,000 seats for 681,000 students.

To add to the problem, California will have a school enrollment rate between 1997 and 2007 of 15.7 percent, triple the national rate of 4.1 percent. We will have the largest enrollment increase of all states during the next ten years. By 2007, our enrollment will have increased by 35.3 percent. To put it another way, California needs to build seven new classrooms a day at 25 students per class just to keep up with the surge in student enrollment.

The California Department of Education says that we need to add about 327 schools over the next three years, just to keep pace with the projected growth. But these phenomenal construction rates will only maintain current use. They do not begin to relieve overcrowding, our current large class sizes.

Fortunately, California has embarked on an effort to reduce class size, providing state funds to local school districts to hire more teachers for grades K through 3. The goal is to cut class sizes from 28.6 students to no more than 20 students in grades K through 3. California is spending $2.5 billion over two years to cut class size and the annual cost of this reform will be about $1.5 billion. California has created at least 17,000 new classes and over half of the State's 1.9 million eligible students are now in classes of 20 or fewer students. A similar federal effort, like President Clinton's initiative and Senator MURRAY's amendment, can complement California's effort.

SMALLER CLASSES IMPROVE LEARNING

Studies show that student achievement improves when class sizes are reduced.

California's education reforms relied on a Tennessee study called Project STAR, in which 6,500 kindergartners were put in 330 classes of different sizes. The students stayed in small classes for four years and then returned to larger ones in the fourth grade. The test scores and behavior of students in the small classes were better than those of children in the larger classes. A similar 1997 study by Rand found that smaller classes benefit students from low-income families the most.

Sandy Sutton, a teacher in Los Angeles's Hancock Park Elementary School, used to have 32 students in her second grade class. In the fall of 1997, she had 20. She says she can spend more time on individualized reading instruction with each student. She can now more readily draw out shy children and more easily identify slow readers early in the school year.

The November 25, 1997, Sacramento Bee reported that when teachers in the San Juan Unified School Districts started spending more time with students, test scores rose and discipline problems and suspensions dropped. A San Juan teacher, Ralphene Lee, said, ''This is the most wonderful thing that has happened in education in my lifetime.''

Other teachers say that students in smaller classes pay better attention, ask more questions and have fewer discipline problems.

A San Diego initiative to bring down class sizes found that smaller classes mean better classroom management; more individual instruction; more contact with parents; more time for team teaching; more diverse instructional methods; and a higher morale.

Smaller classes make a difference.

SMALLER CLASSES REQUIRE GOOD TEACHERS

Class sizes cannot be reduced without hiring more teachers. And these teachers must be trained and credentialed teachers.

California has 21,000 teachers on emergency credentials. Unfortunately, in California nearly 22,000 of the 240,000 public school teachers in California are not fully credentialed or have not passed a basic skills test. Half of California's math and science teachers did not minor in those subjects in college, yet they are teaching. The October 13, 1997, U.S. New and World Report reported that in Los Angeles, ''new teachers have included Nordstrom clerks, a former clown, and several chiropractors.''

California will need up to 300,000 new teachers in the next decade because of our escalating enrollment. A 1996 analysis by Policy Analysis for California Education found that my state could only expect about 9,000 new credentialed teachers per year in current trends continue.

Without good teachers, no plan, however visionary or revolutionary, can improve student learning. But sadly, a November 1997 report card by the National Commission on Teaching and America's Future ranked California near the bottom of states in the quality of our public school teaching force because we have some of the highest proportions of uncertified or undertrained teachers, particularly in math and science. The Commission defined ''well-qualified'' as a teacher with full certification and a major in their assigned field. By this measure, only 65 percent of the state's teachers meet the standard. Nationally, that figure is

72 percent. In California, 46 percent of high school math teaches did not minor in math. The national average is 28 percent.

CONCLUSION

There is hardly a more worthy endeavor than strengthening our schools' ability to better educate our children. The Murray amendment before us today can make an important contribution in partnership with state and local efforts by providing extra resources to reduce class sizes and hire more teachers.

Mrs. MURRAY. I yield such time as she may consume to the Senator from Illinois.

Ms. MOSELEY-BRAUN. Just to put in context what this debate is and is not about in regard to Senator MURRAY's amendment, and there will, of course, be other amendments on education seeking to bring this issue to the attention of the American people, and hopefully to give us an opportunity to actually legislate.

The issue here starts from the fact that as we went into the budget negotiations, the Republican majority cut $1.6 billion from the President's request for elementary and secondary education. Unfortunately, this has become not only a partisan debate among and between the parties here in the Senate but it really is a debate that, in my opinion, is kind of like trying to find out who to blame for the fact that elementary and secondary education is not receiving the kind of support nationally it ought to receive.

My mother used to have an expression, ''When you point a finger at somebody, you have three pointing back at yourself.'' I think nothing describes this debate around education as much as that expression. The fact is that there is an awful lot of finger-pointing going on in regard to education—whose responsibility it is, whose fault it is, who should do what, instead of a sense that the real answer here lies in our ability as a nation to come together, to work together, to cooperate, to collaborate, to form partnerships to address an issue that is in our national interests.

There is no question that education is a core value for our country. It correlates with opportunity, opportunity not just for individuals but for America as a whole. That notion of opportunity, I think, goes to the heart of what it is about to be an American. Frankly, the rungs of opportunity are crafted in the classroom. Public education has made this the greatest country in the world, and if we don't engage in this together to work out the challenges to public education, we will see that American dream erode in our lifetime. I do not think that is something any American parent wants to see. I think that every parent, every citizen, wants to see us engage, regarding this issue, in ways that serve the public interests and in ways that do justice and honor to our generation's stewardship of this great country. That is the core issue, I think, in all of this debate and in what it is we are debating with regard to Senator MURRAY's amendment, as well as others.

First, I will for a moment sketch out in terms of the dollar value of an education, first to individuals. There is no question; studies have shown us that high school graduates earn 46 percent more every year than those who do not graduate, that college graduates earn 155 percent more every year than those who do not complete high school, and over the course of a lifetime the most educated Americans will earn five times as much as the least educated Americans. So education correlates directly to an individual's well-being. In fact, it correlates to almost every indicia of economic and social well-being. Educational attainment can be tied directly to income, to health, to the likelihood of being on welfare, to the likelihood of being incarcerated, and even to the likelihood of an individual voting and participating in our democracy.

Education, however, is more than a tool just to lift people out of poverty or to give them a better standard of living. It is the engine that will drive America's economy into the 21st century. In a Wall Street Journal survey last year of leading U.S. economists, 43 percent of them said that the single most important thing we can do to increase our long-term economic growth would be to invest more in education, research, and development. Nothing else came close to the indicia of what will help our economy do well. One economist said, ''One of the few things that economists will agree upon is the fact that economic growth is very strongly dependent on our own abilities.''

In a recent study by the Manufacturing Institute, the conclusion was reached that increasing the education level of workers by 1 year raises the productivity level in manufacturing by 8.5 percent. So making certain that we invest in education is something that we ought to do not just for the children who will be benefited but for our country and for the economy as a whole.

There are those who say that is fine, that is all well and good, but in any event it is not our job to do. In fact, this $1.6 billion cut, as Senator MURRAY pointed out, means we will spend in this budget, this 1998 budget, a full 2 percent on education; 2 percent is the Federal contribution out of this budget to education. That is so because a number of people argue that it is not the Federal Government's job to be involved with financially supporting elementary and secondary education. They point the finger and say it is somebody else's job.

Let's take a look at who else's job it might be. Some of our colleagues say the economy is doing so well, the States should do it, that the States are now in a position to supplement what they spend on education because they have surpluses accumulating in their economy. Well, the truth is that even if the States were to stretch out, to use all of their surplus, that would not be enough money to provide the support to rebuild crumbling schools, to reduce class size, to give teachers the tools they need, to give children what they need to actually be able to get the kind of world-class economy that I believe we have to provide for every American child.

All but two of the States had at least some surplus at the end of fiscal year 1997, ranging from a $3.2 billion surplus in Alaska to a $32 million surplus in Alabama. My own State of Illinois ended 1997 with an $806 million surplus. Of course, the sum total of all the States' surpluses at the end of fiscal year 1997 was $28.2 billion.

In addition—and this is not on the class size debate but efforts with regard to rebuilding the schools—the General Accounting Office tells us that just to bring the schools in this country up to code we have to spend $112 billion. Well, you don't have to have a whole lot of education to do the math on that one. If all the surpluses taken together are $28.2 billion, that doesn't begin to even address the issue of funding $112 billion worth of need just to get the facilities up to code. So if you are talking again about reducing class size, as well as fixing crumbling schools and the other things that the schools will need, the $28 billion surpluses of the States will not do it.

Assuming that every State were to maintain its past effort, and in addition spend every penny of its surplus on schools, they would still be left with a huge amount of needs, $153 billion worth of needs in terms of school construction, and again the costs of reducing class size.

Then there are those who say, OK, it is not just the State's job. In any event, it is not just the State's job to do this. It is really a matter of each community weighing in and fixing up their schools. That translates into an argument that the full costs of education or the bulk of the cost of education ought to come out of the property taxes.

I don't know if you noticed, but the property tax is a singularly inelastic tax—without doubt, the worst place to try to fund a school system. And what we have seen over time is that the property tax has been inadequate to fund education. In fact, it has given rise to what Jonathan Kozol referred to as ''Savage Inequalities.'' That is to say, in the communities where the demographics support an easily tapped property tax, where there are nuclear power plants or shopping centers, those communities can afford to support their schools with relatively little effort from individual taxpayers, whereas other school districts where there are a number of retirees or poor people have a harder time supporting their schools. So relying on the property tax alone, or largely relying on the property taxes, is one of the reasons why we

have such a patchwork in terms of the quality of schools in this country. There is no coherence. There is no systematic support for education from the local property tax. So we have a situation where the local property tax is stretched beyond what it can bear in terms of providing for education. The States are doing an inadequate job in support of education, and this budget gives us all of a 2 percent Federal contribution to that challenge. Small wonder, Mr. President, that the United States is beginning to lose ground worldwide in education.

Just a couple weeks ago we had a report on the performance of students in this country on math and science exams. It should have been a wake-up call to everybody when we found that the U.S. students, in some categories—in physics—came in dead last, dead last. We came in below Slovenia on mathematics. We are doing poorly on all of these indicia of international measurements of competency in the schools.

Given this patchwork quilt, given the results of the finger-pointing, small wonder that our kids are not doing as well as they should or that they could. Let me make a point about that. I think the point has to be made that our children, American kids, are just as capable as kids anywhere in the world of learning, if they are given an opportunity.

They are as capable of doing as much as any other community on this planet, if given the opportunity. The direction that we take, the decisions we make in this Senate will in large part determine what direction we take to get there, to get to the point of giving them an opportunity. Will we support a partnership in which we come together at the Federal, the State, and the local level? Or will we take the position that everybody have at it and do the best job you can, wherever you are, and make educational opportunity an accident of geography and an accident of someone's situation in life, whether their parents were born wealthy. I don't believe we can afford to waste a single mind, to waste a single child's talent. We have a responsibility as Americans to come together as parents and stop this finger pointing, stop this blame game and put this argument aside and recognize that it is in our national security interest that we give every child the ability to be educated to the maximum extent of his or her ability.

Mr. President, I commend Senator MURRAY for her activity on the Budget Committee in this regard, for her advocacy for children. She has been an advocate across the board on a variety of issues. I submit that there is no issue on which advocacy can be more important than the direction we take in education in this country.

I believe the bottom-line question here is whether or not we are prepared to face the fact that we cannot go it alone, we cannot point fingers, and we cannot allow for a child's educational opportunities to depend on the accident of where they were born. We have a responsibility to come together as Americans to make certain that all levels of government contribute to the maximum extent we can so that local governments, parents, communities, people at the local level can provide the children who live there with the best possible opportunity.

We can do better than 2 percent. I submit that we ought to restore the $1.6 billion the President proposed, restore that to the budget and have a debate on how we send that out to the States. We ought to be able to send it to the States and the school districts without a whole lot of strings or bureaucracy. Nobody is hiring $1.6 billion worth of new bureaucrats. We are talking about sending money directly to benefit the schools. I believe we have not only an opportunity to do that, but an obligation to do it. The opportunity is with us because we have a balanced budget. After decades of wallowing in red ink, we have a budget surplus—or at least we are on a glidepath from deficit territory. It seems to me, if we are going to look at the priorities of this country, no priority comes higher than providing for education, no priority comes higher than providing States and local communities with the support they need to give our children a chance.

Therefore, I commend Senator MURRAY.

I yield the floor.

Mrs. MURRAY. Mr. President, I thank my colleague from Illinois for putting in perspective what we are talking about today. The students in my classroom weren't Republican, Democrat, or Independent. They didn't say, oh, this is a local issue; oh, this is a State issue, those Federal people should not be involved. They looked around in their classroom and said: How many kids are in here with me? Do I get time with my teacher; do I get personal attention?

As my colleague from Illinois notes, there is no silver bullet to making education better across this country. But we have to put our efforts in places where we know they make a difference. My colleague from Illinois has addressed tirelessly the issue of crumbling schools across the country. And the issue of safety and the ability to learn, and the issue of class size, again, where school buildings simply can't expand, where our children are in unsafe situations. If together we address the crumbling schools, and class size, and if we train our teachers with the skills they need to teach effectively in our classrooms today and tomorrow, we will turn public education around.

I know my colleague from Illinois has heard as much as I have from all those politicians and leaders who are saying public education has failed. I don't believe public education has failed. I believe we have failed public education. We have a responsibility to turn it around right now, today, in the Senate. I thank my colleague from Illinois. I yield to her.

Ms. MOSELEY-BRAUN. Mr. President, I wanted to engage in a colloquy with the Senator from Washington. Every politician who runs for office runs on an education platform. I don't know a Governor in this country who hasn't run on an education platform. I don't know a Senator in this country who hasn't run on an education platform. Somewhere out there, there is probably a coroner and a dogcatcher who will run on an education platform. And yet education doesn't have the financial support at any level that it needs to have. That should be evident in how we are coming in on these international tests and exams. The response that I see from all too many of my colleagues is to say, as the Senator so eloquently put it, public education has failed, let's run away from it. The old runaway response is not a response, because we can't afford to triage, to waste a single child.

Again, I commend my colleague for requiring some of us to put our money where our mouths are, that we really support education and begin to vote for education and fund education and to put real meat on the bone of our commitment to public education.

Mrs. MURRAY. I thank my colleague. I absolutely agree. I believe we are at a fundamental crossroads in this country, where we are going to decide now, today, whether we are going to go down a narrow path of just letting a few kids succeed in education across this country, with vouchers, block grants, and eliminating the Federal role altogether; or we can collectively say, no, not in my country, not in my home, not in my community, not in my State.

In this country, where we believe that public education is critical for every student, we want to go down the road that makes a difference. By making sure our crumbling schools are fixed, making sure that there are teachers who are well-trained, and making sure there is a number of students in a classroom that allows them to learn those math skills and English skills they so desperately need in today's and tomorrow's economy. I look forward to working with my colleague to make sure we go down the right road and not the wrong road. We will find out today what the Senate says.

I yield 5 minutes to my colleague from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank my colleague for yielding me this time. Senator MOSELEY-BRAUN had to leave the floor, but her leadership on the crumbling schools initiative has just been incredible. She is the one who called our attention to the fact that if our kids are going to learn, they have to have decent schoolbuildings. I was saying the other day we want our kids to learn about gravity by reading about it in

the science book, not by having the ceiling falling on them while sitting in the classroom.

I say to my colleague, Senator PATTY MURRAY, how much I have enjoyed serving with her in the Senate and, beyond that, serving with her on the Budget Committee, because the two of us believe very strongly, as do a number of Democratic colleagues. If everybody is saying children are our priority, education is a priority, and everyone is saying this is so important, then it's time they voted with us and did something about it.

When my colleague offered her amendment on children in the committee, suddenly our Republican colleagues were not there. I am hoping they are having second thoughts and that when we get to the vote on her amendment, they will come here and support it. We need bipartisanship on this issue.

Now, I think it's interesting, as we look back on the Federal role in education, to recognize the President who, in my opinion, did more for the Federal role in education than anyone else, in terms of winning public approval for it, and that was President Dwight D. Eisenhower. Senator MURRAY is a little younger than I am, and I think about that now and then, but I well remember when the Russians launched the Sputnik and the Americans sat back and said: How could this be? We were the ones who had the educated work force. We were the ones who had the new technology. How could it be that they could get ahead of us in this way? Dwight Eisenhower came forward, a Republican President with broad bipartisan support, and said the following: ''The education of our children is just as important to our national security as the size of our military budget.'' He pushed for the National Defense Education Act.

I say to my colleague, we are following in those footsteps with a series of amendments we will be offering—Senator MURRAY on class size, Senator MOSELEY-BRAUN on crumbling schools, myself on after school, and Senator DODD on child care. We are following in the footsteps of a Republican President, who recognized in the 1950s that we have to do something about education.

Now, in terms of my colleague's amendment, I am very proud to support it. I want to say a thank you not only to her, which I have done, but to our President, because our President shared with us his vision of 100,000 new teachers in schools, and everybody sat back and said that is a goal we ought to attain. At least the vast majority of the American people—and we will find out if it is a majority of this body—said yes. This is the same President who had the goal of putting 100,000 police on the street. If you put 100,000 police on the street, which I have strongly supported—what happened in California is that we have a 20 percent reduction in crime because we have community police. If you listen to those community police, let me tell you what they will say. I have had many townhall meetings throughout my State. They say to me: ''Senator, we have to prevent a lot of these problems before they start.'' Yes, we can help. But the fact is, once a child gets into the juvenile justice system, sometimes we can't turn them around. So we do need to give our children something to say yes to. And law enforcement looks at these measures—in my State at least—with great support.

I have an after-school bill that I will be offering. We know that, in California, when we give the kids something to say yes to in after-school programs—we give mentoring, tutoring, help with homework, and we bring in business and they learn on computers—their performance has gone up 75 percent in Sacramento's START program and in L.A.'s BEST. There has been a 75 percent increase in performance. Now, we can't expect that for every child, but this is the experience that we are having.

I submit to my colleague that when you put a child in a smaller class where that child doesn't get lost in the shuffle, where that child gets the individual attention from the teachers, from the teacher's aide, it makes an enormous difference. I sometimes think a lot of our kids' problems are overlooked because the teachers cannot possibly, if they have a class of 40 children, pick up every nuance and problem a child is having in learning or in their social behavior. That issue has come to the floor lately.

I say to my friend in closing that, in California, in a bipartisan way, the Governor, the superintendent of public instruction, from different parties, all agreed that we should lower class sizes in the lower grades. We do not have the official studies because this is a new program. But the reports that are coming back are extraordinary. The stories we are hearing from the children, from the parents, from the teachers, from the principal, from our Governor, who is a Republican, from our superintendent of public instruction, who is a Democrat, all of what we are hearing is positive. It's not really rocket science to figure out that, if you can spend more time with each child, you are going to have a better result.

So, again, I say to my colleague how much I enjoy working with her. She has put children first from the moment she came on to the Senate floor. It has been a breath of fresh air for all of us. I really look forward to helping her with this amendment. If we do not succeed today, if the other side puts up procedural hurdles and tells us you need 60 votes, I hope you will keep bringing this issue back again and again and again—for one reason: The parents want it, the children need it, and America supports it.

I thank my colleague and I yield the floor.

Mrs. MURRAY. Mr. President, I thank my colleague.

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mrs. MURRAY. I thank my colleague for her tremendous leadership on this issue. There is nobody from the other side on the floor here. If they can find the chairman, we would like to find out what their intent is on this vote.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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, I have concurred with the minority regarding an agenda from now until some time after 4 o'clock this afternoon. And I would like to propose it by way of a consent decree which I understand is satisfactory to the other side.

I ask unanimous consent that the following be the sequence of amendments debated between now and 4 p.m. today, and that a vote occur on or in relation to the Murray amendment at 2:20 p.m., with the time prior to 2:20—5 minutes—to be equally divided between Senator MURRAY and Senator DOMENICI or his designee. I further ask unanimous consent that the Gregg amendment No. 2167, and the Dodd amendment No. 2173—that votes occur on or in relation to the remaining above listed amendments beginning at 4 p.m., with 2 minutes of debate between each vote for an explanation, and with no second-degree amendments in order prior to the votes at 4 p.m.

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. I apologize to the Senate for the lack of business in the last few moments. We had some amendments that we had to clarify with sponsors. So let me continue and make sure we are clear on the unanimous consent that I have proposed. Let me start over since none of it had been granted.

Mr. President, I ask unanimous consent that the following be the sequence of amendments debated between now and 4 p.m. today, and that a vote occur on or in relation to the Murray amendment at 2:20 p.m. with the time prior to 2:20 being equally divided between Senator MURRAY and Senator DOMENICI or his designee; that regarding the Gregg amendment, No. 2168, and the Dodd amendment, No. 2173, votes occur on or in relation to those amendments beginning at 4 p.m., with 2 minutes of debate between each vote for explanations, with no second-degree amendments in order prior to the vote at 4 p.m.

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

Mr. DOMENICI. Parliamentary inquiry. Are we scheduled to go in recess at 12:30?

The PRESIDING OFFICER. Under the previous order, we will recess for the caucus luncheons at 12:30.

Mr. DOMENICI. Let me say we now have a starting list of about 12 amendments. When we start at 2:15, I will make sure everybody knows what they are. We are asking that we sequence them in some way so we know where we are going. Frankly, I think either we are going to have to be relieved of some time on the resolution or we are going to stay in tonight and use some time because we really have to finish this this week.

Mr. President, let me use the remaining time that I have, with Senator MURRAY having half of the 5 minutes, to debate her amendment prior to the vote.

First, let me say I understand the sincerity and the genuine concern that the distinguished Senator who proposes this amendment has expressed here on the floor, and that she genuinely and generally expresses with reference to education. But I think it is very interesting; we all want to educate our children, but it seems that we are having a little trouble with math, mathematics, adding and subtracting, right here on the floor of the Senate.

I have read and reread the amendment of the distinguished Senator, and I cannot find any way that it truly means anything with reference to classroom size. A reserve fund is set up and there is nothing in it, zero. There are no dollars, there are no taxes, there are no statements that we should cut certain programs. As a matter of fact, this amendment says at sometime in the future we sure hope Congress will find a way to cut spending someplace, perhaps cut a mandatory program, that is an entitlement, someplace; or perhaps increase taxes sometime. Then it says: Put those in this reserve fund, this box, and we will spend it for reducing classroom sizes.

That is very interesting. If somebody thinks he or she is going to tell the American people that Senators who vote against this measure voted against a reduction in classroom size, then just take it from me, we will put an ad right up under that that says, ''The program had no money in it, no way to pay for it, did not have enough courage to say what program you would cut or which taxes you would raise. It just said, I am for—and I want—and I hope—and I wish—and it would be great if we have—a reserve fund someday, if we use it for classroom size reduction.''

That is essentially the amendment. It is out of order under the Budget Act and under the processes, and we will raise that point. The vote will be on whether or not it is out of order, for I assume the distinguished Senator will move to waive it. But I cannot find it.

Normally, you set up a reserve fund and you say, We are going to put taxes in this reserve fund or receipts from someplace, or we say, We are going to cut certain entitlement programs and use that money for some program, project or activity. What has happened here is the following: No one yet on that side of the aisle who wants to spend more money than required in this budget resolution has found a way to cut any program to pay for it—not yet. I have been looking. There are already a series that I have looked at. None cut any program to pay for a higher priority program.

Second, none say, even though we insist on keeping a balanced budget, and they do also, these amendments—they don't want to break that balanced budget era we have—nonetheless, the amendments go right back to the era when we had programs for which we did not know how to pay. I defy anyone to tell me how we are going to pay for this program if we ever did it.

Frankly, that is a statement of where we are. The same is going to be true for the amendment of my good friend, Senator DODD, on child care. They found a way to set up a reserve fund with nothing in it and they say, ''When something happens, then we will pay for this wonderful program for the American people.'' I use that word in its fairest sense. Some people think these programs ought to be paid for by the Federal Government. I do not.

I just want you to look at one chart. Everybody can look at it here. The business of classroom size in the United States is the business of the sovereign States of America, and they know there is a problem. Mr. President, they are spending more and more money in the school districts across America to reduce class size than on almost anything else they are doing, and they are doing a wonderful job of it. This simple chart up here says from 1960 to 1996 classroom sizes have been reduced 51 percent, from 25.8 to 17.6. That is the green line. That is because the red line shows how many more teachers have been added. Not because we are paying for them at the national level, but because our States are paying for them and the school boards are paying for them. In New York, where the cities pay for it, they are paying for it.

Now we are going to come along in an amendment and try to tell the American people if you don't vote for this, you are against education, which amendment has no way of paying for the teachers. These States cannot do that. You know that green line did not come about because somebody set up a reserve fund and said if we ever find that we raise taxes, we can put the taxes in that reserve fund—''if''—or we can cut some other program and put that in there—''if.'' You know that green line would not have come down one bit if that is what States said. That is what we are saying here today.

The truth of the matter is the teacher ratio is coming down and it is coming down dramatically. Frankly, I am not very impressed with Senator after Senator from whatever side of the aisle coming down here and essentially saying, ''Education is not going well in America and we know how to fix it up here in Washington. What we ought to do is have a new program, a new mandate.'' But this one is even worse than that, because it suggests we ought to do that, and there is no money to do it, which is a very interesting phenomenon—if you can help education without putting any money into a program but saying you wish it would happen.

The truth of the matter is that the National Center for Educational Statistics, commonly known as NCES, projects that trend is going to continue and, I might say, continue without anybody ever having thought the Federal Government would start paying for reducing classroom size. They estimate, in their publication, that by the year 2006 there will be as many as 3 million K–12 public school teachers, an additional 16 percent over the 1996 number. This same organization, highly renowned, says that the pupil-teacher ratios will continue to decline and they will continue to drop as low as 15.4 in the year 2006, an 11 percent decrease from 1996. And, Mr. President and fellow Senators, let me repeat: They did not expect that the Federal Government would get involved in telling these schools how they can reduce class size.

Let me also suggest this is an interesting reserve fund in another way, because it proposes to fund a program that is unknown. The President suggests that there be this program. And, incidentally, for those who wondered how he paid for it—for he paid for it—he paid for it out of the cigarette tax, the settlement. But the budget office said you can't do that, because in doing that you break the budget. But he did plan to pay for it. Let me suggest that NCES projects these without ever contemplating that the United States of America would get involved in paying for pupil-teacher ratio reductions.

Where is the program? The White House has not sent up their program, but let me tell you there is a formula about. For Senators who might think this amendment is determinative of something—I don't believe it is determinative of anything, but let's assume you really think it might be—then I suggest you might not like the proposal if it was to be carried out, because, since 20 States have invested additional funds in targeted efforts to reduce class size, that means that under the formula they are not even given credit for that. They are penalized, for more money goes to States that have not done that. You know if we get a bill, if ever—and I don't think it will ever happen that we get a bill on the floor of the Senate that attempts to get the U.S. Government into determining class sizes—you know that the formula is not going to work. But there is no bill, no substance. Nobody has

written the flesh on the bones that will tell us what kind of program this is.

Senator MURRAY does not know how much or how it is paid for. The President's plan actually estimates $12 billion over 7 years —$12 billion. If that is the plan, I wonder why the sponsors —and there are more than one—don't look through the budget and find $12 billion to spend. I wonder why they don't say maybe we are going to increase taxes to pay for it. Is the era of balanced budgets gone? Are we going to come up with a program we don't know how to pay for and try to let somebody think it is a real, vital, operative set of words called a ''reserve fund'' that will get anything done about classroom size?

Frankly, I am very grateful that to this point in our history we have not asked the Federal Government to do this kind of thing. I am very grateful because, as a matter of fact, everything they get into of this type ends up with more bureaucracy, more redtape, more mandates on the States than do most programs that truly produce beneficial results.

But I am also thankful we are not in it because the States and school districts see the problem. They do not come up to the floor of the Senate when the problem is getting solved. They start solving it. They didn't start solving this problem when we were already down to about 16.8, they started solving it when it was 25. So it is obvious to me that there is a reason for this amendment being subject to a point of order. That point of order should be sustained.

I am not going to second-degree amendments which should fall by a point of order, because I believe that is what we should do to them: One by one, every one that is subject to that, like this one is, we ought to quickly not waive the budget process and not waive the rules of the Senate and say the program just doesn't fit. Having said that, I will have 2½ minutes later. Let me conclude.

Mr. President, I do want to say to the distinguished Senator, Senator MURRAY, I, too, was a schoolteacher—not with the great prowess and experience that she had, but I taught one of those subjects we are all worried about, mathematics. I taught that. I didn't take political science; I took chemistry and math. I don't know how that prepared me to be a Senator, but I did teach algebra and arithmetic. Frankly, it is hard work. Frankly, believe it or not, I believe I taught every single child in my class who knew how to add and subtract—I believe I taught them algebra.

Frankly—God forbid—I have to tell you, I had 44 students in each class. I am not suggesting we do that. I am delighted to see this green line. In fact, for some of our children—and our States are on to this, too—with great disabilities, we are going to have to do better than this. And they are, they are. They are doing better than this.

Let me just close by suggesting that if this program which is encapsulated in these reserve language words is as important as my good friend contends, then it would seem to me we ought to find some other program in the U.S. Government's litany of programs—which is still around 2,600 and growing—we ought to find some programs we could terminate or cut to pay for it. As a matter of fact, the entitlement programs of America, while somewhat under control, are a burgeoning part of the American budget. Essentially, if you want a real reserve fund, you ought to be able to find something in this enormous number of billions of dollars of entitlement programs that is a little less important than the program the distinguished Senator says is so important.

Frankly, I do not in any way contend that we know that classroom size is the answer to every issue. I don't want to get into a debate on that. We will just accept the Senator's language and words about how important it is. But there is a growing dispute, nonetheless, between competent schools of academics and education, as to whether the current problem in the American schools is as much related to classroom size as one of the other groups says. There is one group of experts who say it is not as important as some other things.

The reason I say that is because that is exactly the kind of thing we should not be resolving up here. It is right at the State legislatures, it is right in the offices of superintendents and boards of education, and it is not right in Washington with another Washington-based program.

I see that the time for recessing has arrived. I will be asking Senators to concur with me that this amendment should fall because it is subject to a point of order under our rules, and in this case the rules make great sense, for to vote on a program like this as if it did something, as if there was real money in it, as if there was a way to find real money—our processes are pretty good when they say that kind of amendment, for whatever reason, is subject to a point of order in the Senate.

I yield the floor.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask for 5 minutes off the budget time on the Democratic side.

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

Mr. DOMENICI. Time is up. I understand there is an order to go into recess.

The PRESIDING OFFICER. Under the previous order, we were to be in recess at 12:30.

Mr. DOMENICI. I ask for the regular order. I will be glad to give her some additional time when the amendment comes up again. I think we are supposed to go into recess right now.

RECESS UNTIL 2:15 P.M.

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

Thereupon, at 12:31 p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEARS 1999, 2000, 2001, 2002, AND 2003

The Senate continued with the consideration of the concurrent resolution.

AMENDMENT NO. 2165

The PRESIDING OFFICER. Under the previous agreement, there are 5 minutes of debate equally divided on the amendment that is pending.

Who yields time?

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Thank you, Mr. President.

Mr. President, the amendment that we will vote on shortly simply puts in place a deficit-neutral reserve fund for class-size improvement, especially in the early grades. And, it would use as an offset anything we designate over the coming year in available mandatory savings or revenues, except for tobacco revenues.

I know that the chairman is going to say that this reserve fund has no money and it has not set up any specific policy on class size reduction. He is absolutely right. It is exactly what he has done in his budget with the tobacco reserve fund and with the tax cut fund. I have learned from him that if we want priorities within our budget, this is the way we go about it.

Education is a priority. As I pointed out this morning, 2 percent of our budget goes to education. At a time when parents and families and communities and States are struggling with this issue. Parents say to us that they want their children's class sizes reduced. I have talked to parents, I have talked to students, teachers, principals. Down the road, they say, this is going to make an important difference in our children's education.

I think the most important thing to remember is what every parent says to their child when they come home on the first day of school. They ask two questions: Who is your teacher? and how many students are in your classroom? because they know that the best qualified teacher, the best trained teacher will make a difference for their child, and they know that the number of students who are in that classroom will make a difference in their child's ability to learn and be productive and get the skills they need to grow up and get a job and be a positive member of our economy and society in the future.

Budgets are not just about today. Yes, we have a balanced budget before

us today. But, more importantly, we have to ask ''will it be balanced in the future?'' The only way for our budget to be balanced in the future is for us to make sure that our students, who are in school today, have adequate resources available. To make sure they get the skills they need to contribute to the economy, so that we have a strong budget in the future.

Mr. President, I ask unanimous consent to add Senator DODD and Senator KENNEDY as original cosponsors of this amendment, as well as Senator DASCHLE.

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

Mrs. MURRAY. Mr. President, we will vote on this shortly. I believe it is one of the most important issues that is before us, and I urge its adoption.

Mr. President, I ask unanimous consent that material regarding class size reduction be printed in the RECORD.

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

WHY IS CLASS SIZE REDUCTION SO IMPORTANT?

WHAT STUDENTS SAY

Christopher Shim, 17 years old, Mercer Island High School: ''In elementary school, I actually feel I was pretty lucky. I was able to get personal time with the teacher, even though we had 30–35 students in my elementary classrooms.''

Chris continues: ''In high school, I have 40 people in my calculus class. This means anytime I have a question, there are 10 people in line.''

Ahmad Javid (A.J.) Aaf, 15 years old, Tahoma High School, Maple Valley, Washington: ''Kids need more attention—personal attention for students is important.''

Antonella Novi, 18 years old. Anacortes High School, Anacortes, Washington: ''In elementary school or high school, class size is really important. Because interpersonal relationships among students are important, and being able to talk to the teacher is important. Closeness leads to comfort—if you ask teachers about school, then you can ask teachers about things outside the classroom. It's easier to go to teachers you know.''

Antonella continues: ''In high school civics class, there is only one teacher, teaching two classes of 40 students each. It's harder to get through the curriculum, and to get answers to your questions.

''When I was younger, I went to school in California. We were in one school building when I started, but by the time I left, the building was surrounded by portables.

''I always got my questions answered by the teachers. I spoke up; I asked questions. But there were lots of kids who were quiet, who didn't get the attention they needed from teacher.

''In smaller classes its easier to relate to your peers. You get to know each other better. In large classes, if you don't like talking in front of large groups, you're out of luck.''

Devone Van Dyne (female), 16 years old, University High School, Spokane, Washington: ''Class size is really, important. For example, my high school chemistry class has almost 40 students. It's hard to get individual help; lectures alone don't work. If there were fewer students, we could get the kind of help we need.

''I have trouble keeping up—it's easier to fall behind in a large class. You don't feel the same investment. I have to make sure and find the time outside class to meet with the teacher.''

Amber Casali, 16 years old, and Rebecca Dean 15 years old, Shorecrest High School, Seattle, Washington: ''In elementary school, the benefits of having smaller class size include getting more attention from teachers. You can do more activities, and fewer lectures. You can plan, and work more cohesively as a class. Especially for the early grades 1–3, smaller class sizes are very important. It's so important to start early. Students can develop good working skills, and get more attention from the teacher early on, when it counts the most.''

STATEMENT BY SANDRA FELDMAN, PRESIDENT, AMERICAN FEDERATION OF TEACHERS ON REDUCING CLASS SIZES

Modern schools and more well-trained teachers are the right antidote for the overcrowding that plagues too many American schools. Research shows that youngsters, especially in the early grades, perform better in smaller classes that allow for greater one-on-one instruction. Smaller classes also help teachers maintain discipline. Parents and teachers understand this well, and that's why Senator Murray is absolutely correct in supporting the President's proposal to provide subsidies for school construction and to emphasize teacher recruitment.

Several new studies clearly demonstrate the link between reduced class sizes and improved academic achievement. A sampling:

STAR, the highly reputed Tennessee class-size study, analyzed the achievement levels of K–3 students randomly assigned to classes of 13 to 17. Those in small classes did much better than students in regular classes in math and reading, every year and in all grades. The small classes made the biggest difference in the scores of children in inner-city schools.

SAGE, a Wisconsin program begun in 1996–97, reduces class size for K–3 children in certain high-poverty schools. At the end of the first year, SAGE kids had made significantly greater improvements in reading, language arts, and math than children had in similar schools.

THE ASSOCIATION OF WASHINGTON SCHOOL PRINCIPALS

The Association of Washington School Principals (AWSP) is strongly committed to supporting legislation which reduces class size in our public school system. It is increasingly evident that students entering our schools have diverse and unique needs which can only be addressed by principals, teachers, and support personnel who are not overwhelmed by crowded classrooms. Rather, educators must be able to devote attention to each student in smaller, more manageable classes.

Recent studies on reduced class size and their impact on student performance, undertaken in Tennessee (STAR study) and Wisconsin (SAGE study), speak to learner benefits in areas such as reading, language arts, and math. In our own state of Washington, reduction of class size and improved student performance are priorities for both legislators and educators.

AWSP is convinced that class size reduction is essential if our state's, and nation's, efforts towards school improvement are to be successful. We appreciate and support Senator Patty Murray's commitment to this end.

WASHINGTON STATE SCHOOL DIRECTORS' ASSOCIATION

''As we pursue our state's goal of improving learning for all of our students,'' Larry Swift, executive director of the Washington State School Directors' Association, said, ''it becomes increasingly important that all of our resources be used efficiently and effectively. The most valuable resource in today's schools is the people who devote their time and effort to make schools successful—the teachers. Reducing the ratio of students to adults is particularly critical for youngsters with a variety of learning challenges that must be overcome if those students are to meet the new, higher learning standards.

''We acknowledge and commend Senator Murray for leading the way to assuring that our students have the learning environment and the human resources necessary for the kind of schools that will provide the opportunities and training they need to become successful,'' Swift said.

The Washington State School Directors' Association is a statewide organization representing all of the 1,482 locally-elected school board members from the state's 296 school districts. WSSDA serves as an advocate for the state's public schools, provides training and technical assistance for school board members and is very active in the legislative process.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, it is with regret that I, once again, tell the Senate that this is an empty amendment—empty. It states a wish, a hope, and maybe a prayer, and it couches it in language that says we are setting up a reserve.

Reserves normally have something in them. This reserve says maybe at some point in time we will have something to put in this reserve. Maybe we will raise taxes and put the raised taxes in this reserve. Maybe we will cut a mandatory program, take away from some entitlement program and put it in there. Otherwise, it is an empty amendment. To have an empty amendment on a budget resolution ought to violate some rule, and, as a matter of fact, it does. This is subject to a point of order.

I think from time to time we wonder whether points of order really contribute substantively to an argument. This one does. For anybody who thinks this amendment proposes anything real for the classrooms of America—if one wanted to have the Federal Government involved in a program and if one knew what the program was—the truth of the matter is that this is empty and, therefore, is subject to a point of order.

Mr. President, I yield back any time that I have remaining. The pending amendment is not germane to the provisions of the budget resolution pursuant to section 305(b)(2) of the Budget Act. I raise a point of order against the pending amendment.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I move to waive all points of order against the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act with respect to the Murray amendment No. 2165. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arkansas (Mr. HUTCHINSON), is necessarily absent.

I further announce that if present and voting, the Senator from Arkansas (Mr. HUTCHINSON) would vote ''no.''

Mr. FORD. I announce that the Senator from Maryland (Ms. MIKULSKI) is necessarily absent.

The yeas and nays resulted—yeas 46, nays 52, as follows:

[Rollcall Vote No. 50 Leg.]

YEAS—46

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

NAYS—52

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

NOT VOTING—2

Hutchinson	Mikulski

The PRESIDING OFFICER. On this vote, there are 46 yeas and 52 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is therefore sustained, and the amendment falls.

The Senator from New Mexico.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, what is the pending business, I inquire of the distinguished manager through the Chair?

The PRESIDING OFFICER. Under the previous order, debate is to continue until 4 p.m., evenly divided, at which point the Senate will vote with respect to the Senator's amendment.

Mr. DODD. I appreciated that.

The PRESIDING OFFICER. And the amendment of the Senator from New Hampshire.

Mr. DODD. The Senator from New Hampshire, Senator GREGG, had an amendment. I see the manager is here.

The PRESIDING OFFICER. That amendment will be voted on also at that time.

Mr. DODD. The debate on that is over?

Mr. DOMENICI. Well, Senator GREGG, we understand, desires no more time on his amendment, which is his second-degree amendment.

The PRESIDING OFFICER. It is the understanding of the Presiding Officer that the debate is concurrent, but apparently the Senator from New Hampshire did not desire additional time.

Mr. DODD. Parliamentary inquiry. Will the Senator allow me to make that amendment?

Mr. DOMENICI. I ask unanimous consent, if Senator GREGG desires the time, that he be allotted time after the debate on the Dodd amendment. I am not sure the Senator will desire that. The regular order would now prescribe, if that unanimous consent is granted, the next amendment is Senator DODD's amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LAUTENBERG. It is my understanding, therefore, if the unanimous consent is agreed to, that Senator DODD will have as much as an hour on his amendment based on the unanimous consent that was constructed.

The PRESIDING OFFICER. The time between now and 4 p.m. will be equally divided.

Mr. LAUTENBERG. Between the proponents and the opponents?

The PRESIDING OFFICER. The Senator is correct.

Mr. LAUTENBERG. But if there is any opposition, then, of course, that time would be available. But let us assume for a moment that there might not be. Would Senator DODD then have an hour at his disposal?

The PRESIDING OFFICER. Under the unanimous consent request, if it is agreed to, he would be able to secure the time.

Mr. LAUTENBERG. I thank the Senator.

Mr. DOMENICI. And that is a very big assumption.

The PRESIDING OFFICER. There is a unanimous consent request on the floor; is there objection?

Without objection, the unanimous consent request is agreed to.

AMENDMENT NOS. 2186 THROUGH 2188, EN BLOC

Mr. WELLSTONE. If I could ask for 10 seconds to send three amendments to the desk.

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

The PRESIDING OFFICER. Is the Senator from Minnesota seeking consent they be called up and then set aside?

Mr. WELLSTONE. I want to put them in proper sequence.

The PRESIDING OFFICER. Without objection, the clerk will report those amendments.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes amendments numbered 2186 through 2188, en bloc.

Mr. WELLSTONE. I ask unanimous consent reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 2186

(Purpose: to ensure that the provisions in this resolution assume that Pell Grants for needy students should be increased)

At the appropriate place insert the following:

''It is the sense of the Senate that the assumptions underlying the functional levels in this concurrent budget resolution on the budget assume that corporate tax loopholes and corporate welfare should be reduced in order to produce the funds necessary to increase the maximum Pell Grant award to $4,000.''

AMENDMENT NO. 2187

(Purpose: To express the sense of the Senate regarding a report of the Secretary of Health and Human Services evaluating the outcomes of welfare reform)

At the end of title III, insert the following:

SEC. . SENSE OF THE SENATE REGARDING AN EVALUATION OF THE OUTCOME OF WELFARE REFORM.

It is the sense of the Senate that the budgetary levels in this resolution assume that—

(1) the Secretary of Health and Human Services will, as part of the annual report to Congress under section 411 of the Social Security Act (42 U.S.C. 611), include data regarding the rate of employment, job retention, and earnings characteristics of former recipients of assistance under the State programs funded under part A of title IV of the Social Security Act (42 U.S.C. 401 et seq.) for each such State program; and

(2) for purposes of the annual report for fiscal year 1997, the information described in paragraph (1) will be transmitted to Congress not later than September 1, 1998.

AMENDMENT NO. 2188

(Purpose: To provide an additional $40,274,000 for fiscal year FY 1997 for medical care for veterans)

On Page 21, strike lines 7 through 10 and insert the following:

Fiscal Year 1999:

(A) New Budget Authority, $42,840,274,000.

(B) Outlays, $43,340,274,000.

On Page 53, after line 22, add the following:

SEC. 317. SENSE OF THE SENATE ON FUNDING FOR MEDICAL CARE FOR VETERANS.

It is the sense of the Senate that the assumptions underlying the functional levels

in this concurrent resolution on the budget assume that any additional amounts made available for the Department of Veterans Affairs in fiscal year 1999 as a result of the declarations of additional budget authority and outlays for fiscal year 1999 for Veterans Benefits and Services (budget function 700) by reason of the adoption by the Senate of this amendment be available for medical care for veterans.

AMENDMENT NO. 2173

Mr. DODD. I call up my amendment for immediate consideration.

The PRESIDING OFFICER. The clerk will now report the amendment of Senator DODD.

The legislative clerk read as follows:

Amendment No. 2173 previously proposed by the Senator from Connecticut [Mr. DODD].

Mr. DODD. I ask unanimous consent reading of the amendment be dispensed with.

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

(The text of the amendment is printed in the March 30, 1998, edition of the RECORD.)

PRIVILEGE OF THE FLOOR

Mr. DODD. Mr. President, I ask unanimous consent a member of my staff, Dr. Caryn Blitz, be given floor privileges during consideration of the budget resolution.

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

Mr. DODD. I have some comments to make on my own amendment, but several of my colleagues have other matters to attend to, and I will yield, if I may, whatever time she may consume to the distinguished colleague from California and then to my colleague from Minnesota.

I yield first to my colleague from California.

Mrs. FEINSTEIN. I thank the Senator from Connecticut. I want the Senator to know what a pleasure it is for me to be able to support the Senator's amendment and also to say many, many thanks for his leadership on this issue. I am a member of his task force. He has been absolutely indefatigable in the pursuit of quality child care for the citizens of our country. I am very proud to support this amendment.

Mr. President, if I might begin by asking a quick question through the Chair. I ask the Senator from Connecticut this question: Is he aware of how many children are on the waiting list for child care facilities in the largest State in the Union?

Mr. DODD. I would say to our colleague from California I am aware of this figure. It is 200,000. The reason I know that number is because in 1996 I asked the General Accounting Office to do an assessment to determine the extent to which the child care needs of working families were being met, including whether there were waiting lists for child care. California was one of the States that was surveyed. The report found that California presently has some 200,000 families who are waiting for a quality, affordable, accessible child care slot to open up so they may leave their child in a safe place.

Mrs. FEINSTEIN. I thank the Senator.

Mr. President, on behalf of Senator BOXER and I, I think this one statistic irrefutably points out the need for this amendment. I did not support the welfare reform bill. The reason I didn't support the welfare reform bill was exactly this. The way the bill is weighted, the targets that need to be met in the State of California increase with time. We estimated that we had to develop in California 600,000 additional child care slots a year just to keep up with the need.

What the Senator has just revealed to me indicates that within this first year we already see a waiting list of 200,000. I expect in the next 2 years this waiting list to increase threefold, up to 600,000 families waiting for adequate child care.

If we want Americans to leave welfare behind as a way of life, if we want to see Americans entrepreneurial and working, then we must see there is adequate child care available for the children of these families. A great bulk of the people involved here are single parents with children. They need to earn a living. They have no choice. They must find child care.

This amendment creates in the reserve fund some moneys to be able to help the State create the slots. Let me say how difficult this is in California, an earthquake-prone State, tough building codes, tough individual county and city codes. Therefore, these facilities are expensive to build. This amendment provides an opportunity to try a number of different approaches, including employer-based child care, child care that is shared, chambers of commerce working with schools, working with college districts to provide teachers for these child care facilities. All of this can be done. You cannot do it without money. Therefore, I think this reserve fund is certainly small to begin with but certainly necessary.

It is with great pride that I thank the Senator for his leadership and that both Senator BOXER and I are delighted to support this amendment.

Mr. DODD. I thank both of our colleagues from California, Senator FEINSTEIN and Senator BOXER.

To our colleague from Minnesota, I yield such time as he may desire.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. First, I ask unanimous consent Joseph Goodwin, an intern, be allowed to be on the floor during the duration of this debate.

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

Mr. WELLSTONE. Mr. President, first of all, let me start out on a personal note. I really consider it an honor to work with Senators. I consider it an honor to be here. Every time I come to the floor of the Senate, I still get goose bumps, and I think it is something I never expected to have a chance to do.

Senator DODD is one of the Senators I most love working with because he has been, over the years, such a strong and such a committed voice for children. I thank him for that.

I think this amendment is extremely important, because all it is really saying is let's hold out a reserve fund for children so when it comes to our commitments here in the Senate, we make the investment.

I will be brief. I have had a chance to travel the country. I have been in a lot of low- and moderate-income communities. I have been in a lot of other communities. Let me just say that the initial travel I did from Appalachia to Letcher County, KY, to Delta, MS, to inner city Baltimore, to public housing in Chicago, to urban and rural Minnesota, everywhere I go people ask the same question: Where is the equal opportunity for our children? Everywhere I go this focus on how we can make sure the children come to school ready to learn is the priority. We just have to do a lot better for our children. We have to do a lot better for all of our children.

My colleague from California talked about the welfare bill. She is absolutely right, there are long waiting lists for affordable child care, even longer now, because of the welfare-to-work provisions.

Above and beyond that, I say that I meet people, they are heroes and heroines of Head Start and child care, they do their very best, and they can make a huge difference for children, but we have long waiting lists all across our country for affordable child care. When you talk to middle-income families—this is not just low-income—working families, they will tell you that the expense may be up to $10,000 or more per child, and it can be up to a quarter of their income.

This is a huge issue. If there is anything that we could do in the U.S. Senate that would be good for families, that would be good for our country, it would be to make this investment.

I have said this before and I will say it one more time and I will not say it in a shrill way. I say to both colleagues—and I see my colleague from Washington here on the floor, as well—every time there is a discussion of child care, every time we have a discussion about children, I think of Fannie Lou Hammer, the civil rights leader, Mississippi, daughter of a sharecropper, who said in one of her speeches, ''I'm sick and tired of being sick and tired.'' Sometimes I get tired of the symbolic politics. Everyone loves children. Everyone wants to have a photo opportunity next to a child. Everyone says they are for children and education. Every breed of political person says that. But there comes a point in time when if we are really for children we have to dig into our pockets and make the investment.

There is no more important national security issue than to invest in the

health and skills of intellect and character of our children, all of our children. That is what this Dodd amendment speaks to, that is what the position that Democrats are taking speaks to, and I really think that this is where the rubber meets the road. This is where ''the differences make a difference.''

I am hopeful that colleagues on the other side, many of them good friends, many of whom I think do have this commitment, will support Senator DODD in his amendment. It is just not enough to give speeches. It is just not enough to be talking about how we are for child care and children and education. We have to make the investment. That is what this amendment speaks to.

I yield the floor.

Mr. DODD. I thank my colleague from Minnesota for his eloquent remarks. Let me turn to my colleague from the State of Washington who has been a leader long before she arrived in the Senate on the child care issue as a member of the legislature in Washington.

Mrs. MURRAY. Thank you, Mr. President.

I thank my colleague from Connecticut, Senator DODD, for offering this amendment I offered in the Budget Committee. I can tell you, as a working parent, one of the most critical issues that faces parents every single morning across this country is, will my child have a place to be? I have had the experience, and I guess that many parents across this country have had the experience, of dropping their child off at day care on a Friday and have them say to you, ''We will not be here on Monday. We decided to go out of the business.'' There is nothing worse that can happen to you in a day than to all of a sudden panic and try to find a place to put your child who may be 2, 3, 8, or 10, and you know they need a safe place, you know you need to be at work Monday morning, and there is nowhere for your child.

Mr. President, across this country businesses are recognizing this critical issue because they know they need their employees to be productive. A productive employee is not sitting at work worrying about whether their child is safe or taken care of; a productive employee is one who knows their child is all right. This amendment simply puts in place a placeholder so that this Congress will address the issue that is discussed at almost every kitchen table of every family across this country.

I thank my colleague from Connecticut for being a leader on this issue for so many years.

Mr. DODD. I thank our colleague from Washington as well. As I mentioned, her experience goes back to her years of public service and her years as a parent.

I was looking at the clock as she spoke. It is almost 3 o'clock. This would not apply to all parts of the country, but certainly on the east coast right now there are as many as 5 million children who have no safe place to go after leaving school. We know that for parents who have no choice but to be in the workplace, when school lets out, and before they get home from work at 5 o'clock or 6 o'clock, there is a great sense of anxiety about where their child is? They worry: Who is watching my child? What is my child doing?

We know from police chiefs all over the country, that juvenile delinquency rises, not after 11 p.m. at night, but between 3 o'clock and 8 o'clock in the evening.

My hope is to raise some legislative ideas which would allow us to at least deal with after-school care, with infant care, with the quality of child care. But, I am being told by the budget resolution I cannot do that; I cannot bring up my idea on after-school care on child care in this Congress because it is subject to a point of order. I don't think it is fair. I don't think it is right. I think it is harmful to children and working families.

My colleague from Massachusetts cares about this issue very, very much. I know he has some comments he would like to share as well.

Mr. KERRY. Mr. President, I thank my colleague from Connecticut for the time. I also thank him particularly for his longstanding leadership in the Congress on this issue. There has been no more persevering or more eloquent voice on the subject of children than Senator DODD.

This is really the most important work we can do in America today: pay attention to our children. All across this country, on a daily basis, we pick up a newspaper and read a headline about trouble that comes from children who are not structured in their lives in the course of a day, who don't have the care they ought to have at the earliest stages of their lives. Every bit of pediatric, psychological, psychiatric, early child development evidence that we have in this country indicates that the first years of a child's life are absolutely the most important in the development of that child. You could literally have a brain that is 25 or 30 percent larger, based on the appropriate nurturing, attention, problem-solving, love, and focus that children get in the earlier stages. Why? Because that is when the brain connections are being made. We know this scientifically beyond any doubt whatsoever.

In Boston the other day, I was in the Castle Square Early Child Development Center. There are 67 kids there. They are getting a nurturing, caring, structured environment which, while their parents are out at work, is precisely what we required in the welfare bill. Precisely what most Americans want most other Americans to be sharing along with them is the burden of work in America. So while they are out doing it, where are their kids? For the 67 kids in the Castle Square Early Child Development Center, there are 500 on the waiting list—500 kids who will never cross the threshold of that center by the time they reach 6 years of age and are supposed to go to school and be ready to learn. The truth is that in too many schools in America today, when kids are 6 years old and they go to school, there are among them children who cannot recognize numbers, who cannot recognize colors or shapes or forms or even perform the most simple kinds of problem-solving.

Now, I know our Republican friends speak a lot about values and about the nature of parenting and the importance of it. But the fact is that, in America today, one-third of our children are born out of wedlock. They start with a single parent. In too many cases, that single parent is out in the workplace trying to make ends meet, and the child has nobody at home. I was in a middle school the other day in Boston, with kids age 10 to 14, 35 kids in a class. I asked them, ''When you go home at 2 o'clock in the afternoon, how many of you go to a house, apartment house, or whatever, where there is no adult present until around 6 o'clock in the evening?'' Fully 50 percent of the hands in that room went up, Mr. President. Whose fault is that, theirs or ours? It is ours.

What the Senator from Connecticut is trying to say is, let us at least have the vision of trying to set aside a reserve fund that will permit us to be able to come down the road and say that we are going to help America do this. Out of 3 million children in the United States of America that are eligible for early Head Start, only 30,000 get it. Out of 1.6 million kids in America that are eligible for Head Start itself, only about 800,000 get it.

Now, Mr. President, if we don't want to come back here and decide how many prisons we are going to build and how many drug abuse programs we need and how we are going to cope with the trauma in our streets or deal with countries that can outcompete us in the marketplace because our kids don't have the skills for the new world of globalization and technology, this is the business of America that we should be paying attention to. I think it's unconscionable that we can have a reserve fund for tax cuts but not a reserve fund for children. I can't think of anything more important in the business of the Senate than to at least say let's avoid the parliamentary chicanery of a point of order on behalf of our children. A point of order can deprive our kids of the opportunity to have child care, because I will tell you, Mr. President, there is a majority in the Senate prepared to vote for it—a majority. To steal from the majority of those Senators the right to be able to give those children that child care is to take it away from those children itself for the sake of parliamentary process and not for a future vision of this country.

I thank my colleague profoundly for his willingness to bring this to the floor of the Senate.

Mr. DODD. Mr. President, I thank my colleague from Massachusetts. And I'd like to recognize him for his significant contribution to the issue of child care, particularly to early child development. We've all learned a great deal over the past year about brain development and the critical period in children's growth from the ages of zero to 3. My colleague from Massachusetts has been instrumental in focusing attention on the needs of children during the earliest years. I am particularly grateful that he is here today to comment on this amendment.

I ask unanimous consent that Senators MURRAY, KERRY of Massachusetts, DASCHLE, KENNEDY, LAUTENBERG, LANDRIEU, DURBIN, WELLSTONE, KOHL and HARKIN be listed as cosponsors of this amendment.

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

Mr. LAUTENBERG. Mr. President, I want to express my strong support for the Dodd amendment. This amendment would provide a reserve fund to improve the affordability, availability, and quality of child care. It also would support families' choices in caring for their children.

As you know, Mr. President, child care remains a pressing national problem. More families need it. Not enough families can afford it. And there aren't enough qualified professionals to provide it.

Families with children under 5 and with incomes under $14,400 a year today spend one-quarter of their incomes on child care. Yet only 1 of every 10 children eligible for child care assistance receives it. Most modest-income families are getting crushed by the costs of child care.

Compounding matters, the quality of much child care remains seriously deficient. And a major reason is the high rate of turnover among child care providers. More than one-third of them leave their jobs each year, largely because of low wages.

Mr. President, this amendment would help address these problems by providing a mechanism for additional federal support for child care. And it is critically important.

Some have argued that working families don't need this help, because the states already are getting more federal child care funding than they can spend. But that is just wrong. According to the latest HHS data, states' child care outlays are 90 percent of total budget authority for 1997, and states have obligated 99.8 percent of those funds. Morover, so far in 1998, states are drawing down child care funds at a higher rate than last year—and at a higher rate than either CBO or OMB had projected.

I also have heard the argument that we don't need to support spending on child care when we can expand the dependent care tax credit instead. But that's just not sufficient.

As long as the dependent care tax credit remains non-refundable, expanding it will not help modest-income working families. In fact, a two-parent family with two children that pays $400 per month for child care would not begin to benefit from a non-refundable expansion until its annual income reaches almost $31,000.

Let me emphasize that. If you have two kids, a $30,000 income, and you pay $400 a month for child care, you're not going to benefit at all from current proposals to expand the dependent care tax credit. Your income is just too low.

Finally, I know that the Republican budget resolution is assuming some additional discretionary funds for child care. But I question whether these funds will materialize given the strict overall caps on discretionary spending. And, in any case, discretionary spending is a 1-year, short-term approach to a long-term problem. Americans' child care needs are increasing, and families should have our commitment that we will lend a helping hand.

Mr. President, I hope my colleagues will agree that it's time to address child care needs in a serious way. And I hope we can get bipartisan support for Senator DODD's important amendment.

Ms. MOSELEY-BRAUN. Mr. President, first, let me thank Senator DODD for his important leadership on this issue. I am a cosponsor of his child care ACCESS bill and I am proud to join him in supporting this amendment.

I have been on this floor already today talking about the importance of education and how closely educational attainment is tied to every indicia of well being. From an individual's physical health to the nation's economic health, education is the key.

With this amendment, we turn to the issue of child care. I submit that adequate public and private funding for child care is a necessary foundation for educational attainment and economic well being at every level. Children who are not well cared for have trouble thriving and succeeding in school and in life. Parents who cannot find or afford decent child care cannot work or are less productive and reliable when they are working. We all suffer when good, safe child care is not available.

Children who have the opportunity to learn and grow with adult care and attention will do better throughout their lives. Recent studies have confirmed that the first three years of a child's life are the most critical in a child's development. For a child, it is these first three years that have, as a Carnegie study stated, ''. . . a decisive, long-lasting impact on their well-being and ability to learn.''

There are many child care alternatives for families ranging from small, home care settings to child care centers with low child to teacher ratios to a stay-at-home mother or father—but only if the families can afford them. The key to successful child care is that the parents have choices about how to best care for their children. For too many American families the high cost of child care puts options out of their reach.

In Illinois, full-day child care can cost from $4,000 to $10,000 per year for just one child. This can be compared to the cost of a college tuition at the University of Illinois of just over $4,000. These high costs often force parents into unsafe choices. A recent national study found that 40 percent of the rooms used to provide care for infants in child care centers provided care that was so poor as to put the child's health, safety or development at risk. Only 8 percent were rated as providing quality care for infants and toddlers. These statistics do not even take into account those parents who cannot find care at all. In Chicago, for example, a 1995 report found the demand for child care for infants exceeded the supply.

Without choices, parents are unable to work, have to forgo needed family income, or are unable to devote their full time and attention to their work. The lack of choices not only affects the family but has a direct and negative impact on the economy as a whole in public assistance and lost productivity costs.

A 1991 study for the Illinois Department of Public Aid, for instance, found that for single parents in Illinois receiving welfare, child care problems kept 42 percent of them from working full time. Twenty percent of those women who worked but returned to welfare within a year were forced back onto welfare because of child care problems. For those who had to quit school, 42 percent left because of child care programs. While the statistics may not be so stark for middle-class families, the effects can be as great. The lack of decent, affordable care crosses economic lines.

The fiscal year 1999 budget resolution has several provisions for improving child care, but these are tentative and modest compared to the need. This amendment will allow those in the Senate concerned with the lack of child care choices for at-home and working parents to effectively target public and private resources to address the child care crisis. We cannot slam the door on child care as we open the door to the 21st Century. It would be irresponsible. I urge my colleagues to vote for this amendment.

Mrs. MURRAY. Mr. President, I rise in support of the amendment offered by Senator DODD, and I commend the Senator from Connecticut for attempting to make the Senate address the need to improve affordable childcare in this nation.

Mr. President, few issues are more important in determining the future of our children and our nation than access to safe and affordable child care. Ensuring the availability of affordable, quality child care programs must be a top national priority for us as lawmakers, as parents, and as citizens. Today, we have a rare opportunity to

offer hope to families struggling to find or keep their children safe and learning.

By sponsoring this amendment, Senator DODD has sent an important message to every American who is working hard to raise a child—we know it is sometimes difficult, and we know your government has a responsibility to assist you in your most important work. With this amendment, of which I am lead cosponsor, we make room in the budget to lay out a vision for the type of assistance the American public has told us will truly help.

First, I must say that like many issues affecting children and families, child care is not a Republican or a Democratic issue. Senator DODD and I have had the opportunity to work toward child care solutions with several Republican senators over the past couple of months. Although both parties and the administration have submitted differing child care proposals, I know we can all work together to create a new child care law that does what American families need. With the right mix of participation from families and communities, private industry, and government, we can create a child care system that is the envy of the world.

But we don't have that system today. And, this is why the Senator from Connecticut's proposal is so critical to our nation's success. Because child care is not just a place you put a child until you get home from work. If we know one thing about child care today, that many of us have long intuitively known was the case, it is that child care is an enterprise defined by the quality of education and care that it provides.

Let us examine some of what we know about child care in America today:

Recent research about the way a child's brain develops shows us the importance of quality care to a child's healthy development. The first three years of a child's development are decisive in determining that child's future. Quality child care, with an age-appropriate developmental and educational focus, provides the early stimulation required to correctly develop a child's sensitive neural systems.

It is time for policy-makers and the American public to reject the narrow view of early child care and education as separate entities. Early child development must now assume its place in our local and national funding priorities as an integral piece of the educational process. Child care lays the foundation required for a lifetime of learning.

Children who experience quality care demonstrate higher language and math skills when entering school. Our first National Educational Goal is that by the year 2000 every child will enter school ready to learn. Without quality early child development programs for all children, we cannot meet this important goal. Early child development also gives children the increased self-perception and social skills that allow them to succeed in school and in life.

We cannot continue to view child care as ''just another expense.'' Funding for quality care represents a wise investment in our nation's future. Studies consistently show that quality child development programs produce long-term positive social benefits. Quality care reduces the anti-social behavior and chronic delinquency which threaten the stability of our communities. Early child development must also be a priority if we truly want to halt the spread of crime. Law enforcement leaders across the nation agree that investments that create a safe and nurturing environment for children, especially in the critical hours between 3 and 10 p.m., will sharply reduce crime.

Some early childhood services for low-income toddlers have been found to cut the number of chronic criminal offenders by 80 percent and delinquency by 90 percent. By providing children with the preparation to learn, quality child care prevents the lack of literacy and marketable skills that force many people to rely on public assistance.

By reducing the later, more-expensive costs of public assistance and imprisonment, investment in child care can save billions of taxpayer dollars. The High Scope Preschool Study found that by providing increased tax revenues and reduced costs of crime and welfare, every dollar invested in high quality early childhood programs for low income children eventually saved $7 of taxpayer money.

Despite the monumental consequences, the current American ''system'' of early child development meets neither the demand for supply, nor the quality required of it. In too many communities, parents are simply unable to find affordable, quality care. The situation is especially acute for low-income parents; the working poor currently face waiting lists in thirty-eight states. Although children from low-income families receive the most benefit from child care, they attend child development programs at only half the rate of children from high-income families.

The 1996 welfare law dramatically increased the already urgent demand for affordable, quality child care. Welfare plans will direct over two million parents, mostly mothers, into the workforce. Without the support provided by child care which meets at least minimal standards of affordability and quality, few parents can afford to leave the home for the workplace.

Too many existing child care programs fail to provide developmentally-appropriate care. Studies show that less than a tenth of child care centers provide appropriate care. A recent national study found that most centers provide care that is poor or mediocre. The widespread lack of appropriate training and experience, and the lack of safe facilities, holds long-term consequences for the health and development of American children.

Efforts to improve K–12 education can never be fully successful when one-third of our children enter kindergarten unprepared to learn.

We cannot not allow providers to maintain environments which harm our children. The federal government must do something to help states improve their standards—we cannot allow dangerous and inadequate child care environments to continue. A recent analysis of state regulations found that no states have child care safety regulations above the ''mediocre'' level.

We must also improve standards in the half million to million unlicensed home child care businesses operating in this country. Simply because a child is in an unlicensed facility does not decrease her need for developmentally-appropriate challenges. There are things we can do to increase the kind of care that stimulates a child's early growth.

Parents are an integral part of a child's early developmental growth and must have the opportunity to become involved in early child care programs. Parents cite lack of time as the top reason for not becoming involved in their children's education. I am proud to have sponsored the Time for Schools Act of 1997 which expands uses for time under the Family Medical Leave Act to allow parents to be involved in their children's education, or to take care of child care emergencies, without losing their job.

There is also so much more we can do to involve parents in the care and education of their children. Across this nation, people have worked to put tools in the hands of parents, so they can make the best choices possible when it comes to the care of their children. The family is the engine that drives our economy and society. Any child care legislation must include efforts to get parents and families the information they need, whether it's about choosing quality child care, choosing to stay home and care for a child, or choosing strategies to make caring for a child safer and more affordable.

There are things that states across the nation can learn from my the experiences of my home state of Washington. Washington state has a child care system nationally recognized for its excellence. State licensing requirements far exceed federal standards and go further than almost all state regulations towards ensuring safe child care. The state has implemented an integrated system of child care assistance for all low-moderate income families, regardless of whether they are involved in work first programs. In addition, the state legislature has instituted a training requirement for child care professionals, and provided initial funds for a training system and a registry to track that training.

But even in a state like Washington, the lack of investment from the federal level forces difficult choices at the state level—in our case, lower subsidies which are reducing options for low-income parents.

So whatever solutions we seek here must give assistance flexibly to states, so individual states can make improvements in the areas where they need it most.

Two other discussions in my state are very promising, and they deserve your attention.

First, there is the work of the Human Services Policy Center at the University of Washington. The Policy Center has reached out to leaders in the private and public sectors, and to parents and the child care community, and come up with recommendations to improve child care financing. Their study, ''Financing Quality Child Care in Washington,'' provides a thorough review of the state of child care financing in one state, with implications for our national debate.

Another very exciting discussion and project is underway in Spokane, Washington, of which you all should be aware. It is a family child care demonstration home and small business center, created by a wide array of partners:

Founding partners, including The Health Improvement Partnership of Spokane, Holy Family Hospital, the Nevada-Lidgerwood Neighborhood, and Northwest Regional Facilitators (the local child care resource and referral agency); and newer partners, including the Child Care Facility Fund of Washington State, the Dayton Hudson Foundation, Spokane Falls Community College, Eastern Washington Association for the Education of Young Children, Eastern Washington Family Child Care Association, Family Care Resources, Kathy Modigliani National Accreditation, the National Association of Child Care Resource and Referral Agencies, the Washington State Office of Child Care Policy, the Small Business Development Center, and the Washington State Child Care Resource and Referral Network.

The project is called the ''Family Child Care HOME (Hands On Model Environment)'' and provides child care in a high quality family child care setting for children from infant to age twelve. The projects also provides orientation and training for child care providers, and a business incubation center for new family child care businesses. The HOME project partners have also set up a revolving microcredit loan program, for child care providers to purchase equipment, expand their business, acquire professional training and remodel their facilities. On site at the child care home, there is a library, equipped with toys, books, start-up supplies, videos, and child centered leaning materials for all child care providers throughout the county. In addition, there is a consumer education center for parents, businesses, and communities to learn more about family child care.

I have gone into some detail today, about the state of child care in this nation, and some examples from my own home state, because the Dodd amendment gives us a chance to do something good for American families.

The Senator from Connecticut has introduced legislation to address this issue more comprehensively than the amendment before us today. I am proud to be a cosponsor of that bill as well. But if we do not pass this amendment, this Senate will never even have a chance to debate the merits of the bill that could actually improve child care for working parents.

Working Americans, many of them lower income, are in the greatest need for assistance in our current child care system; the Dodd-Kennedy-Harkin-Murray ACCESS bill would do a lot of important things to help them. It includes refundable tax credits to provide such assistance. The ACCESS bill does not mandate national standards; it gives states the funding and flexibility to make quality improvements where they see them as necessary. The bill expands Family and Medical Leave to more employees. Taken along with my ''Time for Schools Act'' allowing parents to take care of child care emergencies, this represents a true step forward.

The ACCESS bill provides funding for important quality improvements, including resource and referral services —currently the best source parents have for child care information in many states. Parent education can be expanded with these funds—giving parents the kind of information and resources they are looking for.

The bill makes several changes to promote the kind of private/public partnerships happening in my state. It sends out challenge grants and employer tax credits, but doesn't limit businesses' involvement to the children of their own employees. The quality of child care in the community as a whole will benefit from such provisions.

But the point here today is that we will never even have a chance to pose such questions to the Senate if the Dodd amendment is rejected. That is because the budget resolution before us today does not allow us to debate childcare. It makes no provisions for addressing the childcare needs of American families. By reading this resolution, one could easily conclude the majority party in the Senate simply does not care about childcare.

Not every partent can afford to hire a nanny to look after their children. When we begin to see child care, especially family child care, as a business opportunity, and supporting investments that lead to child care businesses becoming licensed and meeting other quality guidelines then we will begin to build capacity in our communities. We want people to enter this business, to do it well, and to succeed.

As I mentioned, there is bipartisan agreement about the need to improve child care in this country. There must also be agreement about funding, or we will not have child care improvement this year. I can assure the American public that if Congress hears loudly enough about the interest and need for child care improvement, we will find the money for this. Within the context of a balanced budget, with or without a tobacco settlement or any other possible funding source—if this is a national priority, we can take this step.

But the American people must weigh in, or it will not happen. Increasing the supply of quality child care must become a top national priority. Failure to do so threatens our children's future, and that of our nation. I urge my colleagues to support the Dodd amendment.

Mr. DODD. Mr. President, let me take a few minutes and describe what we are trying to do. This amendment is a procedural one. I am not really debating the issue of how we should resolve the child care crisis—although there are certainly no shortage of opinions on how we ought to do that. All I am trying to do here with this amendment is to say, at some point later this year, if the funds are available, can I bring up a child care amendment without being subjected to a point of order? That is all I want to do. We can get to the merits of various child care proposals at some point later. But under this budget resolution, I am precluded from bringing up such proposals, unless I can override a point of order that requires a supermajority. I don't think that is right or fair.

I don't disagree with those who might say we want to provide a tax cut as a result of having additional revenues, either because the economy is doing tremendously well or if we are able to come up with a tobacco settlement. But what I don't understand is, if it's OK to bring up those issues, why can't I bring up child care, which is a staggering problem? Five million children at this hour, as they finish school for the day, are home alone, unattended. Thirteen million children, every day need some kind of child care setting. And their parents need the ability to pay for that care. But, as you can see from this graph, due to inadequate funding, only 1 in 10 eligible children are receiving assistance from the Child Care and Development Block Grant. Many other families are left to cope with skyrocketing costs. As you can see from this second chart the cost of child care in various cities across America is truly astonishing. In Boston, child care for an infant is $11,860 a year. For a 3-year-old, it's $8,840. For 6-year-olds, it's $6,600. Costs of child care in other states—Florida, Minnesota, Texas, Colorado—range from $4,000 to $9,000.

These figures are all the more astonishing when you realize that half of all the parents with young children earn less than $35,000. Can you imagine how difficult it must be for a family in the city of Boston that earns $35,000 a year to afford $11,000 in child care for an infant? Your family is making $35,000 a year and you may have to spend a third of your budget on child care. How do you make ends meet?

I am not suggesting that the federal government should pick up the whole tab here. But I have some ideas about how we can leverage funds from states, from communities, and from businesses. But I can't even offer these ideas without overcoming a point of order.

Whatever else you may agree or disagree with when it comes to child care, isn't it at least fundamentally fair on an issue this important that we be allowed in this body to debate our options? The budget resolution is about making decisions on how to spend the money of the American people. Now not all of my constituents may agree that child care is important, but a lot of people do. I am going to have to say to them: I am sorry, I can't even bring up your ideas about what we should do to make sure that your child has a safe place to be when you can't be with them. I am not allowed to raise your concerns under this budget resolution. We are allowed to have, on page 27 of this bill, title II, budgetary restraints and rulemaking, line 3, a tax cut reserve fund. That is allowed. So we are allowed to have a reserve fund for tax cuts, but we're not allowed to have a reserve fund for child care.

All I want to do is to create a reserve fund to leave open the possibility of dealing with the issue of child care. Vote against me later if you want. Stand up and say you're sorry, but you don't like my ideas. I will accept it if you disagree with me. But, I can't imagine anybody here, regardless of ideology or party, would say I should not be allowed, in a budget resolution—to address a priority we all agree is pretty high on the list. I ask my colleagues here, 50 plus 1, to say we agree with you, we think that ought to be a priority and we are going to support you. As it stands right now, if it tries to raise concerns or offer solutions to this problem then I have to produce a supermajority to overcome a point of order—which everybody around here knows is virtually impossible to do.

Mr. President, this is a very real issue, one that I think is important. I only have half an hour and to even debate this issue and to tell people why I feel so strongly about it. We have to move along.

I will say from the outset that I have great respect for the chairman of the Budget committee. He has a thankless job, as does my colleague from New Jersey. It is difficult work. I sat on his committee for a number of years. I realize it is not easy to put a budget resolution together. But I believe I ought to have a chance—I believe I deserve a chance—to speak to the needs of children in this nation. There are millions of children, Mr. President—who don't have access to high quality care. Only 17 States have child care standards that meet even minimal standards of quality. In most States, if give manicures, if you work on someone's nails, you have to meet tough standards. But only 17 States require any training at all for somebody who is going to hold a child's life in their hands. Where is the logic in that?

What I would like to see is debate on how we can improve the quality of child care, through training, and by improving provider-child ratios. I want to debate tax cuts to assist businesses that want to provide child care to their employees. I know my colleague from Wisconsin, Senator KOHL, would like the chance to present this very good idea.

There is something fundamentally wrong with a process that would preclude debate on those ideas.

I see my colleague from Louisiana, Senator LANDRIEU, is here. Let me, if I can, yield a few minutes to her. I turn to my colleague from Louisiana, who has worked for many years on children's issues in her state and has brought great energy to these matters since her arrival in the U.S. Senate.

Ms. LANDRIEU. I thank my colleague from Connecticut for his great and tireless leadership on this important issue.

Mr. President, it has been well stated, the need for child care in the United States. But the point I want to make is that the child care that is just barely there now in our system is not really affordable to working families. As much as there is not enough of it, and not enough spots, we have a real crisis, as my colleague from Connecticut and others realize, because even if it were available under the current system, it is not really affordable to working families.

We have the majority, 65 percent of moms—and I am in that 65 percent; I am a working mom here in the Senate. I have a 6-year-old and an 8-month-old, so I can really speak to all those mothers and fathers who are working with children at home. Some of us work out of choice, but many of us work out of necessity. Many, many parents have to work; they don't have a choice to be at home. Because of some laws that we just recently passed—welfare-to-work and welfare reform, which I generally supported—we have now mandated it. It is not a choice that many poor women have now; we have actually mandated that they leave home and go to work. So we have made what was a problem 2 years ago even greater by forcing many women, who were home, out to work.

It seems to me that in our efforts towards welfare reform—which, again, I support—some Members of this Congress might be somewhat hypocritical in mandating poor women to go to work, wanting to give tax breaks for middle class women to stay home, and then not providing child care to anybody that is affordable to anybody. Mr. President, that is really the situation we are in, which is a crying shame for the working families in our country.

I know my colleague from Connecticut knows the average cost of out-of-home care is $6,000. For even two parents who are working at a minimum wage 40 hours a week, their income is $21,000. By the time they pay whatever taxes and other requirements for that paycheck, they don't even take home enough money to pay for the child care.

So what are some of the options? Some of the options have been outlined, mostly on this side of the aisle. Tax credits for businesses—we have to do a better job as an employer, ourselves, in the Senate, in the Federal Government, to make our systems and our centers more affordable to all of our employees, from our highest paid to our lowest paid. We can do that. We can also provide some direct subsidies, some tax credits, and then some block grants, in addition, to States to expand the slots that they have.

But my final point on this is to say to this Senate and to our colleagues that we can talk about family values, talk about how much we love our children, talk about how important families are, but, really, our checkbooks reflect our priorities. In this budget, it doesn't reflect that our priorities are our families or our children. Only Government, through some action—not by doing it all—can pull this system in our country together for child care and reward, if we will, the families who are working and have made the best choices they can for their families.

I hope we can adopt the amendment of Senator DODD and many other amendments that speak to this issue, because there is a crisis in this country and one that we should not ignore and one that our checkbook—not our words but our checkbook—should reflect.

I thank the Senator from Connecticut.

Mr. DODD. I thank my colleague.

Let me reiterate the point of this amendment. What this amendment would do is establish a deficit-neutral reserve fund, similar to the tax reserve fund created by the Chairman on page 27 of the resolution, to improve the availability, affordability, and quality of child care. A reserve fund—for those who may not be aware—is simply a mechanism that allows legislation, in this case child care legislation, to be offered later in the year without the threat of a budget point of order being brought against it.

Why is that necessary? The budget resolution before us today forecloses the possibility of other meaningful and comprehensive solutions to child care. It does contain some proposals for child care, but it doesn't allow us to offer our alternatives for meeting the concerns of families in this country.

Senator MURRAY, our colleague from Washington, offered an amendment as a member of the Budget Committee in the markup which would have kept our options open. That amendment and this one would allow the Senate to consider mandatory funding—just consider it, not require it—for child care. This amendment was rejected by the committee along party lines. So, as the budget resolution now stands, future

legislative attempts to improve the quality of child care, or to help families afford the skyrocketing costs of care, or to create after-school programs for the 5 million children home alone each day after school, to provide for care for children with special health needs, are all shut out. I would like the opportunity to offer those ideas. To do so, this amendment must be adopted. If not, then I am foreclosed from doing so, and that is the reason I am asking for support.

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

Mr. DODD. I am happy to yield to my colleague.

Mr. DOMENICI. I do not need time in opposition for another 5 or 6 minutes, if he wants to speak some more. He is eloquent on the subject. Even though his amendment is quite deficient, he is spectacular in terms of his presentation.

Let me just ask a question.

Mr. DODD. Certainly.

Mr. DOMENICI. You said even if you wanted to present a child care proposal, you would be precluded from doing that unless there were something in this budget resolution that allowed it. I don't believe the Senator meant that. For, let me tell you, this budget resolution does nothing to the right of anyone to bring up a bill with a new entitlement, which is what you are contemplating, so long as it is paid for. You would have to provide tax increases or entitlement restraint. And you can offer all the child care add-on mandatories you would like; they may not pass, but they would not be subject to a point of order. The budget processes are complicated and in some cases arcane, but there is a simple one: You pay for entitlements with entitlement cuts or tax increases. So you could do that.

I am not suggesting that is the best way, or the only way, but I believe you said you could not, and I just wanted to make sure that, at least from my standpoint, you either—if you meant what you said, you at least take into consideration what I have said—or perhaps you could suggest that I am in some way in error?

Mr. DODD. To my good friend and colleague, who is so knowledgeable on these issues, let me state this as I understand it, and you respond, if you will.

In order to do what you have suggested, of course, I would have to operate within the existing budget structure—which means I would have to take from one critical program—perhaps Head Start or education, to fund child care. I would have to make families compete against themselves. But if I want to take anticipated tobacco revenues or draw from the additional resources of a growing economy, as I understand it, I am precluded under this budget resolution from doing so.

Out of that $300 billion or $500 billion in tobacco funds—whatever amount we ultimately decide here—I believe that $15 billion or $20 over 5 years can be found to commit to child care. But under this budget resolution, I would be subject to a point of order; is that not correct?

Mr. DOMENICI. The Senator is correct. But I didn't raise that point. I answered a statement you made that you would be precluded from offering it under this budget resolution. All I said is, anybody can offer a spending bill, an entitlement, mandatory spending bill. It will not be subject to a budget point of order if it is paid for, and the ''paid for'' is either cutting other similar programs or tax increases that you use for it.

You raise a different question. You raise the question now, which I did not think was in your reserve fund, because the reserve fund is set up for all of the tobacco settlement receipts. If you want to take something out of that, then, like others, you might want to amend that. If you try to amend that, we suggest that money should go to Medicare. So that will be the battle, and we will have that out. There will be a number of amendments which handle it that way.

Let me just also suggest that you mentioned appropriated accounts. I don't want to get this to be a mumbo-jumbo ''budgetese'' discussion here, but your amendment is not one that has anything to do with discretionary programs. It creates an entitlement program. So the discretionary caps which we are all—excepting maybe three Senators or four—coming down here saying we want to keep—and I don't know where you stand on that, whether you want to break them or not—you break those by spending discretionary money. You don't break them by creating a new mandatory program, a new entitlement. Although nobody thought we would be creating new entitlement programs once we got the budget balanced; most people thought we would not do that anymore because we want to keep it balanced. But if you want to do it some more, you have to pay for them in the ways I have described.

Mr. DODD. I thank my colleague. I agree that we should not be creating programs that we can't pay for. That is the purpose of creating a deficit neutral reserve account. Like all reserve funds, including that of my friend and colleague from New Mexico, this reserve fund makes the hypothetical statement that if we somehow find additional revenues we should use them for the purpose stated in the fund. Being deficit neutral means that we would be required to find an offset. We don't know where the funds might come from, obviously. Around here, anything can happen between cup and lip. But we are working on an assumption that there will be some revenues available this year, and we want the opportunity to debate whether those funds can be used for child care.

With regard to potential tobacco funds, the majority has made the decision that they must exclusively be used for Medicare. What some of us are saying here is that we don't disagree that certainly part of it ought to be for that purpose. But we think in addition to Medicare there are some other legitimate purposes, and one of them is child care.

The fact is that the tobacco industry has, for generations, targeted children—and we all know that to be the case. Certainly their advertising, Joe Camel for example, has been designed to appeal to kids. Why? Because the industry knows that 90 percent of the adults who smoke began as teenagers.

We are suggesting if you have some additional resources generated by tobacco company payments, shouldn't some of those funds be targeted to children and families? That is all we are suggesting. I am certainly not asking for the money to go exclusively to child care. I am not asking for a provision which says that money from tobacco can only be used for children. I wouldn't say that, because I respect the fact that there are other activities that need and deserve these dollars—public health programs, smoking cessation and biomedical research, and certainly Medicare. But I think that child care also has merit and that I ought to be allowed to make a case on why it deserves some of these tobacco dollars.

Again, we may differ, as we certainly do, about how a child care bill ought to be framed. My colleague, for instance, from Vermont and my colleagues from Kansas, PAT ROBERTS, Senator SNOWE from Maine, Senator COLLINS from Maine, Senator SPECTER of Pennsylvania and others—all have had ideas on child care which are ones they would like to have considered. So when I stand here to try to set up a reserve account, it isn't just to protect my proposals, it is to protect ideas they may have as well. But in the absence of the adoption of this amendment, whether it is my colleagues from the Republican side who care about child care, or colleagues from this side, unless we have the reserve account, we are precluded from doing anything meaningful in this area.

I see my time has expired, the time of those who are the proponents of this amendment. I will yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Are we scheduled now to vote on the Gregg amendment at 4 o'clock, except that each side has 1 minute to discuss the Gregg amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. That will be followed by the Dodd amendment, which is not amendable, and there will be 1 minute on each side after that vote has expired.

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. Clearly, Senator DODD has perceived my position correctly. I will make a point of order

with reference to his amendment. It clearly is subject to a point of order, and then I presume he would like to vote on a waiver. That is probably what the vote is going to be when it comes to the amendment of Senator DODD, because we have waived no points of order as we have gone through this process.

Mr. President, I say to Senator DODD, while I believe I am entitled to the rest of the time, of course, in the interest of half the time to each side, if the Senator from Connecticut needs some time, he can call on me and I will relinquish some of my time.

I will discuss various reserve funds shortly, but I would like very much to talk about this amendment which, in essence, as to its substantive effect, is very, very similar to the Murray amendment which was denied germaneness by the Senate in the last vote, and it fell. With regard to what it attempts to do, it is a different subject matter but the same kind of process.

There is a little-used process called a reserve fund. There is nothing wrong with trying to expand. We will get a proliferation of reserve fund attempts this year. It is interesting, and perhaps, Mr. President, you would be interested in why there will be a proliferation of reserve funds.

First of all, most reserve funds create a new spending program, and almost all reserve funds—there have been very few—when it comes to a new program, they are entitlements that are created. Essentially, reserve funds say that if you want to fund a new transportation program or Amtrak, that if, in fact, you put into that reserve fund the resources to do it, then the chairman of the Budget Committee says the budget accommodates it, and it would, obviously, be neutral, by definition; it would not increase the deficit or the expenditure.

The problem this year is most interesting. The era of the balanced budget is bringing forth a plethora of suggestions—get this—that we increase entitlement programs, not necessarily in dollars spent on each one, but brand new ones. Isn't that interesting? At the time we finally have our budget under control, when we have spent the best part of 18 years, that I am aware of, saying, ''Let's get entitlements under control''—that is, the automatic spending items; they just spend pursuant to a formula or the letter of the law, and they spend until you change the law, whereas appropriations you do every year—every year.

The plethora of these new ones is because we found a way, believe it or not, to say you can't spend any more money on this other kind of account, the annual appropriations bills, in which these programs belong. This child care program belongs in that category called an annual appropriation. But if you put it in there, you have to do two things, and that is why there will be reserve funds, because you have to cut some domestic program to make room for it, or you break the budget, which has a dollar number in for each year.

So now that that is firmly fixed and we have it under control and Wall Street and Alan Greenspan and those who make interest rates in America are saying, ''The one thing you really did''—now let's follow through—''is you placed that cap, annual amount, that dollar number, that you can't exceed, you put it in each year,'' now they said, ''Prove it; do it.'' What we do is say we don't want to provide any cuts, reductions, or eliminations, so we are coming around and creating new mandatory expenditures.

Frankly, the problem with mandatory expenditures is, they go on almost forever, but, secondly, you frequently underestimate them. Yet, if they spend out above the estimate, they just spend out. An example is Medicaid. Medicaid was created on the floor of the Senate with an estimate of less than a billion dollars in cost. It became an entitlement. I don't remember, when we finally reformed it and made it a block grant, how many billions it was, but it was many tens of times bigger than the estimate. When we changed it, we usually changed it to spend more.

You can see why we were so worried that if we wanted to get to an era of balanced budgets and surpluses—''Good for America,'' everybody in the world said; ''It is great for America that our unified budget is balanced; you have to try to keep those caps in place, and you have to try to not create any new entitlement programs.'' But if you cannot spend any more on this side of the ledger, then go over to this side and say we will create a new one over here, and we will try to pay for it one way or the other so it won't increase—it won't affect the budget surplus.

The problem with this one is very, very simple. Just like Senator MURRAY's reserve, it said we would like to spend more money on child care and we would like to have our programs expanded rather substantially—I don't know how many billions; it just says child care program.

Then it says here is a reserve fund, but the reserve fund is only half filled, because it says what we want to spend the money on but it does not say where we get the money to spend. It does not say increase taxes $15 billion to pay for it. It does not say decrease entitlement programs in some way to pay for it, because what no one wants to do is, no one wants to go home and tell their constituents that in order to have a new program, ''We had to raise your taxes.'' They just want to say, ''We are giving you a new program.''

No one wants to go home and say, ''We got you a new program, and we had to cut these other programs,'' because, obviously, there will be people who like the programs that were cut, too.

So here we are with, as I said, a number of these proposals going to be forthcoming, and they are going to sound, for all intents and purposes—and I really give Senator DODD credit in this area. He has been a leader in bringing everybody's attention to child care needs and getting it started in one very serious way. We had a big compromise battle one time. He gave, we gave, and we actually got a bipartisan bill, the first one that was bipartisan. He deserves credit, no doubt about it.

What we are doing now is saying we want more of those but we don't want to tell anyone what we have to do to pay for it. We just want to put it in this reserve fund, and that will happen some other time, but let everyone know the sponsors want an expanded child care program. I have no doubt that they do. It is just that the budget law says you can't do it this way.

It is going to be subject to a point of order, and I am very hopeful it will fail on that. I am very hopeful that those in the country who look at this will conclude that it was not a proposal that had much of a chance to ever be carried out, because there was no money to do it. If you are going to spend $12 billion or $16 billion, keep a balanced budget—and you know how that is already planned; it is called the baseline—if you already know that, and then somebody comes along and says, ''We want $16 billion more,'' it is pretty obvious you have to raise taxes or you have to cut something. That is one argument for today. But I want to give you a couple others.

First of all, according to the General Accounting Office, there are now 22 separate programs and tax expenditures which support and fund child care. The combined Federal programs provide child care services and subsidies to over 5.1 million children, or half the children under 5 with working mothers. The Federal Government, as one part of government in America, pays for 40 percent of all child care expenditures that are governmental.

In 1997, the Federal Government spent $13.8 billion on child care programs. And I will give you the range of them:

Dependent care tax credit, child care programs ranging from Head Start to the program I just mentioned, and a couple of others. The military has the largest single program, $302 million, 166,000 kids.

The Federal Government spending on child care has increased $6.1 billion, for an 82-percent increase since 1990. Not too shabby. Under current law, by 2003 the Federal Government will spend almost $17 billion for child care programs and subsidies. The budget resolution would increase this spending to $20 billion and an increase of almost 20 percent. In particular, the budget resolution more than doubles the size of the child care and the child care development block grant, increasing the funds from $1 billion in 1998 to $2.2 billion by the year 2003.

The budget resolution also assumes that tax relief of up to $9 billion could be afforded as a portion of the funds and a portion of the funds could go to

tax relief to stay-at-home parents if the tax-writing committee so decides.

All of these funds are within the $1.7 trillion budget. They are all within the $1.7 trillion. We do not increase taxes to pay for them; we do not worsen the deficit to pay for the new spending. The amendment before us is different from that, albeit, in the mind of the principal sponsor, totally justifiable. But the $1.7 trillion is not enough, and we must ask the taxpayers to give us, the Federal Government, more so that we can spend even more on child care than is assumed in this resolution.

In short, while I am not necessarily arguing that under no circumstances should we ever put any more money in child care, I am suggesting that this year in this budget resolution we do provide some significant increases.

Let me make one other statement and then call one precise item to the attention of the Senate. I know this sounds like a lot of money and, on the other hand, my friend Senator DODD might say it is not enough money, but just prior to the budget markup I asked for a breakdown of all of the money being spent on what would commonly be called child care.

Mr. President, Senator DODD may still maintain that we need more and he may have evidence that we need more, but, obviously, there are a lot of things we need more in America, and we can't afford to pay for them all. The Senator from Connecticut voted many times not to pay for something because we didn't have enough money.

I went through and looked at the total amount of money that we will spend under this 5-year budget, under the discretionary part of this budget—that is, the annual appropriations for child care of various types, special education for infants and toddlers, development block grant, head Start—we will spend $31 billion in just that one category over these 5 years.

Then I looked and said, what about mandatory programs, those that you do not have to appropriate each year? I found a child care development fund, which is a perpetual fund, not one that you feel you must vote on each year, a child care feeding program, social service block grant, and I found that $23 billion is spent over the next 5 years for that.

Then I looked on the tax side to see how we were doing, and I found that dependent-care tax credit, $15 billion for 5 years; employer-provided child care exclusion, $22.3 billion; dependent-care assistance program, $800 million. Now if you add them all up, it is $76.8 billion that goes out of the Federal Treasury in this area helping little children with developmental funds, feeding programs and child care. This number is without the add-ons. This is if we started off the budget process and said we are going to make no reductions and no increases; that is it.

I want to raise one other program with you, I say to Senator DODD. Maybe you are unaware of it. Maybe you and others, if you are made aware of it, might say we should do something about this. But I think you recall—you probably were part of it—when we did the welfare reform, we put $1.7 billion in there for child care.

Remember the package. We said, let us help with child care, let us help with training; and all that went into welfare. I understand that 55 percent—just a moment. CBO estimates, and this is a current estimate, that States will use only 80 percent of the available funding in 1999. States have obligated all funds, but if they do not obligate, they lose any rights to the funds. So they are not going to be able to draw down all the money. Frankly, I think we ought to try to do something about that. That has already been provided for. I do not know what we can do about it.

Mr. DODD. If my colleague will yield on that last point.

Mr. DOMENICI. I will be glad to.

Mr. DODD. We anticipated that this might be one of the arguments that would be raised, and asked the Department of Health and Human Services to tell us exactly what the status of child care spending by the States is. I think this graph here states it well. My colleague from New Mexico just pointed out that 98.8 percent of child care funds have been obligated, but in addition, by January of this year 90.6 percent of funds had actually been spent. So the notion somehow that states are not spending the available child care money is not valid. I appreciate the Senator raising this point, but according to our latest data, the States have already spent pretty much 90 percent of available child care dollars. And they have obligated, of course, virtually 100 percent of it, which demonstrates, I think, a clear need out there.

Mr. DOMENICI. I say to the Senator, let me tell you, we are both right. It is just that those numbers of what HHS is telling you about are the moneys that the Treasury of the United States has turned over to be spent. But now we have to have the States literally draw them down. The Congressional Budget Office is saying that they estimate that the States will draw down and use only 80 percent, and there is a chance they will lose some money, according to what my staff says. So maybe we can work on something there saying that they are extending something so they will not lose it. That might be one thing we could work on.

Now, Mr. President, let me ask my friend, Senator DODD, if he needs another 5 minutes or so.

Mr. DODD. If I could. I appreciate, Mr. President, the chance to, if I could, take just a couple minutes to rebut.

Mr. DOMENICI. I will split the time with you.

Mr. DODD. I have my colleague from Illinois and the ranking member from New Jersey who would like to be heard. So I will take a couple minutes, if I can, and just respond.

Let me, first of all, thank my colleague from New Mexico for his generosity.

Mr. DOMENICI. Could I ask a question?

Mr. DODD. Yes.

Mr. DOMENICI. It is the regular order, however, unless changed by UC that we will start voting by 4 o'clock?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I will give you half the time and keep half for myself and Senator ENZI.

Mr. DODD. Very quickly, first let me thank my colleague from New Mexico for his generosity in providing time here, on his time, to respond to his arguments.

They still come back to the central point. We can debate all day the question of whether or not you think we are doing enough or not enough for child care.

I tell you again that there are waiting lists in California of 200,000, Texas of 25,000, Florida 30,000—and in my State they don't even keep the waiting lists any longer. I say again that there are parents out there, as we sit here today, worried about where their children are. And the costs of child care, when it can be found, are staggering.

Putting aside those issues—all I want to be able to do is at some point this year, before we adjourn, is to be able to offer child care legislation. I want to create a reserve account for children just like Senator DOMENICI has created for tax cuts.

And I would like the chance to use some of the tobacco dollars, Mr. President. There may be as much as $600 billion in tobacco funds. But my good friend from New Mexico has said you cannot touch that money. That money is only going to be for Medicare.

I do not disagree that Medicare is a priority. But if the tobacco companies for decades have targeted young people in my State of Connecticut and all across this country and 1,000 of the 3,000 children who every day start smoking will die prematurely, I think we ought to be able to take some of those moneys from tobacco and apply them to kids' needs in this country. I think most Medicare recipients would tell you they think their children and their grandchildren are important. You go ahead and ask any grandparent in this country whether or not they think every dollar we get from tobacco ought to go to Medicare. I think many of them will say that we should give something to our children—that they are also a priority. But unless I get this amendment adopted here, I am not going to be able to ask that question.

I would like to have a debate about whether or not you think we do too much or too little in child care. But we are never going to get to that debate unless this amendment is adopted.

This is not the time to debate child care, although I know I can make a case for the tremendous need that exists. The question my colleagues have

to ask themselves is, should this body have the right to debate the issue of child care? Should we be allowed to go after some revenues that are coming in from the tobacco resources? Yes or no?

If we adopt my amendment, you give me a chance to try. It does not guarantee me that I am going to get what I want. You may defeat me, but at least I get a chance to try.

With that, let me yield a minute or two to my friend from Illinois.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut has 1 minute under his control. The Senator from Illinois is recognized.

Mr. DURBIN. I thank the Senator from Connecticut.

Let me say, I hope those who are listening to this debate understand the issue that is at stake here. It is the care of our children. When Senator DOMENICI speaks about 4.5 percent of the Federal budget going to the care of our children, that is not an overwhelming percentage. But I will tell you what is overwhelming, speak to the working families who show up every day at day care centers struggling to pay for quality, safe child care. Senator DODD understands what their concerns are.

I hope this Senate will support his effort to finally let this Federal Government go on record as saying, yes, let us reward work but let us also care for the children. We pay a fortune when we fail with children. And we pay it every day. Let us invest some money to help families take care of their kids and in a safe, quality setting.

I yield back my time.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I have the remaining time?

The PRESIDING OFFICER. The Senator has 5 minutes remaining. The Senator from Connecticut has 12 seconds.

Mr. DOMENICI. Twelve seconds. Do you want to use your 12 seconds?

Mr. DODD. If you would give me 1 minute.

Mr. DOMENICI. I yield 1 minute of mine.

Mr. LAUTENBERG. That is very kind. I thank the Senator from New Mexico for his generous giving up of some time here.

In 1 minute, very succinctly, Mr. President, it is this: I heard our friend from New Mexico talk about the proliferation of reserve funds. I want to remind the Senator that he and I were part and parcel of an agreement to establish a major reserve fund last year in the budget agreement. It was designed for transportation.

We encouraged that process to make sure that there would be money to take care of the transportation needs. We had a commitment by the chairman of the Finance Committee that that was an appropriate use of process, to set up a reserve fund. Well, we have a reserve fund now to make sure our kids, when they grow up, are healthy and learned and ready to take on their responsibilities. I do not mind a little reserve fund. I hope that the Senator's vote carries.

Mr. DOMENICI. Mr. President, I am kind of confused on my side for the moment. I see two Senators. I yield time to Senator ENZI. I ask the Senator, do you want to speak on the DODD amendment or do you want to speak on another amendment?

Mr. ENZI. I would like to speak on the GREGG amendment.

Mr. DOMENICI. I ask Senator HATCH, do you want to speak 1 minute on the GREGG amendment?

Mr. HATCH. One minute on the GREGG amendment.

Mr. DOMENICI. I will give you each 1 minute on mine. I will try to go quicker than that.

The argument has now reached the point where everybody can understand it. Although the amendment which the Senator offered does not address the reserve funds set up with the tobacco settlement money, he has clearly stated his case. He would like to be able to spend some of the tobacco settlement on his ideas on child care.

Even if his amendment passed, he could not do that. But let me just tell you what this means. This means that the Senator from Connecticut wants to spend tobacco settlement money on child care where the Budget Committee wants to spend it on Medicare. Medicare spends $25 billion a year and thus it is in default and will be bankrupt in 10 years because of cigarette smoking which causes illness and cancer in the seniors covered.

The Budget Committee said the best place to use the money is to put it in the Medicare fund so we do not let the program go bankrupt. I continue to say that is the best place and the highest priority.

Today is another good example. No matter what the Government of America is doing, we must do more. Whatever we are doing in child care, we must do more. Whatever we are doing in some other area, it is not enough. Now we have heard that for a long time, but I believe we are passed that stage. I think we are in an era of balanced budgets and surpluses. You will not stay there very long if you return to the day that whatever the Government is spending, it is not spending enough, let us have a new program.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 1 minute.

Mr. ENZI. Thank you, Mr. President.

AMENDMENT NO. 2168

Mr. ENZI. Mr. President, I reluctantly rise in opposition to the amendment offered by my friend and colleague from New Hampshire, Mr. GREGG. I think it is too early in the process to talk about whether we are going to limit liability or not. I have never accepted any money from the tobacco companies.

I am not trying to help the tobacco companies. What I want is for the smokers of America to realize that there is not enough money in all of the assets of all of the tobacco companies to take care of the problems that have already been caused. What the smokers need to be worrying about is how they are going to divide up those assets to take care of the health problems which have already been caused to be sure that they are getting a piece of the money that they have already paid in and will be paying in through higher taxes.

We need to wait on the debate to make sure that we are debating the issues on liability and leaving the options open to protect those people who have already been harmed by smoking and those people that will be harmed by smoking.

As I said, Mr. President, I reluctantly rise in opposition to the amendment offered by my friend and colleague from New Hampshire, Mr. GREGG. I have worked with the Senator from New Hampshire on the tobacco issue in the Labor Committee and I can appreciate his position on this aspect of the settlement. However, I oppose this amendment because I believe it is premature for this body to decide the issue of immunity, even in a sense of the Senate resolution, before we have the opportunity to debate tobacco legislation on the Senate floor.

First, I would like to explain that my reasons for opposing this amendment are not based on any desire to protect the tobacco companies from legitimate legal actions. I have explained before that I did not accept any money from the tobacco companies during my campaign because I have seen the destructive effects of cigarette smoking my entire life and I have never seen that smoking ever helped anyone. In short, I oppose this amendment because it is too early in the debate to limit our options on the issue of liability.

Mr. President, let me make it very clear that we will not help one person suffering from smoking-related illnesses by adopting this sense-of-the-Senate resolution. Rather, we will send a green light to plaintiffs' lawyers that Congress will not stand in the way as they fill their retirement coffers at the expense of the smokers and the American public.

By prohibiting any type of current or future immunity for the tobacco manufacturers, we actually do a disservice to the very people we are trying to help. If Congress is really concerned about providing long-term reimbursement for people suffering from smoking-related illnesses, we should look at ensuring that the money will actually go to smokers—not into the pockets of trial lawyers.

Mr. President, I have proposed for some time that we should take a look at a smokers' compensation fund, whereby individual smokers could be reimbursed for their smoking-related medical expenses from an account funded by payments by the tobacco companies. Such a system as this

would ensure that real stakeholders in the tobacco debate—smokers themselves, would receive the proceeds from any tobacco settlement. It would also be a good way to help the long term solvency of both the Medicare and Medicaid programs by alleviating some of the burden of reimbursing providers for smoking-related medical expenses.

I understand that any such comprehensive reimbursement scheme is not going to be accomplished this year. That is why I support the efforts of the chairman of the Budget Committee in his efforts to ensure that any money received from a tobacco settlement is going to be dedicated to the Medicare trust fund. I applaud his efforts in ensuring that any possible proceeds actually be used to help pay for the smoking-related expenses of Medicare beneficiaries instead of being used for any number of unrelated programs.

I urge my colleagues to join me in opposing this amendment. We should send a message to the American people that any money from the tobacco settlement should be used for smokers—not inflated legal judgments.

I thank the Senator from New Mexico for the time to speak on this. I fully support putting that money, if we ever get it, into the Medicare Program. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Utah is recognized for 1 minute.

Mr. HATCH. I rise in opposition to the Gregg amendment. The Gregg amendment is an attempt to put the Senate on record against any liability provisions in connection with the tobacco bill now being formulated in the Commerce Committee.

True, the amendment refers to ''immunity.'' Now, I do not want to give the tobacco industry and nobody else wants to give them immunity. No one does. However, the term ''immunity'' is broader than the limited liability provisions many of us believe are key to the comprehensive antitobacco global settlement bill.

I fear many will seize upon what will be a near unanimous vote today to say the Senate opposes any liability provisions. That is not the case. And 284 days ago, 40 courageous State Attorneys General, both Democrats and Republicans, announced an agreement which should continue to be the basis of any legislation to curb youth smoking. It is predicated on large tobacco industry payments for a whole host of antitobacco programs, including cessation, prevention, and biomedical research.

I, for one, continue to believe that the best way to ensure we will have the huge sums necessary to wean a generation of teens off tobacco is to guarantee there are industry payments. I do not believe that it will be possible to attain that without endorsing the framework of the AG settlement which does include some liability provisions.

I yield the floor.

The PRESIDING OFFICER. All time has expired.

Mr. DOMENICI. I ask for the yeas and nays on the second-degree amendment of Senator GREGG.

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

The yeas and nays were ordered.

Mr. DOMENICI. I ask unanimous consent for it to be in order for me to make a point of order on the DODD amendment so he can make the motion to waive, so that will have been accomplished, and we will, therefore, have that be the second vote.

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

Mr. DOMENICI. Regarding the Dodd amendment, it is not germane to the provisions of the budget resolution pursuant to section 305(b)(2) of the Budget Act, and I raise a point of order against the Dodd amendment.

Mr. DODD. Mr. President, I move to waive the point of order and I ask for the yeas and nays on my motion.

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

The yeas and nays were ordered.

AMENDMENT NO. 2168

Mr. LAUTENBERG. Mr. President, I rise in strong support of the amendment offered by the distinguished Senator from New Hampshire, Mr. GREGG, which expresses the sense of the Senate that Congress should not grant immunity to the tobacco companies as part of comprehensive tobacco legislation.

Mr. President, I want to commend the Senator from New Hampshire for offering this sense of the Senate. It's a clear statement on a critical issue.

Mr. President, there is no valid reason to give the tobacco industry special protections from liability. The tobacco industry, for decades, has lied to the American people. It's intentionally boosted the addictive power of its products to hook consumers. And, worst of all, it's conspired to illegally market its products to children.

The end result of all this fraud and deception is that millions of Americans have died prematurely. Families have lost mothers. Fathers. Grandparents. Brothers. Sisters. And all too often, these families watched helplessly as their loved ones smoked themselves to death, unable to break this deadly addiction.

Now. Mr. President, the tobacco industry is asking for a special favor. They want to be shielded from liability for the harms they've caused. A shield that hasn't been granted to any other industry.

Mr. President, why would Congress give special immunity to the tobacco industry, of all industries?

Well, the main argument you hear is that Congress must let the industry off the hook because otherwise they'll keep marketing tobacco to our kids. It's as if the industry has a gun to our heads. Or, more precisely, the heads of our children.

Well, Mr. President, that's an outrageous threat. And I don't think we should give in to it. After all, the U.S. Government doesn't negotiate with terrorists. And the same should be true for those who threaten to market deadly drugs to our children.

I also would point out, Mr. President, that if we did give the industry the broad liability restrictions that it wants, we still wouldn't get much in return. And it's important to understand why not.

The tobacco industry has said that it would be willing to give up advertising to kids if we give it immunity. But the tobacco manufacturers can't make an agreement on behalf of all those who might want to advertise. So, instead of RJR buying ads, its distributors could. Or retailers. Or anyone else. These others would not be bound by any agreements entered into by manufacturers.

It's also important to remember that many constitutional experts believe that these agreements could be ruled unenforceable. So we could discover later that we have compromised the legal rights of tobacco victims, and gained absolutely nothing in the process.

Mr. President, instead of giving special breaks to the tobacco industry, Congress should be developing legislation that keeps our kids away from tobacco. That helps adults kick the habit. And that saves lives.

We need legislation that will increase the price of cigarettes to at least $1.50 per pack—as the Budget Committee agreed, in a bipartisan vote.

We need legislation to give FDA the authority to regulate tobacco as a drug. Legislation to fund anti-teen smoking programs, smoking cessation programs, counter advertising, and other anti-tobacco initiatives.

Mr. President, there's no reason to give the tobacco industry veto rights over that kind of legislation. None.

Mr. President, this is the Senate of the United States of America. And our job is to do what is right for the American people. It is to do what we can to save lives. And if the tobacco industry doesn't like it—frankly, that's too bad.

So, Mr. President, I hope my colleagues will support the amendment offered by the distinguished Senator from New Hampshire. Let's not give the tobacco industry a special handout. This is an industry that has lied to the American people. It's an industry that's directly responsible for the deaths of millions of Americans. And they should be held accountable. There just is no excuse for letting them off the hook.

The PRESIDING OFFICER (Mr. GORTON). The question is on agreeing to the Gregg second-degree amendment No. 2168. 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 Arkansas (Mr. HUTCHINSON) is necessarily absent.

Mr. FORD. I announce that the Senator from Maryland (Ms. MIKULSKI) is necessarily absent.

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

The result was announced—yeas 79, nays 19, as follows:

[Rollcall Vote No. 51 Leg.]

YEAS—79

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

NAYS—19

Bennett	Ford	Jeffords
Burns	Gorton	Lott
Campbell	Hagel	McConnell
Coats	Hatch	Sessions
Cochran	Helms	Stevens
Enzi	Hollings	
Faircloth	Inhofe	

NOT VOTING—2

Hutchinson	Mikulski

The amendment (No. 2168) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2167, AS AMENDED

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

Mr. DOMENICI. I ask unanimous consent that the yeas and nays be vitiated.

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

The question is on agreeing to the amendment.

The amendment (No. 2167), as amended, was agreed to.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act as to the amendment of the Senator from Connecticut, Mr. DODD. 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 Arkansas (Mr. HUTCHINSON) is necessarily absent.

Mr. FORD. I announce that the Senator from Maryland (Ms. MIKULSKI) is necessarily absent.

The yeas and nays resulted—yeas 50, nays 48, as follows:

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

[Rollcall Vote No. 52 Leg.]

YEAS—50

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

NAYS—48

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

NOT VOTING—2

Hutchinson	Mikulski

The PRESIDING OFFICER. On this vote the yeas are 50, the nays 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I will offer two amendments. Both of them clarify outlay levels for fiscal year 1999 and thereafter. One amendment is with respect to national defense, and the other is with respect to outlay levels for major functional categories in the budget.

AMENDMENTS NOS. 2191 AND 2192, EN BLOC

Mr. THURMOND. Mr. President, I send two amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes amendments numbered 2191 and 2192, en bloc.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 2191

(Purpose: To clarify outlay levels for major functional categories)

On page 26, after line 25, insert the following:

SEC. 104. OUTLAY LEVELS FOR MAJOR FUNCTIONAL CATEGORIES.

(a) DETERMINATIONS FOR FISCAL YEAR 1999.—Notwithstanding the provisions of section 103, outlay levels for the major functional categories for fiscal year 1999 shall be determined in the following manner:

(1) Prior year outlays shall be determined using historical rates as employed by the Office of Management and Budget.

(2) Current and future year outlays shall be determined using rates calculated by the Congressional Budget Office.

(b) DETERMINATIONS FOR FISCAL YEARS 2000 AND THEREAFTER.—Notwithstanding the provisions of section 103, outlay levels for the major functional categories for fiscal years 2000 and thereafter shall be determined in the following manner:

(1) The Office of Management and Budget and the Congressional Budget Office shall annually attempt to reconcile their technical assumptions with respect to preparing estimates for all accounts in those categories, and shall report the outcome of these attempts to the Committees on the Budget not later than December 15 of each year.

(2) If the Office of Management and Budget and the Congressional Budget Office are able to reconcile their technical assumptions by the date of that report, the technical assumptions used to determine outlay levels shall be those agreed to by those agencies.

(3) If the Office of Management and Budget and the Congressional Budget Office are unable in any year to reconcile their technical assumptions, the outlay levels for that fiscal year shall be determined by the Committee on the Budget of each House, prior to the receipt by the committee of the estimate of the Congressional Budget Office.

AMENDMENT NO. 2192

(Purpose: To clarify outlay levels for national defense)

On page 26, after line 25, insert the following:

SEC. 104. OUTLAY LEVELS FOR NATIONAL DEFENSE.

(a) DETERMINATIONS FOR FISCAL YEAR 1999.—Notwithstanding the provisions of section 103, outlay levels for major functional category 050 (national defense) for fiscal year 1999 shall be determined in the following manner:

(1) Prior year outlays shall be determined using historical rates as employed by the Office of Management and Budget.

(2) Current and future year outlays shall be determined using rates calculated by the Congressional Budget Office.

(b) DETERMINATIONS FOR FISCAL YEARS 2000 AND THEREAFTER.—Notwithstanding the provisions of section 103, outlay levels for major functional category 050 (national defense) for fiscal years 2000 and thereafter shall be determined in the following manner:

(1) The Office of Management and Budget and the Congressional Budget Office shall annually attempt to reconcile their technical assumptions with respect to preparing estimates for all accounts in those categories, and shall report the outcome of these attempts in the report required by section 226 of title 10, United States Code.

(2) If the Office of Management and Budget and the Congressional Budget Office are able to reconcile their technical assumptions by the date of that report, the technical assumptions used to determine outlay levels shall be those agreed to by those agencies.

(3) If the Office of Management and Budget and the Congressional Budget Office are unable in any year to reconcile their technical assumptions, the outlay levels for that fiscal year shall be determined by the Committee

on the Budget of each House, prior to its receipt of the estimate of the Congressional Budget Office.

Mr. THURMOND. Mr. President, I ask unanimous consent that these two amendments be temporarily laid aside.

The PRESIDING OFFICER. Without objection, the amendments are laid aside.

Mr. DOMENICI. I don't think we have anything further by unanimous consent. By virtue of the list we have, the next amendment is Senator KYL's. That will be followed by a Democratic amendment yet to be chosen.

Mr. LAUTENBERG. Mr. President, I ask the manager if we can take a couple of minutes to lay down some amendments here—I think people have had a chance to look at them and know what they are—so that we are in the order to be considered.

Mr. DOMENICI. Is the Senator talking about the two amendments we had agreed we were going to dispose of by Senator BURNS and Senator KERRY?

Mr. LAUTENBERG. We have the two that were cleared by Senator BURNS and Senator KERRY. We can do those. I was talking about in advance of Senator KYL's amendment.

Mr. DOMENICI. Does the Senator have more amendments?

Mr. LAUTENBERG. We have two we would like to lay down on behalf of some of our Members here.

Mr. DOMENICI. Let's do that.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for that purpose.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the following amendments be called up and set aside for disposition in a sequence that would be agreed to by the managers. There are four first-degree amendments and one second-degree amendment. We have an amendment on behalf of Senator HOLLINGS which concerns Social Security, a Lautenberg amendment, a Conrad second-degree amendment, a Lautenberg amendment on the environment, and a Boxer amendment on education. I ask unanimous consent that these be accepted at the desk.

Mr. DOMENICI. Mr. President, parliamentary inquiry. I am not objecting on the basis that the second-degree amendment alluded to is not automatically called up as a second-degree amendment to the amendment suggested, because I believe we will have an opportunity, even if we have to have the majority leader here, to offer the second-degree amendment before it is offered on that side. Is that correct?

The PRESIDING OFFICER. The second-degree amendment will not be a part of the unanimous consent agreement if the Senator from New Mexico objects to it. If the Senator accepts the unanimous consent agreement as propounded——

Mr. DOMENICI. I didn't think it was a unanimous-consent request. I object. I have no objection to the amendments.

The PRESIDING OFFICER. The four first-degree amendments——

Mr. DOMENICI. They are just going to be pending like the other amendments, as I understand it.

Mr. LAUTENBERG. Mr. President, in the interest of moving the program along, we will eliminate the Conrad second-degree amendment at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENTS NOS. 2193 THROUGH 2195, EN BLOC

Mr. LAUTENBERG. Mr. President, I send three amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes amendments numbered 2193 through 2195, en bloc.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 2193

(Purpose: To provide a supermajority point of order against any change in the off-budget status of Social Security)

At the end of title II, add the following:

SEC. . PROTECTING THE OFF-BUDGET STATUS OF SOCIAL SECURITY.

(a) POINT OF ORDER.—It shall not be in order in the Senate to consider any bill, resolution, or amendment or motion thereto or conference report thereon, including legislation reported by the Committee on the Budget of either House pursuant to section 306 of the Congressional Budget Act of 1974, that changes section 301(i), 302(f), 310(g), or 311 of the Congressional budget Act of 1974, or section 13301 of the Budget Enforcement Act of 1990, section 202 of H. Con. Res. 67 (104 Congress), or this section, or would otherwise change budget procedures regarding Social Security.

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

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the 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.

AMENDMENT NO. 2194

(Purpose: To ensure that the tobacco reserve fund in the resolution may be used to protect the public health)

At the end of title III, insert the following:

SEC. . SENSE OF THE SENATE ON PRICE INCREASE ON TOBACCO PRODUCTS OF $1.50 PER PACK.

(a) FINDINGS.—The Senate finds that—

(1) smoking rates among children and teenagers have reached epidemic proportions;

(2) of the 3,000 children and teenagers who begin smoking every day, 1000 will eventually die of smoking-related disease; and

(3) public health experts and economists agree that the most effective and efficient way to achieve major reduction in youth smoking rates is to raise the price of tobacco products by at least $1.50 per pack.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the levels in this resolution assume that comprehensive tobacco legislation should increase the price of each pack of cigarettes sold by at least $1.50 through a per-pack fee or other mechanism that will guarantee a price increase of $1.50 per pack within three years not including existing scheduled Federal, State, and local tax increases, with equivalent price increases on other tobacco products, and should index these price increases by an appropriate measure of inflation.

AMENDMENT NO. 2195

(Purpose: To establish a deficit-neutral reserve fund for environmental and natural resources)

At the appropriate place, insert the following:

SEC. . DEFICIT-NEUTRAL RESERVE FUND FOR ENVIRONMENTAL AND NATURAL RESOURCES.

(a) IN GENERAL.—In the Senate, revenue and spending aggregates and other appropriate budgetary levels and limits may be adjusted and allocations may be revised for legislation to improve the quality of our nation's air, water, land, and natural resources, provided that, to the extent that this concurrent resolution on the budget does not include the costs of that legislation, the enactment of that legislation will not increase (by virtue of either contemporaneous or previously-passed reinstatement or modification of expired excise or environmental taxes) the deficit in this resolution for—

(1) fiscal year 1999;

(2) the period of fiscal years 1999 through 2003; or

(3) the period of fiscal years 2004 through 2009.

(b) REVISED ALLOCATIONS.—

(1) ADJUSTMENTS FOR LEGISLATION.—Upon the consideration of legislation pursuant to subsection (a), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately-revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this resolution.

(2) ADJUSTMENTS FOR AMENDMENTS.—If the Chairman of the Committee on the Budget of the Senate submits an adjustment under this section for legislation in furtherance of the purpose described in subsection (a), upon the offering of an amendment to that legislation that would necessitate such submission, the Chairman shall submit to the Senate appropriately-revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this resolution.

(c) REPORTING REVISED ALLOCATIONS.—The appropriate committees shall report appropriately-revised allocations pursuant to section 302(b) of the Congressional Budget Act of 1974 to carry out this section.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that these three amendments be temporarily laid aside.

The PRESIDING OFFICER. Without objection, the amendments are laid aside.

AMENDMENT NO. 2176, AS MODIFIED

Mr. LAUTENBERG. Mr. President, I send a modification of the Boxer amendment to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 2176), as modified, is as follows:

On page 16, line 9, increase the amount by $50,000,000.

On page 16, line 10, increase the amount by $6,000,000.

On page 16, line 13, increase the amount by $50,000,000.

On page 16, line 14, increase the amount by $40,000,000.

On page 16, line 17, increase the amount by $50,000,000.

On page 16, line 18, increase the amount by $49,000,000.

On page 16, line 21, increase the amount by $50,000,000.

On page 16, line 22, increase the amount by $50,000,000.

On page 16, line 25, increase the amount by $50,000,000.

On page 17, line 1, increase the amount by $50,000,000.

On page 25, line 8, strike ''−$300,000,000'' and insert ''−$350,000,000.''

On page 25, line 9, strike ''−$1,900,000,000'' and insert ''−$1,906,000,000.''

On page 25, line 12, strike ''−$1,200,000,000'' and insert ''−$1,250,000,000.''

On page 25, line 13, strike ''−$4,600,000,000'' and insert ''−$4,640,000,000.''

On page 25, line 16, strike ''−$2,700,000,000'' and insert ''−$2,750,000,000.''

On page 25, line 17, strike ''−$3,000,000,000'' and insert ''−$3,049,000,000.''

On page 25, line 20, strike ''−$3,800,000,000'' and insert ''−$3,850,000,000.''

On page 25, line 21, strike ''−$7,000,000,000'' and insert ''−$7,050,000,000.''

On page 25, line 24, strike ''−$5,400,000,000'' and insert ''−$5,450,000,000.''

On page 25, line 25, strike ''−$5,000,000,000'' and insert ''−$5,050,000,000.''

AMENDMENTS NOS. 2186 AND 2188, AS MODIFIED

Mr. LAUTENBERG. Mr. President, Senator WELLSTONE has three amendments that are at the desk and have been laid aside. I understand that amendments 2186 and 2188 need to be modified. I now ask that those two amendments be modified with the changes that are now at the desk. They have been reviewed by the majority.

The PRESIDING OFFICER. The Senator has the right to modify the amendments.

The amendments (Nos. 2186 and 2188), as modified, are as follows:

AMENDMENT NO. 2186

At the end of title II, add the following:

SEC. 204. DEDICATION OF CORPORATE WELFARE SAVINGS TO PELL GRANTS.

(a) SPENDING RESERVE.—In accordance with section 312(a) of the Congressional Budget Act of 1974 and for the purposes of title III of that Act, the Chairman of the Committee on the Budget may reserve the estimated increased revenues resulting from changes in legislation specified in subsection (b) for the purpose of offsetting additional outlays not to exceed $12,450,000,000 for fiscal years 1999 through 2003 for increasing the maximum Pell grant award from $3,000 to $4,000.

(b) OFFSETS.—

(1) IN GENERAL.—For purposes of subsection (a), increased revenues from the elimination of corporate welfare tax provisions not to exceed $12,450,000,000 for fiscal years 1999 through 2003 are reserved in function 920, Allowances.

(2) SPECIFIC TAXES.—The tax provisions referred to in paragraph (1) include—

(A) expensing for oil and gas exploration;

(B) elimination of the oil and gas allowance for producers; and

(C) elimination or reduction of the foreign-earned income exclusion.

AMENDMENT NO. 2188

On page 53, after line 22, add the following:

SEC. 317. SENSE OF THE SENATE ON FUNDING FOR MEDICAL CARE FOR VETERANS.

It is the sense of the Senate that the functional totals underlying this resolution assume that $40,274,000 in additional amounts above the President's budget levels will be made available for veterans health care for fiscal year 1999.

Mr. LAUTENBERG. I thank the chairman for permitting me to send those amendments to the desk. We are ready to proceed.

Mr. DOMENICI. Mr. President, I yield the floor to Senator KYL.

AMENDMENT NO. 2169

Mr. KYL. Mr. President, we are now back on amendment No. 2169. That amendment is a sense of the Congress, and it is very simple. I will read the operative clause:

It is the sense of Congress that seniors have the right to see the physician or health care provider of their choice and not be limited in such right by the imposition of such unreasonable conditions on providers who are willing to treat seniors on a private basis, and that the assumptions underlying the functional totals in this resolution assume that legislation will be enacted to assure this right.

It is that simple, Mr. President. Senior citizens should not be discriminated against because when they turn 65 they are eligible to receive Medicare. Unfortunately, the administration has taken the position that eligibility to receive Medicare is exclusive; that is to say, that it's either Medicare or no care, that a senior citizen has no right to be treated outside of Medicare for Medicare-covered services. How could we be in that situation in the United States of America, where the Government provides a good program for senior citizens which, in most cases, is going to be precisely what they want to take advantage of, but it says to them that, if there is some reason why you might want to privately contract and pay the bill yourself, you can't do that.

Here is the history of it, Mr. President. For over 20 years during the time Medicare has been in force, senior citizens have had the right either to go to the physician of their choice and have him submit a bill to Medicare or, if they choose, to be treated outside of Medicare and not submit the bill. There are some people who have not wanted their records to be part of the official Government archive.

They may have psychiatric problems, for example, and they didn't want to have their treatment be a part of Medicare and they were willing to pay the bill themselves. That is just one example.

But recently HCFA, the Health Care Financing Administration, began taking the view that that was illegal and began sending letters to physicians threatening them with prosecution if they treated patients outside of Medicare. So, as part of the Balanced Budget Act, I offered an amendment which prevailed on an overwhelming vote here last year that citizens did, in fact, have the right to privately contract—a very straightforward proposition.

During the last-minute negotiations of the Balanced Budget Act, however, the administration representatives convinced whoever was negotiating on our side that the President would veto the entire Balanced Budget Act if the Kyl amendment stayed in, and it was changed, pursuant to the administration's request, to provide that while the right of the senior citizen existed, it could only be exercised by a physician who, in advance, dumped all of his Medicare patients for a period of 2 years. That is obviously an unreasonable requirement. Very few, if any, physicians are going to do that. So, as a practical matter, the right of senior citizens to go to a physician of their choice under Medicare was eliminated.

We have not yet offered legislation for a vote here which would reverse that. But this is the first opportunity we have had, so we present to the Senate a sense of the Senate, as part of the budget resolution, which says that senior citizens should have this right. Then, when the opportune time comes, we will be offering the legislation which has already been introduced and has 49 cosponsors in the Senate, and 190 cosponsors in the House of Representatives, a bill sponsored by the Ways and Means Committee Chairman BILL ARCHER called the Medicare Beneficiaries Freedom to Contract Act. That legislation, which, as I say, has 49 cosponsors here and 190 in the House already, will be offered, so we will have the opportunity to actually change the law. But pending that, this presents the principle that seniors ought to have this freedom to contract.

Our resolution, by the way, is sponsored by Senator HOLLINGS, Senator LOTT, Senator FRIST, Senator GRAMM, Senator DOMENICI, Senator STEVENS, Senator GORTON—the Presiding Officer—and, as I say, 49 Members total.

Let me give an example of a specific situation which came to my attention. One of my constituents from Prescott, AZ—a relatively small town—has a severe case of diabetes. She went to a physician who said, ''I am sorry, I am not taking any Medicare patients, so I cannot take care of you.'' He was the only specialist, really, in the small community who could care for her.

Why is it, by the way, that some physicians are in that position? We know that Medicare reimburses at such a low rate—the average is 70 cents on the dollar of cost—that many physicians simply cannot take all Medicare patients. So they have to draw the line and not take any beyond a certain point.

In any event, she said, ''That's fine, bill me directly, and I will be happy to pay.'' He said, ''Medicare will prosecute me for fraud if I do that.'' And that is

what we are trying to fix here. There are a lot of situations where people may wish to go to the doctor of their choice and be treated outside of Medicare.

I know of a situation in which I helped a constituent obtain a compassionate release from FDA so that constituent could take an experimental drug to treat her for cancer. The reason is that her husband was willing to go to any lengths, to do anything, to preserve her life. She ended up dying, but I think her case is illustrative of what every one of us would do in her husband's position. If we had the money, if we had the ability, we would go to any length to do anything to save our loved one's life. That is what is being denied American citizens today.

Believe it or not, the socialized medicine system in Great Britain allows patients this choice. They can either be treated under their socialized medicine system or they can go to a private physician and pay the bill themselves. But here in the United States of America, once you turn 65, you lose that right. This amendment simply expresses the sense of Congress that that should not be the case. The seniors here should have the freedom of choice. That right should not be limited by any unreasonable conditions placed upon providers.

Mr. President, I thank the Chair for the opportunity to present these views. I would love to hear from anyone who would like to speak in opposition to this principle that senior citizens should have the right to privately contract. I invite anyone who is in opposition to present those views here, because I would love to debate that, as I said. Constituents all over this country are writing in and calling me saying, this is outrageous; please reestablish this right.

So I am going to cease my presentation now since we are limited in the amount of time we have. I reserve whatever time we have to respond to anyone who is willing to come defend the proposition that senior citizens should not have the right to privately contract in the United States of America.

Mr. President, observing no other Members on the floor, 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. SMITH of Oregon. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SMITH of Oregon. Also, that the Kyl amendment may be temporarily laid aside so I may speak to an amendment I introduced early this morning.

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

AMENDMENT NO. 2180

Mr. SMITH of Oregon. Mr. President, I sent an amendment to the desk earlier today to modify my original amendment numbered 2180. This amendment simply provides an exception for federally funded research projects being conducted on marijuana. This is to ensure that the National Institute of Drug Abuse at NIH and other agencies may continue their important research on the long-term effects of drug use, and possible alternatives to the persistent use of marijuana.

This amendment addresses an issue which has become a great concern to me and to many in my State—legalization of marijuana for medical use. While this is simply a sense of the Senate to prohibit the use of Federal funds for medical use of marijuana, I intend to work with my colleagues on legislation on this issue following the budget resolution. While this is not a new issue for the State of Arizona, or for the State of California, which have already passed laws and put them in place following the passage of Proposition 215, there are other States, including Oregon, Maine, Alaska, Nevada, Florida, and the District of Columbia, which are facing similar ballot measure proposals.

In my State of Oregon alone, five ballot measures have been proposed which would legalize the use of marijuana in varying degrees, from an outright legalization of the drug to legalization for medical purposes. California and Arizona have already passed legislation legalizing medical use of marijuana and are already experiencing the adverse effects on their communities. In California, for instance, the law has become almost impossible to enforce, as the law enforcement community has had difficult times suppressing illegal marijuana use and its sale. With the opening of ''pot cafes'' in that State, it is impossible to prove whether patrons are there for medicinal or recreational use.

At a time when illegal drug abuse is on the rise, legalizing the use of marijuana in any form, medical or recreational, sends a mixed signal at best to our children, particularly when there are prescription drugs in the marketplace such as Marinol.

While the effectiveness of these prescription drugs is varied, I believe it is our responsibility to encourage a healthy alternative to marijuana that is effective, safe, and can be regulated like any other prescription drug in the marketplace. I would be interested in working with any of my colleagues on both sides of the aisle who have an interest in this issue, particularly those who want to keep drugs, such as marijuana, out of the reach of our children.

In a study released by the National Institute of Drug Abuse at NIH, marijuana is noted as the most commonly used drug in America. In fact, 18 million Americans used it last year alone. In fact, smoking marijuana over a long term has the same damaging effects on the brain as long-term use of cocaine and heroin and produces the same lung damage and potential cancer risk as smoking cigarettes, even though marijuana smokers smoke less.

Perhaps even more disturbing is that the National Institute of Drug Abuse also reported that 23 percent of all eighth graders in the United States used marijuana in 1996 and that marijuana use overall has steadily increased since 1993.

Mr. President, while this is a sense of the Senate and it is only a start, I believe this is our opportunity to voice our opposition to these efforts to legalize the use of marijuana in our States. Through these laws, we are proceeding down a dangerous path by sending a mixed signal to our children that marijuana use is an acceptable alternative. It is not. It is dangerous. It is deadly.

I thank the Chair and encourage my colleagues to adopt this amendment.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 2169

Mr. ROCKEFELLER. Mr. President, are we now back on the Kyl amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROCKEFELLER. Mr. President, I hope that Senator RICHARD BRYAN from Nevada is on the way to the floor as I speak. I speak in opposition to this amendment.

I need to point out that Medicare beneficiaries did not ask for this so-called ''new right.'' This is a proposal which is written to, frankly, charge seniors more money. That comment can be thrown around and thrown around very glibly when one is trying to make a populist point. On the other hand, therefore, it is true—and it has to be said in that manner—92 percent of beneficiaries are satisfied or, in fact, very satisfied with the availability of care under the Medicare Program now.

It is this Senator's belief that fraud and abuse in the Medicare Program will increase very substantially if private contracting is allowed to occur. The Congressional Budget Office has this to say about the Kyl-Archer bill:

> HCFA's efforts to screen inappropriate or fraudulent claims could be significantly compromised because it would be difficult to evaluate episodes of care with gaps where services were directly contracted—

A very complicated way of saying a rather easy thing. It would not be very easy to track this:

> Without adequate regulatory oversight, unethical providers could bill Medicare while also collecting from directly-contracted patients.

In other words, they could collect twice from Medicare and the patient.

The bill would almost certainly raise national health spending.

The Government Accounting Office.

Private contracting, further, Mr. President, is not about the freedom of choice, as some of our friends from across the aisle would have us believe. The effort to privately contract is really, as I indicated much earlier, about

money. Seniors have freedom of choice now.

You can make a very, very good case that the strength of Medicare is based upon an original concept that no longer exists, and that is one gigantic pool. Because everybody is in that pool, almost like the original Blue Cross, Medicare wins money on some, loses on others, but in the end everything tends to wash out evenly.

Seniors now are given many options. I participated in one of the options myself, the PSO amendment, which I did with Senator BILL FRIST, and it was successful. But all this does not indicate, therefore, that seniors do not have the freedom of choice now. They do. They can go in many directions, and that is increasing all the time. They can see any doctor they want now, and they have adequate protections that the Medicare Program has and is providing them.

The proposal to privately contract is opposed by the American Association of Retired Persons, the American College of Physicians, the National Council of Senior Citizens, Families USA, et cetera, and that is not really the point, is it? Because one can always find groups that are for or against something.

While private contracting may be a good deal for doctors, it really is not necessarily a very good deal for beneficiaries, and that becomes important in the Medicare communities. Seniors would pay 100 percent of the bill when they privately contract. That is the way it would work—a large price tag for services that Medicare would otherwise cover.

Private contracting would cripple Medicare's ability to hold down health care costs and would put elderly and disabled citizens at serious financial and medical risk. Under the Kyl-Archer bill, doctors can charge whatever they want for a Medicare-covered service. One would ask, why would one want to do that? The Kyl-Archer bill would allow doctors to give priority, frankly, to wealthy patients who are willing and able to pay out of pocket.

My wife and I recently had an event—not serious—with our 18-year-old son. We took our son to six different physicians, most of them specialists. So when I say this, I say this in the context of an enormous regard for physicians and for the field and for the fact that our 18-year-old son wants to become a physician himself. Nevertheless, it is an incentive for doctors to go to those who are able to pay and get them to pay out of their pocket and pay more.

In a February 23, 1998, letter from the GAO—which I believe is fairly broadly respected around here—to Senator MOYNIHAN, the GAO's findings do not support Senator KYL's sense-of-the-Senate amendment. Senator KYL's amendment, for example, reads, according to the GAO, ''most seniors are denied this right (to obtain health care from physicians or providers of their choice) by current restrictions on their health care choices.''

Again, a denial of choice argument.

The GAO letter to Senator MOYNIHAN reads:

> Nearly all physicians treat Medicare patients and accept new patients covered by Medicare. Recent data from the AMA indicate that 96.2 percent of all non-Federal physicians treated Medicare beneficiaries in 1996. Moreover, the percentage of physicians treating Medicare patients has increased—from 95.2 percent in 1995 and 94.2 percent in 1994—over the last 2 years.

A 1-percent increase. It simply shows the direction of more physicians treating Medicare patients.

Again, the GAO says:

> According to the recent reports from PPRC, ''access for most [fee-for-service] beneficiaries remains excellent and . . . measures of access are essentially unchanged from previous years.''

In closing, Mr. President, I wish to make this statement. Much has been made of the United Seniors Association, which is a conservative fundraising arm of the Republican Party, in fact, and is the No. 1 supporter of the Kyl private contracting amendment. But then again, those things happen, too. I will say when Chairman ROTH of the Senate Finance Committee heard their testimony, he said, ''I just want to make it clear that those kinds of statements are not satisfactory to this chairman.'' And he was not at that point a particularly happy chairman.

At the beginning of the Kyl amendment, frankly, there were some of us who were very, very concerned because there were 47 cosponsors, including one Democrat. There has been a lot of emphasis, I think, in the last number of weeks to try to get this to be a better-understood proposition. In fact, I think now people are beginning to understand that this is not necessary, and there is a way for physicians to be able to charge Medicare beneficiaries more, and, in a sense, if a Medicare beneficiary is in a very sick condition or bad condition, how are they able to negotiate in the first place? I think the Senate would do best to simply send this sense of the Senate underground.

I thank the Presiding Officer for his courtesy.

Mr. KENNEDY addressed the Chair.

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

Mr. KENNEDY. Can I yield myself 8 minutes off the amendment?

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

Mr. KENNEDY. I yield myself 8 minutes off the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank my friend and colleague, the Senator from West Virginia, for his analysis of this issue. He is one of the real experts on Medicare and Medicaid and is very much involved in the subcommittee of the Finance Committee dealing with all of these issues. He brings a very sound perspective to this issue. His comments identified the weaknesses of the Kyl proposal and also what are the dangers for so many of our senior citizens. I hope that our colleagues pay close attention to his words.

I join in urging the Senate to oppose the Kyl amendment and defeat this attempt to undermine Medicare by eliminating the protections in current law that prevent doctors from overcharging senior citizens. This is not a ''freedom of choice'' amendment for patients; it is a ''freedom to price gouge'' amendment for physicians, and it deserves to be rejected by the Senate.

Medicare patients already have freedom of choice. In fact, because Medicare is one of the only insurance programs that still offers a true fee-for-service option, senior citizens generally have more choices in health care than other citizens, including those of us in the Senate.

According to a February 23 report from the General Accounting Office, the information available to us indicates that Medicare beneficiaries have ready access to physicians. The report emphasizes the high participation rate in Medicare by physicians. Ninety-six percent of all the doctors accept and treat Medicare patients.

The report also emphasizes that few Medicare patients have problems in obtaining health care. Only 4 percent report difficulty in finding a physician. This does not appear to be due to the reimbursement levels. The GAO found reimbursement levels for physicians under Medicare are adequate and do not jeopardize access to health care for senior citizens.

The Kyl amendment is no answer to the problems of Medicare. It will only make those problems worse. The freedom it proposes is the freedom to exploit senior citizens and the freedom to dismantle the fundamental guarantee of affordable health care for the elderly that has served American senior citizens well for so many years.

Senior citizens deserve affordable health care provided by Medicare, and that they have earned through a lifetime of hard work and service to this country. The Kyl amendment takes the choice out of the hands of the vast majority of senior citizens and puts it in the hands of the doctors. That is the key flaw in the Kyl amendment.

Who is going to be making the decision? Is it going to be the patient, or is it going to be the provider? The patient already has that kind of freedom today. If they want to indicate that they do not want their doctor to bill the Medicare system, then they can go ahead and pay if they want to. They have that opportunity to do so.

That is not what the Kyl amendment is about. The Kyl amendment puts the power in the hands of the doctors. If such legislation were to pass, doctors would be free to charge unlimited fees and patients would be free to pay them. Some freedom. Some choice.

Medicare works well for patients and physicians alike. Senior citizens are

free to chose their doctor and are free to self-pay if they desire. Physicians must abide by limits on what they can charge for services covered by Medicare, which means that senior citizens know they cannot be overcharged.

In addition, because Medicare covers the basic services, but not all services, the elderly are free to pay out of pocket for services not covered by Medicare. If they are able to afford it and they want to pay privately for Medicare-covered service, they can do that too by asking the doctor not to submit a claim. If the patient wants to pay the doctor, and pay the doctor more, and pay the doctor an exorbitant amount, the patient is free to do so now at the present time and not have them submit the claim to Medicare.

This was the case before the Balanced Budget Act was enacted last year, and it is the case today. The current system works and works well. This aspect of Medicare is not broken, and it does not need to be fixed. The only fix the Kyl amendment provides is the authority for doctors to fix the higher prices than Medicare allows.

Current law favors the patient by guaranteeing that it is the patient who initiates actions to pay outside of Medicare. Medicare's balanced billing limits continue to apply. The patients have the choice. They are the ones who can initiate or end the private transaction. The power is in the hands of the patient. That is where it should be. The Kyl amendment gives that choice to the physician. That is the serious mistake that would jeopardize Medicare coverage for large numbers of senior citizens.

The reality is that in a number of instances the patient will ask the doctor not to submit the claim or the bill under Medicare. These are primarily in the cases of mental health and substance abuse where the individual, for any number of reasons, fears what might happen to them in the job market or because it might make it more difficult or complex in terms of other different personal reasons and chooses to pay themselves and tells the doctor, ''Look, don't bill Medicare. I'll pay you. I'll pay you.'' That happens today. It is not widely advertised, not widely proclaimed, but it happens today. That goes on, and the Medicare system respects that.

But that isn't what this is about. This is about where the doctor says to the patient who is in that doctor's office and needs help and assistance, ''Look, you're not going to effectively get it''—it might be a little smoother than this, but the message is going to be clear—''unless you're going to pay me whatever I say.'' Now, that is the beginning of the end. That is something that we have guarded against over a long period of time, and we should not open up those gates today.

Congress should not imperil the financial security of 38 million senior citizens. Congress should not take the money out of the pockets of the elderly and put it in the bank accounts of wealthy physicians. That is what this issue is really about. Simply put, who is going to be the one who is going to make the decision? Is it going to be the patient, which I think all of us feel is the way that it should go, and it is that way at the present time, or is it going to be the physician who is going to be making that judgment, looking into the eyes of a sick patient, virtually at the will of the physician, when they have that illness and sickness and are told, ''Look, if you want my treatment, if you want to be treated by me, it's going to cost you a bundle.'' That we have guarded against over a long period of time. It is a key element in terms of the whole guarantee of quality, good care for our senior citizens, and we should not alter and change that particular protection now.

Mr. President, I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I would like to respond to the remarks of the Senator from Massachusetts, and perhaps those of the Senator from West Virginia as well.

First of all, let me clarify something. The Senator from Massachusetts says that this is the ''freedom to price gouge'' and the ''freedom to exploit.'' In so saying, the Senator misrepresents significantly the amendment, or the bill that Representative ARCHER and I have introduced, which has a variety of provisions specifically designed to prevent fraud and abuse.

The only thing that we have before us here today is the sense-of-the-Congress resolution. I draw the Senator's attention to some of the provisions on page 2 which specifically set forth the requirements that would protect against fraud and abuse. In other words, what we are saying is that this freedom to choose must—and I am quoting now from the amendment that we are debating—must include provisions that ''are subject to stringent fraud and abuse law, including the Medicare antifraud provisions in the Health Insurance Portability and Accountability Act of 1996.''

Now, if those are not good enough, then perhaps we ought to be changing the existing law. But we are going to actually have more stringent fraud and abuse provisions than the existing law has. So I really in a sense resent the suggestion that there is nothing in here that prevents fraud and abuse. This legislation has more antifraud and abuse provisions than existing law.

Second point. The Senator from Massachusetts says that only 4 percent, according to a study, only 4 percent of seniors have difficulty getting their health care under Medicare. Well, by my calculation that is ''only'' 1,360,000 seniors. That is a lot of seniors.

The truth of the matter is most seniors will take advantage of Medicare. It is a good deal. We hope that will continue to be the case. But for those few who choose to contract privately, why deny them that right? The GAO study cited by the Senator from Massachusetts says, ''If direct contracting continued to be rarely used''—and I say ''continued to be'' because the right does exist today—''there would be no changes in the benefit payments, no additional difficulties in combating fraud and abuse, and no major new administrative burdens placed on HCFA.''

So if it is not a problem, then why oppose this amendment? GAO says it would not be a problem. And, in fact, the Senator proves too much by the last point that he made. He said, actually it is the case today that if a patient wants to ask the doctor not to submit a claim, the doctor does not have to do that and therefore we already have this so we do not need the Kyl amendment—to which there are two responses. First of all, if current law already provides this, then why does the Senator object to the mere statement of the principle that the choice should exist? If the Senator is happy with existing law, he can't very well oppose the principle that simply restates existing law.

I again quote from what we are debating. It is frequently helpful to do that. All the sense-of-the-Senate provides is, and I quote, ''It is the sense of Congress that seniors have the right to see the physician or health care provider of their choice, and not be limited in such right by the imposition of unreasonable conditions on providers who are willing to treat seniors on a private basis. . .''

Does the Senator oppose that principle? The Senator suggests that that is already existing law. If so, then what is the problem? The truth, however, Mr. President, is that it is not existing law. As a matter of fact, the Senator from Massachusetts cannot cite either a statute or a regulation which says that this is existing law, because it is not. HCFA will quietly tell you that they would not mind if a patient did that, but they do not want to advertise it and there is no legal authority for it.

The truth of the matter is that, as the GAO pointed out, it has always been the case up until January 1, 1998, that patients had this right to privately contract. You have all of the great concerns about fraud and abuse that have been articulated by the Senator from West Virginia and the Senator from Massachusetts, but I have never heard of one single case—and I would be delighted if the Senator could cite one—where in the past 20 years, since this right did exist until January 1 of this year, there was fraud and abuse as a result of this. I know of none.

So, Mr. President, I will make one final point. The Senator from West Virginia is not on the floor, but he made the point that this isn't good for Medicare beneficiaries. I suggest, that goes to the heart of this debate. Who decides what is good for the beneficiaries? Washington, DC, bureaucrats or the

beneficiaries? Let the beneficiaries decide.

As the GAO points out, if most beneficiaries do not take advantage of this freedom to contract—and I doubt that they will—then there is no problem. But let them make the decision. We should not be making the decision that they do not have the right even if they desire to exercise it.

I think it is pretty hard to argue with the proposition that patients should have this freedom of choice. And I have not heard anything yet that persuades me that this is not a good amendment.

I again urge my colleagues to support it. I thank the Chair.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank the Chair.

Mr. President, I rise in respectful opposition to the amendment of my friend, the junior Senator from Arizona. Although this amendment is dressed in the robes of patient choice, in my view it dramatically changes the nature of the Medicare system and now, for the first time in more than three decades of Medicare experience, would give to the physician the ability to determine how much a Medicare patient pays for Medicare-covered services. I believe it is a prescription for disaster for the Medicare system and for the patient himself or herself.

Let me put this in some context, if I may. For 30 years-plus Medicare patients have come to their physician and have known with reasonable certainty what kind of financial expectation they are required to pay in order to receive Medicare-covered benefits. This amendment would change that and allow the physician to make that determination.

No. 2, we are plagued in the Medicare system today with fraud that some estimate may exceed $20 billion a year. I believe that this change would make it more complicated in addressing the problems of fraud that the system confronts.

And, finally, for the Medicare patient himself or herself, I think it injects a notion of uncertainty and confusion when that Medicare patient goes to the physician.

Let me put this in some context, as I understand it, so we can talk about what is not involved here. Since the inception of Medicare, and continuing beyond the 1998 balanced budget agreement for noncovered Medicare services—that would be, for example, plastic surgery—a Medicare patient has always had the right to enter into a private contractual arrangement with the physician of his or her choice. That is the history. That was unchanged by the balanced budget agreement of 1997, and it continues to be the law today.

With respect to a Medicare-covered service, such as a diagnostic test in which Medicare pays for only one or two of those diagnostic tests, if a Medicare patient is uncertain as to the kind of advice he or she is getting as a consequence of that test, it has always been the case that if a second or third or fourth opinion is sought by the Medicare patient, that Medicare patient has the right to enter into a private contractual arrangement with the physician of his or her choice. That has been true historically. That was true prior to the balanced budget agreement and remains the case as well.

Thirdly, this applies to part B Medicare, so we are not talking about the trust fund. For an individual who is philosophically opposed or for whatever reason chooses not to be a part of Medicare part B, that is his or her absolute choice. No one is required to participate or to pay that premium. And that is true with the physician as well.

What I apprehend will occur here is a rather dramatic change in the Medicare system. A Medicare patient goes to a physician, and the Medicare physician says, ''Look, there are three or four procedures which I believe you need. With respect to three of those procedures, I'm satisfied that the Medicare reimbursement schedule is adequate. As to the fourth, I will need additional compensation in order to provide that service.''

The net effect of all of that, I respectfully submit, is that no Medicare patient, going to his or her doctor's office, will know with certainty what the financial expectation will be of that Medicare patient. That changes the system rather dramatically.

For more than three decades, to the best of my ability, there has been no private contracting between Medicare patient and physician with respect to covered service. My distinguished colleague may be right that there may not be carved in stone any legal prescription, but that indeed has been the practice. And 96 percent of physicians in America cover and treat Medicare patients. So I think we ought to give a considerable reflection to what is at issue here.

My distinguished friend and colleague offered in the balanced budget amendment an amendment which was ultimately fashioned into law. That provided, for the first time, an opportunity for a physician who wants to enter into a private contractual arrangement with a Medicare patient to do so.

If the Medicare physician chooses to do so, then that Medicare physician may not have other Medicare patients for a period of 2 years. That was, in effect, an opening, if you will. That provided an expanded opportunity which did not heretofore exist.

There are some groups who I think have been irresponsible in characterizing that as a limitation. That is not the case, as I understand it.

I simply say to my colleagues, the Medicare system is not perfect. There are certainly some things which we need to do, and, indeed, the Medicare Commission has been formed for that purpose. Hopefully, it will come with some bipartisan recommendations. But I do not believe we will want to change dramatically the nature of that system which does have certainty; namely, a fee schedule for reimbursement to a physician for Medicare-covered services. That has been the hallmark of the Medicare system. That will change rather dramatically if the proposal which my friend from Arizona offers is accepted, and would allow not the patient, but the physician, to make that judgment.

Most of us, when we go to our physician, even those of us who might be described as being in the ''pre-Medicare age''—that is, we are not quite eligible for Medicare services—approach the annual visit to our physician with some trepidation. A physician has the ability to say, ''Look, that condition that you have is terminal.'' So there is some apprehension, some ill at ease, no matter how many times you have been to a doctor. When you are in that context, it is not a level playing field, and the doctor saying to you, ''Look, I no longer accept this rate of reimbursement from Medicare which I previously accepted,'' places, in my view, the patient at a decided disadvantage in dealing with that physician and is more likely than not to say, ''Well, all right, I will agree to pay.''

As I indicated previously, if there are two or three Medicare services that the patient requires, the confusion of, ''I will accept Medicare reimbursement for two of the services but not a third,'' I think leaves the patient in a very confused situation.

I urge my colleagues to reject this amendment. Let's all work together as a result of the Medicare Commission and see what kind of changes we need to make to improve the system.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I rise in opposition to the amendment.

I don't know what the time allocation is. I believe Senator LAUTENBERG is in charge of our side.

Mr. LAUTENBERG. Mr. President, I am happy to yield 8 minutes to the Senator from Illinois.

Mr. DURBIN. I thank my colleague and friend.

The great philosopher Kris Kristofferson once said, ''Freedom is just another word for nothing left to lose.'' I believe those were actually sung or spoken by the late, great Janice Joplin.

This amendment characterized as the Freedom of Health Care Choice for Medicare Seniors, on its face, appears to be a positive addition to the Medicare system. You would think if you proposed, as the Senator from Arizona does, that we will give more freedom to Medicare seniors—more freedom—that you would just guess that the major senior organizations from around the country would be unified in support of this amendment. In fact, they are unified in opposition to this amendment.

So there might be more to this amendment than freedom. There is something to lose in this amendment.

Let me get down to the bottom line of what all this debate is about. This debate is about whether a Medicare senior going into a doctor's office is going to have to pay according to an established Medicare schedule or whether that doctor can charge more. So it is whether the doctor—some doctors have the freedom to charge some seniors more for services. You might argue that that is necessary if there is a shortage of doctors providing benefits to Medicare seniors. But, lo and behold, 96 percent of doctors are already providing benefits to Medicare seniors. So virtually all of the doctors, 96 percent of them nationwide, have signed on. They are prepared to treat Medicare seniors and to be paid according to the fee schedule.

What is at stake here is not about doctors in service but, rather, whether or not some doctors can charge more. What will this mean to us when we reach the Medicare eligibility age, which is creeping up on many of us, or our parents, or grandparents? It may mean before you have a chance—if the amendment of the Senator from Arizona prevails, before you have a chance to talk to your doctor about your problem, if you are a Medicare senior with this new ''freedom,'' first you will have to talk to the accountant in the office, who is going to want to know a little bit about your salary, your net worth, and how much they can charge you for the benefits they will provide. For some, that may be freedom. From where I am standing, that is not freedom. In fact, it restricts the rights which seniors already have.

I think we ought to take a look at this amendment for what it really does. Private contracting sounds good on its face, unless you understand what you lose in the process of private contracting. In this situation, it means for seniors that instead of knowing what they pay when they go to the doctor's office, it really is going to be an uncertainty; they won't know. They will walk into the office uncertain whether that doctor will charge considerably more than they might have expected. That is the reason every seniors group—the AARP, the National Council of Senior Citizens, Families USA, and others—have come out in opposition to this amendment.

I might also add that there have been groups, one group in particular, which is called the United Seniors Association, which is sending mailings to seniors and would-be seniors. Lo and behold, I ended up on their mailing list. They were writing on behalf of this amendment's concept. I don't believe they were authorized by the Senator from Arizona. I am sure they were not. But they are, unfortunately, spreading some rather alarming news to seniors across America.

Listen to what it says on the front of the envelope sent to my home in Springfield, Il:

Mr. and Mrs. Richard Durbin: As of January 1998, our government for the first time ever will stop everyone over age 64 from getting lifesaving medical treatment.

If you receive this and you are a senior, or close to it, boy, you will open it up in a hurry. What you find in here is a total misrepresentation of the Medicare system as it currently exists. The Medicare system in America is a very successful medical system. It is true that we will need to deal with the fact that the cost of health care continues to go up and our resources to pay for it are not matching that, but the bottom line is from the viewpoint of parties. They are happy with the system. They are content with the care they are receiving. They don't want Members of Congress, House or the Senate, meddling with the basic Medicare system. This amendment, this so-called private contracting freedom amendment, meddles with the system in a way that most seniors are not going to be happy with.

Some doctors will, because they can charge more. But for a lot of seniors, we will find them really disadvantaged. For 38 million Americans who rely on the system, I think it would be a serious mistake for us to adopt this amendment. As a matter of fact, Senator CHAFEE and I will be offering an amendment at a later time in this debate which I think more correctly addresses the feelings that I hope more Members of the Senate share about the future of the Medicare system. In that amendment, we say as a sense of Congress that the assumptions underlying the functional totals in this budget resolution assume that seniors have the right to affordable, high-quality health care, and they have the right to choose their doctors, and no change should be made to the Medicare Program that could impose unreasonable and unpredictable out-of-pocket costs for seniors or erode their benefits.

If the Senator from Arizona prevails with his amendment, we cannot make that claim, because the benefits provided to seniors will be unpredictable in cost. Each doctor can decide how much more they want to charge.

We also say in our resolution that we don't want to compromise the efforts of the Secretary of Health and Human Services to screen inappropriate or fraudulent claims for reimbursement and, finally, to allow unscrupulous providers under the program to bill twice for the same services. Senator CHAFEE and I will offer this later during the course of the debate. I hope my colleagues, Democrat and Republicans, will join us in supporting it.

In closing, let me say I know the Senator from Arizona is firm in his belief that this would be a solid addition to the Medicare system. I happen to think the system as it currently exists, with predictable costs and predictable services for seniors, is exactly what they want to protect.

I yield back the remainder of my time.

Mr. BUMPERS. I wonder if the Senator from New Jersey would yield 8 minutes.

Mr. LAUTENBERG. I am pleased to yield 8 minutes to the Senator from Arkansas.

Mr. DOMENICI. Might I inquire how much time remains on the amendment and how much in opposition?

The PRESIDING OFFICER. The Senator from Arizona has 39 minutes, and the Senator from New Jersey has 28 minutes.

Mr. DOMENICI. If we use that, each side has used an hour.

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. Thank you.

Senator BUMPERS.

Mr. BUMPERS. Mr. President, I have the utmost respect for the sponsor of this bill, but I have utterly nothing but contempt for the amendment.

Medicare has done more to provide a good night's sleep to the elderly of this country than any other single program, with the possible exception of Social Security. We made a solemn contract with the elderly of this country to provide them with medical care. When I was first elected Governor of my State, I found that 50 percent of the people didn't even know what to do in case they got sick. But when you polled the people over 65, they knew what to do and they knew where to go and they knew their bill was going to be paid.

The underlying assumption of the Kyl amendment is that somehow or other people are having a difficult time getting a doctor to take them. Now, the General Accounting Office has answered a number of questions propounded to them by the distinguished senior Senator from New York, Mr. MOYNIHAN, and in answer to one of the questions: How much difficulty are they having? here is the answer. According to the GAO, 96 percent of the Medicare-eligible people in this country stated that they had some difficulty getting medical care. But listen to this. The Kyl amendment goes to this figure: Only two-tenths of 1 percent said they had difficulty getting satisfactory assistance because of Medicare. Here we are tinkering with a system that has been so successful and so rewarding to our elderly, because two-tenths of 1 percent of the people in this country said they had difficulty getting the kind of care they wanted under Medicare.

No. 1, doctors right now, under the Balanced Budget Act of 1997, are eligible to charge 15 percent more than the Medicare allowance. For example, you have a procedure—say, laser surgery for your eyes. Assume that the Medicare limit on laser surgery for your eye, or eyes, is $1,000, but the doctor can charge 15 percent more than that, or $1,150. Medicare may only pay 80 percent of the allowable charge, or $800, but the doctor can charge 15 percent more than the Medicare allowance.

The balanced budget amendment also provided that if a doctor wants to privately contract, he or she may privately contract, but they have to drop out of the program for 2 years.

Now, we feel strongly—many of us—that this is an elitist amendment. Obviously, there are a lot of people in this country—perhaps 2 percent to 5 percent—who will pay a doctor of their choice whatever he charges. They want him; they are used to him. Say I worked from the time I was 30 years old until I was 65 and went to the same doctor, and when I became 65 I said, ''Doctor, I am switching from my Blue Cross policy over to Medicare.'' The doctor says, ''I'm sorry, I'm not going to be able to take care of you anymore because Medicare is simply not meeting my expenses.'' You think about that. The patient may be a person of very modest means but who, above all, wants to go to the doctor he or she has been going to for years, and the doctor says, ''Well, now, if you are willing to pay, that is a different matter, I will let you keep coming to see me.''

Let me tell you another thing the doctor can do. Assume you are in a fairly big-sized clinic, and the doctor says, ''We will take you for your heart conditions under Medicare, but we can't take your liver,'' or, ''we can't take your kidneys.'' Think of all the different kinds of contracts people would enter into. If this amendment ever became law—God forbid—you would start hearing some of the most fraudulent contracts and some of the most exorbitant charges for medical services that would choke a mule.

Mr. President, if there is a problem with Medicare, if we are not paying enough to entice a majority of the doctors in this country to provide services under Medicare, let's raise the rates. But for Pete's sake, let's not allow people to enter into these private contracts. I have the utmost respect for the medical profession. But I am telling you, you are giving them unbelievable leverage over millions of Medicare patients if you allow them to say, ''I can't take you because Medicare is not enough.'' If only two-tenths of 1 percent of the people in this country are having difficulty getting medical care because of Medicare rates, I suggest to you that that is not a sufficient number to warrant tinkering with one of the finest programs this country has ever produced.

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

Mr. WELLSTONE addressed the Chair.

Mr. LAUTENBERG. Mr. President, I yield up to 6 minutes to my friend from Minnesota. If more is needed, let me know.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for up to 6 minutes.

Mr. WELLSTONE. Mr. President, let me just say one more time to my colleague from Arkansas, I wish he wasn't leaving the Senate. I can't add too much to what he said.

Let me just say to my colleague from Arizona, whom I really respect, that I don't agree with him on a lot of issues, but I respect him. I mean that very sincerely. I think this amendment is mistaken, and I rise in strong opposition to it.

I have just a few quotes. Families USA Foundation states that this provision, the Kyl amendment, ''may put increasing pressure on older Americans to choose between getting the health services they need or putting food on their table.'' I think Families USA has really had a great deal of credibility. I know what they mean. I think the fear is now, what would happen with the Kyl amendment is that doctors could charge an elderly person, a senior citizen, just about any fee for any visit or service. The problem is that if doctors are now going to be making this judgment and they can charge more than Medicare payments and stay in the Medicare system, the danger is that many will do so.

I had two parents with Parkinson's, and neither one of them made much money. The Medicare Program was the difference for them between being able to live a life toward the end of their years with dignity, albeit a struggle, and going under. Who is to tell what a doctor decides in any given community? A lot of elderly people are going to be put under enormous pressure. Indeed, it could be a choice between whether or not people get the services they need or whether they put food on the table.

Also, remember that senior citizens are paying more and more out of pocket. Since we had the debate on universal health care coverage, national health insurance, a few short years ago—a debate we should get back to—the fact is that seniors are paying even more out of pocket for health care costs. For many of them, it is the prescription drug costs.

I don't know about other States, but my guess would be that in Minnesota the median income for senior citizens may be $15,000 or $16,000 a year. I suppose if you are a senior citizen with an income of $150,000 a year—there are very few, contrary to the stereotype—then you know a doctor could say, ''I want you to pay what I am going to charge and we will have this private contract.'' Those people would be all right, but for the vast majority of elderly people in our country—and we are not talking about a high-income profile—the Kyl amendment is a very real threat to a system that has worked well for people.

Catholic Charities USA, representing nearly 13 million people, states that the Kyl legislation would ''dangerously undermine the Medicare Program.'' They are right.

It would leave ''average and low-income Medicare patients at grave risk of substandard care and second-class medicine.'' That was in a letter to all Senators from Fred Kammer, March 31—today, my son's birthday.

The National Council of Senior Citizens, asserting that the Kyl legislation ''is fraudulent and should be defeated,'' says that the bill would ''essentially end Medicare as a national health insurance program for almost 40 million Americans.''

''This proposal would essentially license doctors to gouge millions of seniors for Medicare services.'' That is from a letter to Senator DASCHLE from Steve Protulis dated today.

If the Kyl amendment succeeds, ''seniors will be left with big medical bills and the doctors will have new weapons to exploit health needs for profit.'' That comes from a memo by the National Council of Senior Citizens.

I ask unanimous consent that quotes from these organizations, along with a series of other letters from organizations representing senior citizens, be printed in the RECORD.

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

PRIVATE CONTRACTING—LETTERS

1. Families USA Foundation states that the Kyl provision ''may put increasing pressure on older Americans to choose between getting the health services they need or putting food on their table.'' [Press Release, Families USA, 10/8/98]

2. Catholic Charities USA, representing nearly 13 million people, states that the Kyl legislation would ''dangerously undermine the Medicare program.'' [Letter to all Senators from Fred Kammer, 3/31/98]

It will leave ''average- and low-income Medicare patients at grave risk of substandard care and second class medicine.'' [Letter to All senators from Fred Kammer, 3/31/98]

3. The National Council of Senior Citizens, asserting that the Kyl legislation ''is fraudulent and should be defeated,'' says that the bill would ''essentially end Medicare as a national health insurance program for almost 40 million Americans.'' [Letter to San. Daschle from Steve Protulis 3/13/98]

''This proposal would essentially license doctors to gouge millions of seniors for Medicare services.'' [Letter to Sen. Daschle from Steve Protulis 3/31/98]

If the Kyl Amendment succeeds, ''seniors will be left with big medical bills and the doctors will have new weapons to exploit health needs for profit.'' [Memo from National Council of Senior Citizens, 10/27/98]

4. The Service Employees International Union, on behalf of 1.2 million workers and retirees, strongly opposes S. 1194 saying that ''this legislation is an underhanded effort to destabilize the entire Medicare system and make it unaffordable for poor and working class citizens.'' [Written statement submitted to Senate Committee on Finance for hearing record, 2/26/98]

This legislation would give ''doctors more leeway to rush people into contracts they don't understand, to charge higher rates, and to select to serve people who will make them the most money.'' [Written statement submitted to Senate Committee on Finance for hearing record, 2/26/98]

5. Beatrice S. Braun, M.D., currently a member of AARP Board of Directors testified that ''AARP firmly believes that if S. 1194 were adopted, beneficiaries and the Medicare program would be more vulnerable to fraud and abuse.'' [Written testimony: Senate Committee on Finance hearing, 2/26/98]

6. Dr. William A. Reynolds, President of the American College of physicians, testified

that the Kyl legislation would: ''(1) create access problems where none existed; (2) increase administrative complexity for physicians, who will be struggling with billing errors and ad hoc incoming testing of their patients; and (3) produce conflict in the physician-patient relationship.'' [Written testimony: Senate Committee on Finance hearing, 2/28/98]

The ACP strongly believes that ''the Kyl bill threatens Medicare's viability as a health plan.'' [Letter to Sen. Moynihan from Dr. Reynolds, 10/5/97]

7. The National Association of Retired Federal Employees, urging opposition to the Kyl legislation, wrote that Medicare patients would negotiate from a position of weakness if doctors were allowed to pick and choose when to be in or out of Medicare. [Letter to Sen. Daschle from NAREE, 3/31/98]

8. OWL, the Older Women's League, believes that the Kyl legislation would take away ''guarantees of access and quality that Medicare has always provided to America's older women. [Press Release, OWL, 10/8/98]

9. The National Council on the Aging fears that ''access to specialists would suffer, as they could refuse to see the vast majority of Medicare beneficiaries so that a small handful of the wealthiest seniors could pay their highest rate.'' [Press Release, The National Council on the Aging, 10/97]

10. The Leadership Council of Aging Organizations believes that the passage of S. 1194 ''would be anti-consumer and would hurt Medicare beneficiaries and the program generally. ''[Letter to ALL Representatives from the Leadership Council of Aging Organizations, 10/30/97]

11. Retired Public Employees Association believes that under the Kyl legislation, ''the possibility exists that less affluent Medicare beneficiaries will be forced to choose between a private contract which they can ill afford and or an interruption in their continuity of care. [Stanley Winter, Written Statement submitted to Senate Committee on Finance for hearing record, 2/26/98]

12. Jane Bryant Quinn, with the Washington Post, wrote that this ''anti-senior law'' would be ''freedom for Doctors to charge you more.'' [Jane B. Quinn. Washington Post. 3/8/98]

13. The New York State Council of Senior Citizens, representing over 200,000 elders, wrote that this ''pernicious bill masquerades under a pretense of increasing 'free-choice' to Medicare beneficiaries.'' [Letter to Sen. Moynihan from Eleanor Litwak, 1/26/98]

They fear that were the bill to be enacted, ''Medicare would become impoverished and would rapidly become a program for the poorest and the sickest instead of the great universal entitlement it is now.'' [Letter to Sen. Moynihan from Eleanor Litwak, 1/26/98]

WRITTEN STATEMENT SUBMITTED TO THE SENATE FINANCE COMMITTEE BY PATRICIA A. FORD, EXECUTIVE VICE PRESIDENT OF THE SERVICE EMPLOYEES INTERNATIONAL UNION, IN OPPOSITION TO MEDICARE PRIVATE CONTRACTING LEGISLATION (S. 1194; H.R. 2497)

The Service Employees International Union strongly opposes S. 1194, the Medicare private contracting legislation. We are deeply concerned about the consequences that this legislation would have for access to affordable, quality care for Medicare beneficiaries. In our view, this legislation is an underhanded effort to destabilize the entire Medicare system and make it unaffordable for poor and working class senior citizens.

Our union represents over 1.2 million workers and retirees. More than 600,000 of these are front line health care workers, including nurses, hospital workers, nursing home workers and home health workers, who provide Medicare funded services to senior citizens every day. We also represent our retired members—former public sector, building service and health care workers. These retired janitors, secretaries, and clerks live on fixed incomes and rely on Medicare to cover the bulk of their health care needs.

Some have touted that this amendment is about offering patients more choice, but this is very misleading. Medicare beneficiaries have always been free to privately purchase services that Medicare does not cover. Last year's Balanced Budget Act broadened choice even further by allowing beneficiaries to privately contract for services that are already covered under Medicare. Medicare Beneficiaries already have choice.

The Medicare private contracting legislation is really about offering physicians, not consumers, more choice. This legislation would remove the two-year exclusion provision and other consumer protections that govern these private contracts, giving doctors more leeway to rush people into contracts they do not understand, to charge higher rates, and to select to serve people who will make them the most money.

Currently, even with Medicare coverage, more than one out of every five retiree dollars goes to covering health care costs. And when the median income for those over 65 is a little over $11,000 that leaves precious little for food and much less for clothing and shelter. This means that the vast majority of senior citizens in this country will not have the means to enter into private contracts.

One of our major concerns—that lies at the heart of this bill—is that it would destabilize the entire Medicare system and make it unaffordable for many beneficiaries. This legislation would have the effect of transforming Medicare from a social insurance program that everyone pays into and everyone benefits from to a privatized program with incentives for doctors to serve only the most profitable patients.

The 1.2 million members of our Union, along with all working families in this country, count on care being available when they need it—that is why health insurance was developed in the first place. By allowing physicians to charge for services at will this basic premise is lost. The Medicare private contracting legislation would destroy the stability of paying into a system that insures available, affordable coverage for those who need it. Getting medical treatment—although vital—is a service and as such should not fluctuate in price depending on the income of the person who seeks it.

We object to the premise of this legislation and question why the Federal Government would want to replace a system in which 95% of all physicians provide care to 100% of qualified enrollees with a two-tiered system in which access to quality care is determined by income rather than illness. The potential effect of this legislation on overall health spending is also very alarming. The non-partisan Congressional Budget Office (CBO) predicts that if this legislation is approved it would ''almost certainly'' send national health care spending spiraling upwards.

Again, on behalf of our more than 1.2 million members and our thousands of low-income retired members, I urge you strongly to oppose Medicare private contracting legislation, S. 1194. Thank you.

NATIONAL COUNCIL OF SENIOR CITIZENS,
Silver Spring, MD, March 31, 1998.

Senator TOM DASCHLE,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR DASCHLE: The National Council of Senior Citizens urges you and your Senate colleagues to vote against Senator Kyl's amendment to S. Con. Res. 86. In our view, Senator Kyl's proposal would essentially end Medicare as a national health insurance program for almost 40 million Americans. It would virtually destroy the price protections that beneficiaries now enjoy.

This proposal would essentially license doctors to gouge millions of seniors for Medicare services. It would add not a scintilla of ''freedom of choice'' for Medicare beneficiaries in finding a doctor to treat their medical needs. Ninety-five percent of all doctors already treat Medicare patients.

The recent hearing held by the Senate Finance Committee demonstrated that current Medicare rules allow Medicare patients to pay their doctors for specific services without requiring the doctor to withdraw from Medicare for two years.

In short, Senator Kyl's sense of the Congress resolution would add no benefit or freedom to the lives of seniors. It is fraudulent and should be defeated.

Sincerely,

STEVE PROTULIS,
Executive Director.

NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES,
Alexandria, VA, March 31, 1998.

To: Hon. TOM DASCHLE.

From: Charles R. Jackson, NARFE President.

Misinformation and deliberate distortion of facts about Medicare's Private Contracting rules should not be the basis for attaching even a non-binding version of Senator Kyl's bill, S. 1194, to the Senate budget resolution, S. Con. Res. 86. Federal retirees, particularly the 8,296 annuitants in your state ask that you vote against this amendment.

Medicare patients would negotiate from a position of weakness if doctors were allowed to pick and choose when to be in or out of Medicare. Absent private contracting protections, physicians—not beneficiaries—would decide what to charge for their services. That is the only freedom being enhanced by the Kyl and Archer bills, S. 1194 and H.R. 2497.

Congress and President Bush approved legislation in 1989 to limit doctor fees to 115 percent of the Medicare fee schedule. Fee limitations were enacted to ensure that beneficiaries have access to health care at predictable costs. More than 90 percent of America's physicians participate in Medicare despite fee limitations which private contract protections help to enforce. Fee limitations have not resulted in services being denied to Medicare patients, but we fear repealing private contract protections will render fee limitations meaningless.

The nonpartisan Congressional Budget Office (CBO) has warned Congress that this legislation could significantly compromise Medicare's ability to screen inappropriate claims. As a result, CBO says that it would be easier for an unethical physician to bill both Medicare and the private contract patient for the same service.

Fraud, waste and abuse is already a $23 billion a year problem in Medicare. NARFE believes unrestricted private contracting will only increase fraud at a time when public policy makers are trying to preserve Medicare for current and future generations.

MEDICARE RIGHTS CENTER

F.A.L.S.E. ALARM FOOLING AMERICANS INTO LOSING SENIOR ENTITLEMENTS

Seniors around the country are being fooled into believing that Medicare won't take care of them. Americans Lobbying Against Rationing Of Medicaid Care (A.L.A.R.M.). Alarm of United Seniors Association, is falsely scaring seniors and tricking them into giving up one of Medicare's

greatest protections: the limit on the amount doctors can charge Medicare patients.

''A.L.A.R.M. is not telling seniors the truth when they state that Medicare won't pay for their health care and they will be left with nowhere to go to get it.'' says Diane Archer, Executive Director of the Medicare Rights Center, a national not for profit consumer service organization.

Currently, traditional Medicare pays for all reasonable and necessary services and limits seniors' out-of-pocket costs. Seniors can see almost any doctor they want anywhere in the country: 96% of doctors treat Medicare patients and agree to charge these patients at a fixed rate set by the government.

''The real alarm is that unless Medicare retains its billing protection, seniors will have to pay out of their own pockets whatever fees their doctors come up with. If they cannot afford the fee, they will be forced to go without health care.'' says Ms. Archer.

The current limits on doctors' charges allow people on Medicare freedom to get the health care they need. permitting doctors once again to set their own fees only makes health care unaffordable for many seniors.

In short, says Ms. Archer, ''A.L.A.R.M. wants to shift responsibility for the cost of health care from the government to seniors who cannot afford to pay for it.''

A copy of A.L.A.R.M.'s letter is attached along with a MRC fact sheet about what Medicare really provides seniors.

NEW KYL LEGISLATION WOULD DISPROPORTIONATELY HARM OLDER WOMEN

OLDER WOMEN ARE POORER, HAVE MORE, AND MORE COMPLEX, ILLNESSES; INCREASED COSTS WOULD PRICE THEM OUT OF HEALTH CARE MARKETPLACE

OWL, an organization representing the more than 57 million American women over the age of 40, today (October 8) issued the following statement opposing S 1194/HR 2497, bills that would enable physicians, without any consumer protections, to contract privately for services with Medicare beneficiaries:

''Kyl II,'' which would give doctors license to charge whatever the market would bear for services that already have Medicare-imposed cost ceilings, would be particularly damaging to women who suffer from more, and often more complex conditions than men. Requiring more general physician care and more specialist care, these already vulnerable patients, who even now have trouble affording the out-of-pocket health care expenses they must pay, could be faced with a choice of private treatment or a Medicaid-funded nursing home stay.

''Kyl II'' would make bad public policy worse. The so-called Medicare ''reforms'' that were include din the Balanced Budget Act have aptly been identified as the start down a slippery slope that will eventually lead to the total dismemberment of Medicare. OWL believes that ''Kyl II'' would be a large rock rapidly careening down that slope, taking with it the guarantees of access and quality that Medicare has always provided to America's older women.

21.8 million (out of 38.1 million) of all Medicare beneficiaries are women, and 83% have an annual income of less than $25,000 per year. in fact, older women live on a median income of $9,355 a year (compared to a man's $14,983), and depend upon Medicare and their monthly Social Security check for maintaining their independence at home rather than entering a nursing home. This proposed legislation not only threatens to destroy the foundation of a critical social insurance program, but could seriously threaten the lives of America's older women.

STATEMENT BY JUDY WAXMAN, DIRECTOR, GOVERNMENT AFFAIRS, FAMILIES, USA

The Medicare Beneficiary Freedom to Contract Act of 1997 could result in beneficiaries being held hostage to high-priced doctors. Doctors could seek any fee they want for any service, and Medicare beneficiaries would feel compelled to pay such unlimited fees to retain their doctors.

Out-of-pocket health care costs have continued to rise for America's seniors since Medicare's inception. This provision may put increasing pressure on older Americans to choose between getting the health services they need or putting food on their table. This choice is simply unacceptable.

Families USA is the national health consumer group.

THE NATIONAL COUNCIL ON THE AGING

LCAO OPPOSES MEDICARE PRIVATE CONTRACTING PROPOSAL

My name is Howard Bedlin and I am the Vice President for Public Policy and Advocacy for the National Council on the Aging, which currently chairs the Leadership Council on Aging Organizations (LCAO). The LCAO represents 43 national organizations serving over 40 million older persons.

The Leadership Council of Aging Organizations opposes efforts to overturn current provisions that protect Medicare beneficiaries from physician overbilling. Doctors are already permitted to charge 15% more than what Medicare considers to be a reasonable price, and now they want to charge even more. We oppose opening up Medicare provisions enacted under the Balanced Budget Act just two months ago on an issue that has far reaching implications, yet has never been the subject of a congressional hearing or even debated on the House or Senate floor. LCAO members will be sending a letter to members of Congress next week to express our opposition to this ill-conceived, anti-consumer proposal.

The National Council on the Aging believes that the proposals introduced by Senator Kyl and Chairman Archer are not designed to solve any problem experienced by Medicare beneficiaries. Well over 90 percent of physician's bills accept Medicare rates and there is no evidence to indicate that access problems exist because of Medicare payments to doctors. The proposals would, however, increase physicians' income and fundamentally change the nature of the doctor-patient relationship.

Without notice, or in the middle of a course of treatment, doctors could tell Medicare patients that treatment will be denied unless payment is made for the full amount of whatever the doctor wants to charge. No other insurance policy, in either the public or private sectors, permits this. Access to specialists would suffer, as they could refuse to see the vast majority of Medicare beneficiaries so that a small handful of the wealthiest seniors could pay their higher rates. Instances of fraud and abuse would increase, as unscrupulous doctors would have an easy time getting away with double billing both Medicare and the patient.

Beneficiaries could be subject to bait-and-switch tactics, in which doctors begin a course of treatment under Medicare and then turn around and demand full payment of higher charges out-of-pocket for treatment to continue. What if a particular doctor doesn't like what Medicare is paying him for one particular service? What if the doctor notices that the patient has driven up in a nice new car? The kind of uncertainty this proposal would create would be extremely harmful to Medicare beneficiaries.

We strongly urge members of Congress to reject this proposal, to act in the interest of 33 million Medicare beneficiaries, and to refuse to line the pockets of a few greedy doctors.

Mr. WELLSTONE. Mr. President, I say to my colleague from Arizona and to other colleagues, this amendment is profoundly mistaken. This amendment, if passed, I believe, really puts way too many senior citizens at risk.

The Medicare Program is a universal coverage program. The Medicare Program is, for many seniors, the difference between survival and even life with dignity versus going under. To all of a sudden now say to doctors and other providers in this country that you can charge what you want and still stay in the Medicare system now, I am not in favor of that. But if they do it for 2 years, they are out of Medicare. To tell the doctors and providers they can charge what they want and stay in Medicare, that doctors can decide, for any senior citizen and their families, whether or not they have the money to pay for additional costs the doctors want to impose on them does a grave injustice to the Medicare system.

I don't hear a lot of senior citizens—I say to my colleagues—in Minnesota saying they want to see the Medicare system ''fixed'' in this direction. I hear people talking about, ''Can there be coverage for prescription drug costs?'' I hear people talking about the problems they have when they are faced with catastrophic expenses, not wanting to spend the end of their lives in a nursing home and maybe going under because of that. I hear senior citizens talking about the need to have more funding for home-based health care so they can live at home in as near normal circumstances as possible with dignity. I don't hear senior citizens in Minnesota saying they want the Kyl amendment passed, which will enable providers, in too many cases, to gouge them, to charge what they want to charge to seniors, to put a whole lot of senior citizens at risk. This amendment is mistaken. This amendment undermines the Medicare system, and this amendment should be resoundingly defeated.

Mr. President, I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, might I inquire about the time remaining?

The PRESIDING OFFICER. The Senator from Arizona controls 39 minutes 30 seconds. The Senator from New Jersey controls 14 minutes 15 seconds.

Mr. KYL. I thank the Chair.

I think it is probably time for me to respond to some of the things that have been said. I appreciate the spirit in which the comments were made by the Senator from Minnesota, and earlier by the Senator from Arkansas, and certainly also by the Senator from Nevada. We have reasonable differences of opinion about certain matters here. I appreciate the spirit in which their comments have been made.

But my, oh, my, Mr. President, it is amazing to me that we would have 49

or 50 cosponsors of this legislation in the Senate and almost 200 in the House if it were going to do all of the horrible things that have been suggested by my colleagues. I don't think I could go home. I daresay that I probably represent more senior citizens—or at least as many as my distinguished colleague from Minnesota. In fact, half of the State of Minnesota comes to my State in the wintertime, and we really enjoy visiting with his constituents. Obviously, they probably receive some medical care in our State, too. Obviously, we are not going to be doing something by which my mother and father and all of their friends and all of my other senior constituents are going to feel threatened.

What could it be that is so horrible about this?

The Senators from Arkansas and Nevada made, I think, a very telling point. They said that Medicare has certainty. The Senator from Nevada said that it may not be perfect but at least it has certainty. Mr. President, that is true. The Congress began here with a program, an entitlement for senior citizens, to provide certain medical care—not all care, but certain care for senior citizens. Gradually, over time, that has transformed from an entitlement into an exclusive program. It is Medicare or no care, as of January 1 of this year.

Up to that point, you had options. You could go outside the Medicare system, if you wanted to, for covered services. As the Senator from Nevada pointed out, it wasn't done very much, but you had the right. That is the point. All of these dire warnings about price gouging and people having to choose between food and medical care, that has been the situation for the last 20 some years. Patients have always had this right to privately contract. It was taken away from them, as a practical matter, on January 1 of this year. That is why I am standing here. I would not be here otherwise.

What happened was that because the Health Care Financing Administration was writing letters to doctors threatening them that they had to submit a bill to Medicare for anyone who was ''Medicare eligible''—obviously, that is everybody over 65—the doctors were worried. They said, ''We never had to do this before,'' and, as a colleague pointed out, ''If the patient doesn't want to have this done, we don't have to do it. They could be treated outside of Medicare. So would you please confirm that, make it absolutely certain in the law?'' So I introduced the amendment. It passed overwhelmingly, like 65–35 or so.

All of us want to give patients the freedom of choice: Even if the right isn't going to be exercised very much, let the patient decide. But what happened was that after that became part of the Balanced Budget Act of last year, as it was being negotiated in its details at the very end of the year, in the middle of the night, the administration officials convinced some House and Senate negotiators that they had to attach a condition onto our amendment; namely, in order for a patient to have this right, they had to find a doctor who would dump all of that doctor's Medicare patients for 2 years in advance, or you could not contract privately. As a practical matter, that eliminated the choice, because very few doctors are going to dump all of their existing Medicare load to just treat a few private contract patients.

So, as a result, we are now dealing with a new phenomenon. What started as a great program, an entitlement, which people could take advantage of, has now become the exclusive, only way for senior citizens to receive care in our country. As I pointed out earlier, even in England where they have socialized medicine, they have a system whereby, if you don't want to go to the socialized medicine program, you can go to a doctor of your choice. Many people do, and has it ruined the English system of health care? No. If this is going to be such a horrible thing and ruin Medicare, why hasn't it ruined the English system, where this right of private choice always has existed? Why didn't it ruin the Medicare system before January 1, when this right existed? It may not be perfect, but at least there is certainty. We are saying the certainty has now gotten to the point where it is a constraint, the denial of a right and the denial of a freedom. In that regard, certainty is less desirable than choice.

Now, my colleague from Minnesota made an interesting point in concluding. He said doctors could overcharge here and you could actually create two classes of medicine. Mr. President, I think this says a lot, because what it says in the long run is that we are going to have one level of care for senior citizens. We can't predict exactly what that level of care is going to be, but whatever it is, if a senior feels dissatisfied with that level of care, he or she is stuck with it; there is no way out. Even in Great Britain, you have a way out. If you are not satisfied with it, if you don't think it suits your particular needs, you at least have the right to go to the doctor of your choice outside the system. But not in the United States of America.

We are going to say, ''No, no, there has to be only one type of care and it has to be the same for everybody once you hit 65.'' What we are saying is that there may be a few people—and I grant it will not be a large number—but there may be a few people who are not satisfied with that, who, for whatever reason, decide they want to have care outside of the Medicare system and they are willing to pay for it. Why deny them that right? This is America.

One of my colleagues made the point, I think it was the colleague from Arkansas, that this is elitist because some people will pay for their own care. Perhaps you have a patient who has been treated by the same doctor for many years and he just wants to go back to that same doctor even though he would have to privately contract. That could well happen, but I don't call that elitist. I cited the example of a friend of mine, who is not a senior citizen, by the way, but his wife was very, very ill with cancer. He would have spent every nickel that he had, he would have spent his life savings, he would have done anything to save her life. In the end he couldn't, but he went to great lengths to try to save her life.

As I said, I was successful in getting a compassionate release from FDA so she could be treated with some experimental drugs. When it is your life, or your wife, your spouse, you will do anything when their health care, their life, is involved. Are we going to say to them, in the United States of America, ''No, you are stuck with Medicare whether you like it or not,'' even though you might be able to go to a great specialist somewhere at some great university who is not taking very many Medicare patients and he doesn't want to take any more Medicare patients but he is willing to treat you? We are saying, ''No, we are not going to let that great surgeon, that university research expert, treat you outside of Medicare because we only have one level of care in this country and we don't want anybody to have any better care than anybody else.''

I don't call that elitist. I call that the denial of the basic American right of freedom. That is why I think we need to get this back to what we are really talking about.

Let me read again the words, because I find it hard to believe that my colleagues would really vote against these words. This is the amendment we are debating here:

> It is the sense of Congress that seniors have the right to see the physician or health care provider of their choice.

Those who vote no are saying, no, they should not have that right. It is that simple.

Finally, perhaps I could refer to some of the antifraud provisions. I had not wanted to take the time to do this, but there has been a suggestion that patients are in jeopardy, that seniors would be in jeopardy because doctors could charge all kinds of extra money. I really don't have the time to read all of this; it is page after page after page. Let me just cite some examples here of some of the things that are included that a physician would have to do in order to enter into this kind of contract, in order to assure that there is no fraud or abuse. And HCFA, Health Care Finance Administration, would have total control over this. The requirements are as follows.

First of all, a contract would have to be in writing and signed. No claims could be—the contract provides that no party to the contract and no entity on behalf of any party to the contract shall submit any claim or request for payment to Medicare.

The contract must identify the Medicare-covered professional services and

the period, if any, to be covered, but does not cover any services furnished before the contract is entered into for the treatment of an emergency medical condition. So this couldn't be used when the patient is in extremis unless the contract was entered into before the onset of the emergency medical condition. There must be clear disclosure of terms. The contract must clearly indicate that by signing the contract the Medicare beneficiary understands and agrees not to submit a claim to Medicare, agrees to be responsible, whether through insurance or otherwise, to pay for the services, acknowledges that no limits under this title may be charged, acknowledges that Medicare supplemental policies do not make payments for such services, acknowledges that the beneficiary has the right to have such services provided by other physicians or health care practitioners for whom payment would be made by Medicare; that the contract must also clearly indicate whether the physician or practitioner is excluded from participation; the parties can modify the contract if they consent, the health care practitioner must submit a variety of—a whole variety here of things to HCFA, including information to HCFA which makes it clear as to what the charges are, what the services are for which the payment is being made by the patient, and other information that Medicare—HCFA deems necessary to prevent fraud and abuse. It goes on and on and on. I don't need to quote it all.

The point is the sense-of-the-Senate resolution that we have before us here also makes reference to and summarizes those provisions. I noted just one of the provisions. I will cite it again, that the legislation we are talking about here must include provisions that are subject to stringent fraud and abuse law, including the Medicare antifraud provisions in the Health Insurance Portability and Accountability Act of 1996.

The point is, if the existing law antifraud provisions are good enough for the existing law, then it is kind of hard to criticize them as applicable to this.

So I think it is a red herring to say doctors could somehow gouge patients under this. They are going to be subject to very stringent antifraud provisions, at least as stringent, and frankly more stringent, than those under existing law. So I really don't think that is a fair criticism of what we are trying to do here.

This is merely a sense of the Senate that people in this country, just because they turn 65, should not be precluded from making the choice—that they are willing to pay for—to be treated outside of the Medicare Program. Most will not want to do so. But who are we to say in those cases in which a person does want to do so that they can't do it, whatever it means to their life or the life of their loved ones? I think that is what is elitist. I hope my colleagues will join me in supporting this amendment.

Mr. WELLSTONE addressed Chair.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Mr. President, I ask for 4 minutes to respond.

Mr. LAUTENBERG. Mr. President, I yield the Senator from Minnesota 4 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for up to 4 minutes.

Mr. WELLSTONE. Mr. President, again, colleagues should understand exactly what this sense of the Senate is about. What this amendment is about is what the Kyl legislation is about, which is really quite a change from current policy. Right now what we have said is that if a doctor or provider wants to charge more than the reimbursement he or she will get from Medicare, fine. Go ahead and do it. But if you do that with your own private contracting, then for 2 years you are not in the Medicare system. The reason for that is to protect people, elderly people, who rely on this program.

Mr. President, again I present to colleagues a very important letter on private contracting, a GAO letter to Senator MOYNIHAN of February 23, 1998:

> Nearly all physicians treat Medicare patients and accept new patients covered by Medicare. The recent data from the AMA indicate that 96.2 percent of all non-Federal physicians treated Medicare beneficiaries in 1996. Moreover, the percentage of physicians treating Medicare patients has increased to 95.2 percent in 1995 from 94.2 percent in 1994; over the last 2 years.

Mr. President, here is the point. The point is that the Medicare Program is a program that seniors rely on. A lot of Senators may not understand where the Kyl amendment takes us. Where the Kyl amendment takes us is the following direction.

By the way, people who are covered by Medicare are covered. They are able to get the care they need. My colleague was talking about the horrible example of someone who had a loved one who was struggling with cancer. It's the vast majority of people in the country who do not have insurance or are underinsured who need the most help. We really ought to be expanding Medicare for people in our country. We ought not to be about the business of dismantling Medicare.

I will use the same example as my colleague from Arizona used, but I will reach a whole different set of conclusions. I will simply say to you: Imagine a situation where you have an elderly couple, age 70. The wife is now battling cancer. It turns out that in the community where they live, under the Kyl amendment, given where the Kyl amendment is taking us, the vast majority of doctors in the community have decided, ''Listen, we are going to charge more than Medicare reimbursement will give us. We are going to charge more.'' It just so happens that this couple can't afford it. They maybe have a total income of $20,000 or $25,000 a year.

Now it is two classes of medicine. If you are wealthy, you are going to be able to afford it. But what about the vast, vast majority of senior citizens who can't afford now what doctors are charging them? That is really what we are going into. We are not talking about freedom of choice for elderly people. We are taking a lot of choice away. We are talking about a situation where conceivably in a given community doctors could get together, or the majority of doctors could get together, charge more, still be in the Medicare system, and decide for each and every elderly person and their loved one what they pay—what they pay.

A whole lot of people who now can go and get the care they need, given the Medicare system, may no longer be able to afford it. The whole purpose of Medicare was that we said when you get to be older, you are going to incur more health care costs and we want to make sure that there is coverage for you, that we should at least do that for elderly people. Why in the world would we want to turn the clock back? Why in the world would we want to turn our backs on elderly people? Why in the world would we now want to create a situation where, if you are wealthy—and by the way most senior citizens are not—you have it made. Yes, you can contract with this doctor and these doctors. This doctor or these doctors can charge you anything they want to. But for the vast majority of people, Medicare beneficiaries, this will not work well. This will not work well.

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

Mr. LAUTENBERG. The Senator can have a couple more minutes as he needs.

Mr. WELLSTONE. I thank my colleague.

Let me just give an analogy. Take the Kaiser plan. It is well known, a managed care plan. You join the Kaiser plan and you are going to pay a given fee, the enrollees pay a given fee. Can you imagine what it would be like if all of a sudden doctors in the Kaiser plan could decide on their own, based upon what particular citizens they were seeing, that they would charge more for service? You join the plan just like people join Medicare. You join the Kaiser plan. Where Senator KYL is taking us, it would be as if doctors in the Kaiser plan could now say to the enrollees, ''By the way, we have decided we are going to charge you more for coverage of this service.'' I mean, people would be furious. People would feel betrayed. People would say, ''Wait a minute, that is not the contract with us.''

Medicare is a sacred contract with senior citizens. We ought not create this gigantic loophole for too many providers who I fear rip off elderly people to charge fees for services that senior citizens cannot afford. We ought not tear up a very sacred contract.

I hope we will have a strong vote against this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, if I could make just a couple of comments in response to the Senator from Minnesota. If an insurance company or plan like Kaiser company has a contract to provide care, they would be obligated to provide the care they contracted to provide. They can't all of a sudden just opt out and say we have decided we don't want to do that anymore or we are going to charge more money for it. I really don't understand the point of the Senator from Minnesota in that regard.

Second, he argued that under this amendment it could well come to pass, probably would come to pass, that so many physicians would charge so much more that pretty soon people wouldn't be able to afford their medical care. Yet it has also been argued here that very few people would want to take advantage of this; that 92 percent of the people in Medicare are happy with the care that they are getting. I don't think you can have it both ways. I don't think you can argue on the one hand that there would be dire consequences because everybody will want to do this and on the other hand everything is just fine and nobody is going to want to do it.

The truth of the matter is that probably not very many people will want to do this and therefore it will not have dire consequences on the system. But for those people who do want to do it, it becomes a very important matter to them. They may want to spend whatever they have—whether they have very much or not—in order to get that physician of their choice.

Let me present an analogy to you, Mr. President, about what the Senators who are arguing in opposition to this are really arguing.

They said we provided this great health care system for the citizens of the United States, and so it has to be the only system. To be consistent, they should also say we provided a great retirement system for people in this country; it is called Social Security. So in order to prevent anybody from getting anymore money than anyone else in retirement, we are going to provide that under Social Security; that is what you got; you can't go outside; you can't have pension benefits, insurance benefits, stock paying you dividends or money from your kids or whatever. It is the Government plan or no plan, just like they are saying, here it is, Medicare or no care. Same thing, Mr. President. You can see how absurd the proposition is when presented in that way.

For retirement savings, we acknowledge the fact that people ought to have a choice. They can have the Government plan but they can also exercise their own freedom of choice to provide for themselves as they see necessary. But what our colleagues on the other side are saying is, when it comes to health care, which I argue is even more important to people than money, ''No, you don't have that choice, because the Government has decided not only is it going to provide you an entitlement of health care, but it has now decided that is the only thing you can get once you turn 65; that you cannot go outside of that system.''

That, Mr. President, is what is so wrong with the law that took effect as of January 1 of this year and what we are trying to correct. That is why we need to go on record expressing the sense of the Senate, and I will read it again:

> [Expressing] the sense of the Senate that seniors have the right to see the physician or health care provider of their choice. . .

I hope my colleagues will support us in that expression.

Mr. LAUTENBERG. Mr. President, I rise in opposition to the sense-of-the-Senate amendment offered by Senator KYL, which calls for the expansion of private contracting between physicians and Medicare beneficiaries. This proposal could leave beneficiaries vulnerable to higher out-of-pocket costs for Medicare services. And it could leave the Medicare Program more vulnerable to fraud and abuse.

Mr. President, the Balanced Budget Act of 1997 allows physicians to enter into ''private contracts'' with Medicare enrollees and set their own fees for services covered by Medicare. The intent of this provision was to allow the 9 percent of physicians who don't participate in the Medicare Program, to continue to treat their Medicare-eligible patients through private contracts.

To protect Medicare from fraud and to ensure that private contracting arrangements are limited to physicians who otherwise would not be available to Medicare beneficiaries, the law is limited to those physicians who agree, in an affidavit, to forgo all reimbursement from Medicare for at least 2 years. The law also requires a physician to disclose to the patient that no Medicare payment will be made for privately contracted services, no balance billing limits will apply, no Medigap coverage will be available, and the services to be performed would be paid for by Medicare if provided by another physician.

The proposal advocated by Senator KYL could jeopardize these important protections by allowing all physicians to charge Medicare beneficiaries more than the levels set by the Congress on a service-by-service or patient-by-patient basis. And that could lead many seniors vulnerable to pressure from providers to pay higher rates. For example, a physician could tell someone with a serious illness that they would have to pay extra to get the services they need. And for a desperately ill person, that may leave them feeling that they have no real choice.

So, Mr. President, we need to evaluate the impact of the law we just passed before we make changes that could raise costs for beneficiaries or add to the already critical problems of fraud and abuse. The American College of Physicians has recommended that we not legislate further on the issue of private contracting at this time. They have advised that any further expansion of private contracting could have many unknown effects that should be studied in the broader context of Medicare reform by the bipartisan commission on Medicare. I believe that's good advice, Mr. President, and I would urge my colleagues to oppose this amendment.

Mr. REID. Mr. President, I rise in opposition to the Kyl amendment. I do so because I am not convinced that a private contracting provision is necessary in the first place. This amendment is presented in the name of freedom of choice when in fact it has a potentially devastating effect on the Medicare program and the health care costs paid by America's senior citizens. Seniors today have a choice in their health care options. They have the ability to privately contract for care not covered by Medicare as they always have. They also have payment protection in terms of how much they can be charged for Medicare covered services. Under the Kyl amendment these protections are removed and seniors who engage in private contracting would be responsible for 100% of the cost of their care. Even if this care is for Medicare covered services. Medicare would not pay for these services under private contract nor would supplemental policies pay as well. Seniors would be 100% responsible for these costs.

Today, 92% of Medicare beneficiaries are satisfied with Medicare. Under this amendment, the potential for significant out of pocket costs for seniors becomes a reality. When seniors already pay 21% of their health care costs out of pocket, any amendment to raise these costs should be closely scrutinized. The potential for fraudulent activity is also significantly increased under this amendment. While I have faith in our physician community and don't believe they are waiting in the wings to defraud our Medicare system, the potential for the Health Care Financing Administration (HCFA) to monitor claims that might be submitted while a private contracting relationship has been established is questionable. We have a responsibility to minimize any scenario that might lead to fraudulent activity and under this amendment, those guarantees to do not exist. The Congressional Budget Office reports that the HCFAs efforts to screen inappropriate or fraudulent claims could be significantly compromised. There is no system is a place that would allow HCFA to determine which patients are paying for their care out of pocket from those whose physician is submitting claims to Medicare for these same services. It is for this reason that the private contracting clause in the balanced budget Act of 1997 has a 2-year exemption clause which would require physician's who participate in private contracting to see no other Medicare patients during this period. This would enable HCFA to ensure that no double payments are being made. This is the only

way HCFA at this time could preclude possible fraudulent activity.

Prior to the Balanced Budget Act of 1997 few of us in Congress had ever heard about private contracting in Medicare. This is because our senior constituents were not concerned about this issue and our physician constituents had never surfaced the issue either. My sense is that the truth of the matter is that they would not be concerned about this issue now as well had it not surfaced during the balanced budget debate. The cost protections afforded by Medicare are valuable to seniors and the peace of mind that is achieved knowing out of pocket costs will be limited means a great deal to those on fixed incomes. In that 96 percent of physicians participate in Medicare, there were no signs of their dissatisfaction or a call for change. Perhaps rather than voting on this amendment which is framed in the name of freedom of choice, the better approach would be to remove the private contracting choice provision in the Balanced Budget Act of 1997 and return to the way things were. I do not believe that this debate is about freedom of choice for seniors nor do I believe that physicians are standing in line to defraud our Medicare system. What I do believe is that we are debating an issue that before we learned what it meant seven months ago, few of us, constituents included, were even aware of. I submit that change for change sake is a mistake. We have a strong Medicare Program with protections in place to protect beneficiaries from high out of pocket costs and one that is committed to removing the potential for fraudulent activity from the system. We must be very cautious before we take steps to destroy the success of this program and the many protections this program provides to the 38 million beneficiaries who count on it for their day to day health care. In my view, the Kyl amendment does not pass the test to ensure payment protection for beneficiaries nor does it ensure the potential for fraudulent activity is removed. As such, I must oppose this amendment.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. How much time remains on the Kyl amendment and the opposition to it?

The PRESIDING OFFICER. The Senator from Arizona controls 22 minutes 40 seconds; the Senator from New Jersey controls 8 minutes 30 seconds.

Mr. DOMENICI. I wonder if the distinguished Senator from New Jersey can agree we will both yield back the remainder of the time. I wonder if you intend to second degree the amendment. If you do not, then based on a UC that says that, we won't offer a second-degree amendment. If not, we intend to——

Mr. LAUTENBERG. Mr. President, we have no indication from anybody here that they want to offer a second-degree amendment. So that would take care of that.

Is the Senator proposing that we yield back all remaining time from the Senator from Arizona as well as our side; all yielding back?

Mr. DOMENICI. Yes, I am. Obviously, when this amendment comes up, if you desire to yield off the resolution, we can still do that. I just want to get on to another amendment, if we can.

Mr. LAUTENBERG. When is the Senator proposing to set the vote on this amendment?

Mr. DOMENICI. Mr. President, I say to the Senator from New Jersey, I received a note from the majority leader that votes will start tomorrow at 12 noon on a number of stacked amendments.

Mr. LAUTENBERG. So all the people who want to rush down here and offer amendments will still have time to do so tonight?

Mr. DOMENICI. We know of three that will take quite a bit of time, and they are willing to do that.

Mr. LAUTENBERG. That would be wonderful. We are not thinking of closing up shop until we have heard all the amendments.

Mr. DOMENICI. All amendments that can possibly be taken up on the floor.

Mr. LAUTENBERG. Oh, that would be excellent. I can't wait to hear them.

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, I say this in all sincerity, because the votes were very long. One was in excess of a half hour, and quorum calls before the votes don't count and the vote time doesn't count. We have not even used 5½ hours today from starting at 9:30 this morning. We still have 29 hours remaining at this point, and we have essentially 2 days, Wednesday and Thursday, to get it done. That is going to be very difficult.

I am going to stay here, and we are not going to close the Senate. We would like Senators to come down and offer amendments.

I propose the following so there will be a sequence: First of all, there will be no votes until 12 noon tomorrow, and then there should be three votes. While this is not a unanimous consent request—it will be proposed later—let me say those votes will be on or in relation to the Kyl amendment, on or in relation to the Conrad amendment, and on or in relation to the Coverdell-McCain amendment. We are expecting to debate at least, if not more, Senator CONRAD's amendment and the Coverdell, McCain, et al. amendment. We are trying to get Senator CONRAD, and I hope Senator COVERDELL is on notice we will be ready soon after that. With that, I yield to my friend from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I appreciate the message that the chairman of the Budget Committee is sending out here, and that is the time is going to be consumed. We always know what happens when it gets to the bewitching hour, which is the end of the week, and people want to go home or take care of other business.

I say to my colleagues on my side, as well as the other side, do not be surprised, if you want to delay doing it now, that you are not going to be able to get enough time, in many cases, to really explore the amendment that you want to present. We could wind up in a vote-a-thon. That is going to be allowed. It means 1 minute debate and a vote. I don't think that is a good way to do legislation.

I say we are going to be here. Senator DOMENICI and I have agreed we will stay as long as we can, to use the expression, to do some business, to have people come down and offer their amendments. We invite them, whether it is 10 o'clock or 12 o'clock. We don't want an hour to elapse in between them, frankly, but we are here and we will stay as long as our colleagues want to bring amendments. We hope they will. If I still have the floor, I have a couple of amendments to send to the desk.

Mr. DOMENICI. Will the Senator let me make an assignment? Mr. President, Senator GORTON is going to take over my responsibilities as manager, and whatever privileges I have under the Budget Act belong to Senator GORTON from this point until I return.

The PRESIDING OFFICER. Do the Senators yield back the time on the pending amendment?

Mr. DOMENICI. I yield back any time Senator KYL had on his amendment.

Mr. LAUTENBERG. And we yield back on our side as well.

The PRESIDING OFFICER. All time is yielded back.

Mr. DOMENICI. It is understood there will be no second-degree amendments, and the Kyl amendment will be voted on tomorrow in sequence. I ask unanimous consent that that be the case.

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

Mr. DOMENICI. I yield the floor.

AMENDMENTS NOS. 2204 AND 2205

Mr. LAUTENBERG. Mr. President, I have two amendments that I send to the desk. One is for Senator KOHL from Wisconsin and the other is for Senator DURBIN and Senator CHAFEE. I send these to the desk and ask they be held pending further action.

The PRESIDING OFFICER. If there is no objection, the pending amendment will be set aside and the clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes amendments numbered 2204 and 2205.

The amendments are as follows:

AMENDMENT NO. 2204

(Purpose: To express the sense of the Senate regarding the establishment of a national background check system for long-term care workers)

At the end of title III add the following:

SEC. ___. SENSE OF THE SENATE REGARDING THE ESTABLISHMENT OF A NATIONAL BACKGROUND CHECK SYSTEM FOR LONG-TERM CARE WORKERS.

(a) FINDINGS.—The Senate makes the following findings:

(1) Over 43 percent of Americans over the age of 65 are likely to spend time in a nursing home.

(2) Home health care is the fastest growing portion of the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), with an average annual growth rate of 32 percent since 1989.

(3) A 1997 report from State Long-Term Care Ombudsmen assisted under the Older Americans Act of 1965 indicated that in 29 States surveyed, 7,043 cases of abuse, gross neglect, or exploitation occurred in nursing homes and board and care facilities.

(4) A random sample survey of nursing home staff found that 10 percent of the staff admitted committing at least 1 act of physical abuse in the preceding year.

(5) Although the majority of long-term care facilities do an excellent job in caring for elderly and disabled patients, incidents of abuse and neglect do occur at an unacceptable rate and are not limited to nursing homes alone.

(6) Most long-term care facilities do not conduct both Federal and State criminal background checks on prospective employees.

(7) Most State nurse aide abuse registries are limited to nursing home aides, thereby failing to cover home health and hospice aides.

(8) Current State nurse aide abuse registries are inadequate to screen out abusive long-term care workers because no national system is in place to track abusers from State to State and facility to facility.

(9) Currently, 29 States have enacted varying forms of criminal background check requirements for prospective long-term care employees. However current Federal and State safeguards are inadequate because there is little or no information sharing between States about known abusers.

(10) Many facilities would choose to conduct background checks on prospective employees if an efficient, accurate, and cost-effective national system existed.

(11) The impending retirement of the baby boom generation will greatly increase the demand and need for quality long-term care.

(12) It is incumbent on Congress and the President to ensure that patients receiving care under the medicare and medicaid programs (42 U.S.C. 1395 et seq.; 1396 et seq.) are protected from abuse, neglect, and mistreatment.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the assumptions underlying the functional totals in this concurrent resolution on the budget assume that—

(1) funds should be directed toward the establishment of a national background check system for long-term care workers who participate in the medicare and medicaid programs (42 U.S.C. 1395 et seq.; 1396 et seq.);

(2) such a system would include both a national registry of abusive long-term care workers and a requirement for a Federal criminal background check before such workers are employed to provide long-term care; and

(3) such a system would be created with ample input and comment from representatives of the Department of Health and Human Services, State government, law enforcement, the nursing home and home health industries, patient and consumer advocates, and advocates for long-term care workers.

AMENDMENT NO. 2205

(Purpose: To express the sense of Congress regarding the right to affordable, high-quality health care for seniors)

At the end of title III, insert the following:

SEC. ___. FINDINGS AND SENSE OF CONGRESS REGARDING AFFORDABLE, HIGH-QUALITY HEALTH CARE FOR SENIORS.

(a) FINDINGS.—Congress finds the following:

(1) Seniors deserve affordable, high quality health care.

(2) The medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) has made health care affordable for millions of seniors.

(3) Beneficiaries under the medicare program deserve to know that such program will cover the benefits that they are currently entitled to.

(4) Beneficiaries under the medicare program can pay out-of-pocket for health care services whenever they—

(A) do not want a claim for reimbursement for such services submitted to such program; or

(B) want or need to obtain health care services that such program does not cover.

(5) Beneficiaries under the medicare program can use doctors who do not receive any reimbursement under such program.

(6) Close to 75 percent of seniors have annual incomes below $25,000, including 4 percent who have annual incomes below $5,000, making any additional out-of-pocket costs for health care services extremely burdensome.

(7) Very few beneficiaries under the medicare program report having difficulty obtaining access to a physician who accepts reimbursement under such program.

(8) Allowing private contracting on a claim-by-claim basis under the medicare program would impose significant out-of-pocket costs on beneficiaries under such program.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the assumptions underlying the functional totals in this resolution assume that seniors have the right to affordable, high-quality health care and that they have the right to choose their doctors, and that no change should be made to the medicare program that could—

(1) impose unreasonable and unpredictable out-of-pocket costs for seniors or erode the benefits that the 38,000,000 beneficiaries under the medicare program are entitled to;

(2) compromise the efforts of the Secretary of Health and Human Services to screen inappropriate or fraudulent claims for reimbursement under such program; and

(3) allow unscrupulous providers under such program to bill twice for the same services.

Mr. LAUTENBERG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GORTON. Mr. President, I ask unanimous consent that a vote occur on or in relation to the Kyl amendment at 12 noon, Wednesday, April 1, and no amendments be in order to the Kyl amendment.

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

Mr. GORTON. I announce on behalf of the majority leader there will be no further votes this evening.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR ENDING SEPTEMBER 30, 1998

The PRESIDING OFFICER. Under the order of March 26, 1998, the Senate has received H.R. 3579, the supplemental appropriations bill, recently passed by the House. All after the enacting clause of H.R. 3579 is stricken and the text of S. 1768, as amended, is inserted in lieu thereof; the House bill is considered read a third time and passed; the Senate insists on its amendment, requests a conference with the House, and the Chair appoints the following conferees.

The Presiding Officer (Mr. BROWNBACK) appointed Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. GORTON, Mr. MCCONNELL, Mr. BURNS, Mr. SHELBY, Mr. GREGG, Mr. BENNETT, Mr. CAMPBELL, Mr. CRAIG, Mr. FAIRCLOTH, Mrs. HUTCHISON, Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. LEAHY, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. KOHL, Mrs. MURRAY, Mr. DORGAN, and Mrs. BOXER conferees on the part of the Senate.

Mr. GORTON. Does the Presiding Officer have any additional appointments? If not, 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. Without objection, it is so ordered.

THE UNIVERSITY OF TENNESSEE LADY VOLUNTEERS

Mr. FRIST. Mr. President, on this past Sunday night history was made, perfection was attained, and a dynasty was firmly established in women's collegiate basketball. It is with great Tennessee pride that I salute the 1998 NCAA National Championship Lady Vols of the University of Tennessee.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 203, submitted earlier today by myself and Senator THOMPSON.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 203) expressing the sense of the Senate that the University of

Tennessee Lady Volunteers basketball team is the new dynasty in collegiate women's basketball.

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

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

Mr. FRIST. Mr. President, this evening, along with my fellow Lady Vol fan, Senator FRED THOMPSON, I introduce this sense-of-the-Senate resolution establishing the Tennessee Lady Vols as the new dynasty in collegiate women's basketball. When one recites the great basketball dynasties of all time, the Boston Celtics, the Chicago Bulls, and the UCLA Bruins Men's team, one should certainly complete that list with the Tennessee Lady Vols.

The greatest coach in women's basketball history, Pat Summitt, who recently appeared on the cover of Sports Illustrated as the ''Wizard of Knoxville,'' has led the Lady Vols to their third national championship in a row by defeating a great Louisiana Tech team by the score of 93–75 in the NCAA Tournament final. This victory capped a perfect season at 39 wins and zero losses, the most victories ever for a woman's team. In fact, their current winning streak is 45 games.

I watched, along with my fellow Tennesseans, with pride as the Lady Vols marched through their perfect season, defeating 39 teams by an average margin of 30 points. And 16 of these victories were against teams ranked in the top 25 in the Nation. This dominance is likely to continue into next year because, as all Lady Vol fans know, only one of these champion players is a senior.

In closing, I would like to acknowledge the tremendous effort and the team play by the Lady Vols, who include team members, now familiar to this country, Niya Butts, Kyra Elzy, Laurie Milligan, Misty Greene, Kellie Jolly, Semeka Randall, Chamique Holdsclaw, Tamika Catchings, Brynae Laxton, Kristen Clement, LaShonda Stephens, and Teresa Geter.

I would especially like to acknowledge the tremendous coaching job of Pat Summitt, and all the members of the University of Tennessee who have helped contribute to the building of this great dynasty. Lastly, I would like to recognize the most important group, and one which I am honored to be included in, the great Tennessee Vol fans.

Mr. President, I yield the floor.

Mr. THOMPSON. Mr. President, I rise today to recognize the outstanding victory of the University of Tennessee Lady Volunteers in capturing their third consecutive national basketball championship. And I ask my colleagues to join me in formally recognizing the Lady Vols as our country's newest sports dynasty.

Under the leadership of Coach Pat Summitt, the Lady Volunteers went undefeated this season. Only a few weeks ago, Sports Illustrated compared Coach Pat Summitt to the great John Wooden. I think the magazine was right on the mark.

Of course, many of my colleagues had their own home-state favorites in the tournament. But Mr. President, I say that they shouldn't be too disappointed with the outcome. They might want to keep in mind that all those other teams were, after all, up against a basketball dynasty that just finished an undefeated season of 39 wins, coming off back-to-back national championships. Plus, we're talking about a Tennessee team here, so what else could you expect? Frankly, Mr. President, my heart goes out to anybody who would get between the UT players and the win that marks their third consecutive national championship.

Back home in Tennessee we are very, very proud of this team. We're proud of the scholar-athletes. We're proud of the coaching staff. We're proud of the parents and the friends and the faculty who support them. We're proud of a program that has made women's basketball into a national phenomenon. And we're proud that at the end of this season, this team wrote itself into the sports history books with six championships in twelve years.

This is just about as flawless a season of athletic performance as you're ever going to see, and we're fortunate in Tennessee to have this tremendous program and these gifted, talented young people.

So today, I congratulate them. My colleagues have enjoyed this kind of excitement with teams from their own states. And I know they appreciate just how pleased we are in Tennessee to get bragging rights for 1998. Year after year, this tremendous program and these outstanding young people make us proud. So, Mr. President, I ask my colleagues to join me in declaring the University of Tennessee Women's Basketball program a certified, world-class sports dynasty.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this resolution appear at the appropriate place in the RECORD.

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

The resolution (S. Res. 203) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 203

Whereas the Lady Volunteers (referred to in this resolution as the ''Lady Vols'') won its third straight National Championship in the National Collegiate Athletic Association women's basketball tournament on March 29, 1998;

Whereas the Lady Vols finished the 1997–1998 basketball season with a perfect record of 39 wins and zero losses; and

Whereas the Lady Vols have won 6 National Championships in the last 12 years: Now, therefore, be it

Resolved, That it is the sense of the Senate that the University of Tennessee Lady Volunteers basketball team should be recognized as the new dynasty in collegiate women's basketball.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

COMMENDING AND CONGRATULATING THE UNIVERSITY OF KENTUCKY ON ITS MEN'S BASKETBALL TEAM WINNING ITS SEVENTH NATIONAL COLLEGIATE ATHLETIC ASSOCIATION CHAMPIONSHIP

Mr. FORD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 204) to commend and congratulate the University of Kentucky on its men's basketball team winning its seventh National Collegiate Athletic Association championship.

Whereas the University of Kentucky Wildcats men's basketball team defeated the University of Utah's team on March 30, 1998, in San Antonio, Texas, to win its seventh National Collegiate Athletic Association (NCAA) championship; and

Whereas, the Wildcats overcame the largest halftime deficit in a championship game, earning for themselves the nickname ''The Comeback Cats, and

Whereas, Coach Tubby Smith, his staff, and his players displayed outstanding dedication, teamwork, unselfishness, and sportsmanship throughout the course of the season in achieving collegiate basketball's highest honor; and

Whereas Coach Smith and the Wildcats have brought pride and honor to the Commonwealth of Kentucky, which is rightly known as the basketball capital of the world: now, therefore, be it

Resolved, That the Senate commends and congratulates the University of Kentucky on its outstanding accomplishment.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the president of the University of Kentucky.

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

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

Mr. FORD. Mr. President, I thank the clerk for reading it. I apologize for imposing upon him, but I wanted that to be a part of the RECORD. Not many people will read the RECORD back home. I would like for them to see and hear it. On behalf of the fans and the people of the Commonwealth of Kentucky, it is a great pleasure for me to come to the Senate floor today to brag on a group of young men that refused to give up, a team that showed us all the best about teamwork, selflessness, and dedication—the 1998 NCAA National Champion University of Kentucky Wildcats.

The University of Kentucky has a storied tradition of outstanding basketball teams; the ''Fabulous Five,'' the ''Fiddlin Five,'' ''Rupp's Runts,'' and more recently, ''The Unforgettables,'' to name just a few.

But today, we have a new team to add to that list: ''The Comeback Cats.''

Faced with a 10-point half-time deficit, the Cats overcame that deficit and rallied to beat Utah, a team of outstanding athletes playing under a fine coach. And by doing so, they broke the all-time record for the largest half-time deficit overcome in the NCAA Title game.

But this was not the first time the Wildcats had to make a rally in this tournament. Down to Duke by 17 in the Elite Eight and down by 10 points to Stanford in the National Semifinal, the Wildcats did what we've become accustomed to in Kentucky. They turned up the defense, they hit the offensive boards and they hit the ''threes'' when they counted.

And they did it on a team that can best be described as a celestial body—a team with no individual stars. As Washington Post sportswriter Michael Wilbon noted this morning, ''This is one of the few Kentucky basketball teams that is completely without a star player. But Coach Tubby Smith convinced the players many games ago they don't need one.''

This is a team with three seniors as tri-captains who have all sacrificed: Cameron Mills, a player who'll be long remembered for his clutch three-pointers, came to the team as a walk-on after passing up scholarships to play at other schools; Allen Edwards, a three-position player fighting on after the loss of his mother; and Jeff Sheppard, a red shirted player last year who became this year's Most Valuable Player in the Tournament.

Of course all of this would not have been possible without the guidance and steady hand of Coach Tubby Smith, a man filling the shoes of a coach who became a legend in Kentucky over a few short years, Rick Pitino.

Today in Kentucky they're talking about a man who led this team to the Championship and has shown, as a local paper noted, that ''skill, intelligence and a self-effacing gentlemanliness are enough to win games—and hearts.'' Tubby Smith has shown us that nice guys do, indeed, finish first.

For all the players, the coaches, the managers—and anyone else associated with the team—let me say congratulations on a job well done, and please know there are thousands of Kentuckians who are very proud of you.

Mr. President, I might say that of the three times the Tennessee women will have been at the White House to be honored, Kentucky will have been there two of those, and they had to go into overtime to lose the third one. I think we have an outstanding group of people.

I ask for approval of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 204) was agreed to.

The preamble was agreed to.

Mr. FORD. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, while the Senator from Kentucky is here, I appreciate the resolution that was offered and that was just passed in the Senate. In my estimation, there have never been two teams that had such good sportsmanship. The two coaches were of such high quality. In all their victories along the way, they complemented each other, and last night, even though one was a victor and one was the vanquished, they both talked as if they had won. It was very good performance and set a good standard for sportsmanship.

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEARS 1999, 2000, 2001, 2002 AND 2003

The Senate continued with consideration of the concurrent resolution.

Mr. GORTON. Mr. President, we are operating under a unanimous consent agreement under which the next two amendments are to be proposed by Senator CONRAD of North Dakota and Senator COVERDELL of Georgia. Neither of them is here. We do have two Senators here who are ready to offer amendments, Senator REID of Nevada and Senator ALLARD of Colorado.

I ask unanimous consent now that we hear first from Senator REID and then from Senator ALLARD, warn the other two Senators that this will take perhaps half an hour combined, something of that sort, and they will come after that.

Mr. LAUTENBERG. If I may, in my discussion with Senator REID of Nevada, he believed about 15 to 20 minutes would be his maximum requirement, and I spoke to the Senator from Colorado, Mr. ALLARD. He also talked about the possibility of a matching 20 minutes. So in the unanimous consent agreement, why don't we do that, recognizing that one Senator may not be available to do his immediately, and as such, would the Senator from Colorado be willing to do his when there is a break in the schedule?

Mr. ALLARD. I am more than glad to work with the floor managers on this. I am set to preside over the Senate until 8 o'clock. I have to set up some charts and I am ready to go. I can be flexible, and any Member who thinks they want to go ahead and make comments, it is all right with me.

I just was hoping I could get to go this evening. If there was nobody else that was willing to go, I was ready to go so we wouldn't lose time.

Mr. GORTON. This sounds like a generous offer. I will ask now that Senator REID of Nevada be recognized to offer an amendment in spite of the existing unanimous consent agreement, and then when he is done, we will see who is here and perhaps be able to accommodate Senator ALLARD.

Mr. LAUTENBERG. If I may, Mr. President, we are expecting the unanimous consent agreement that was propounded before that includes Senator CONRAD followed by Senator COVERDELL, and we intend to follow that order, but understanding that after Senator REID presents his, at Senator ALLARD's convenience when we have a break, we will include him as part of the unanimous consent agreement.

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

The Senator from Nevada.

AMENDMENT NO. 2206

(Purpose: To express the Sense of the Senate that the landowner incentive program included in the Endangered Species Recovery Act should be financed from a dedicated source of funding and that public lands should not be sold to fund the landowner incentive program of the Endangered Species Recovery Act)

Mr. REID. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. If there is no objection, the pending amendment will be set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada (Mr. REID), for himself and Mr. BRYAN, proposes an amendment numbered 2206.

Mr. REID. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE ON OBJECTION TO THE USE OF THE SALE OF PUBLIC LANDS TO FUND CERTAIN PROGRAMS.

(a) FINDINGS.—The Senate finds that the Budget Committee Report accompanying this resolution assumes that the landowner incentive program of the Endangered Species Recovery Act would be funded ''from the gross receipts realized in the sales of excess BLM land, provided that BLM has sufficient administrative funds to conduct such sales.''

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that the functional totals underlying this resolution assume that:

(1) the landowner incentive program included in the Endangered Species Recovery Act should be financed from a dedicated source of funding; and

(2) public lands should not be sold to fund the landowner incentive program of the Endangered Species Recovery Act.

Mr. REID. I ask unanimous consent that Senator BRYAN be added as a cosponsor of this amendment.

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

Mr. REID. Mr. President, this amendment is important because I think what we are doing here is setting some very important public policy. That public policy is that we should not auction off Federal land to take care of the Endangered Species Act.

In short, this sense-of-the-Senate resolution I have presented to the Senate deals with the budget resolution and its report concerning the sale of excess public lands. The provision in question

calls for financing of certain landowner incentive programs through the sale of excess BLM land. What this means, in layman's language, is that the Environment and Public Works Committee came up with an endangered species reauthorization compromise. It came out of the committee by a vote of 16–3 and received bipartisan support in the committee.

The problems that have arisen since we reported that bill are relatively minor in nature. However, one of the problems that has been talked about is some permanent means of financing the programs in the new Endangered Species Act. I support the new Endangered Species Act, but I know that there must be some form of financing for that. I am convinced this is not the way to finance it. As someone who has been involved in the negotiations on the reauthorization of the Endangered Species Act, I am aware of the need to provide a dedicated source of funding for these programs. These programs assist private landowners in carrying out the purpose, the intention, the aim of the Endangered Species Act. That is basically protection and recovery of threatened and endangered species.

I am supportive of providing the landowners with incentive for proactive efforts to conserve endangered species. However, the Federal Government's responsibility in assisting landowners carrying out this act should not be borne by Western States, and principally one Western State, at this time because the real estate market is so hot in the southern Nevada area. This responsibility should not be borne basically by one State. The Endangered Species Act covers the whole country. In that it does cover the whole country, the whole country should be involved in solving the details of it, especially the financing. It is not fair that States like Colorado, Arizona, Idaho, Nevada, and New Mexico be the cash cow for the Endangered Species Act.

The Endangered Species Act and requirements apply to all 50 States. It is a national Federal law because, Mr. President, there is a national Federal interest in the protection and conservation of endangered species. We shouldn't turn our Federal lands into a land bank that finances this important act.

I understand the importance of Federal land. The State of Nevada is 87 percent owned by the Federal Government. I repeat, 87 percent of the State of Nevada is owned by the Federal Government; 13 percent of that land is owned by private parties. We want to get more of that land in the public sector into the private sector, but we want to do it in an orderly fashion, and we have done that in the soon-to-be second largest city in Nevada. Henderson, NV, is the place where I went to high school. At that time, it was a community of about 10,000 people. It is now approaching 200,000 people and growing very rapidly—the most rapidly growing city in all of Nevada; in fact, one of the most rapidly growing communities in all of America.

Now, the reason it has been allowed to grow is because we have added Federal land to the land base of the city of Henderson. It has had a very orderly growth. We have some planned communities. One of the most important planned communities anywhere in the country is a place called Green Valley. It is a beautiful community. Mr. President, that has been done in an orderly fashion. It hasn't been forced upon anyone. It wasn't done at auction. That, in effect, is what we are talking about here. They are public lands that belong to the public for their enjoyment.

Not only has Henderson received the benefit of public lands, but other places throughout the State of Nevada, like Mesquite, Carlin, NV. We could go on with many other examples. These are public lands and they belong to the public for their enjoyment.

Are we going to auction off all the nice places in Nevada and then only people of wealth who can buy those lands will be able to use those nice places in Nevada? I hope not. That is in effect what they are doing here. They are mandating in this budget resolution the sale of public lands to meet the needs of the Endangered Species Act. Mandating the sale and using the proceeds to fund programs outside the State where the land is would be patently unfair.

This body should reject this misguided proposal and support this amendment. It is surprising to me that any Western Senator could support the underlying provision in this budget resolution saying we are going to auction off Federal lands the purpose of which is to carry out the intent of the Endangered Species Act. Apart from the regional States' specific bias, the amendment should also be rejected on environmental grounds. This will be one of the key environmental votes of this Congress, or any Congress.

Opponents of this provision in the budget resolution are Friends of the Earth, American Oceans Campaign, Center for Marine Conservation, Defenders of Wildlife Earthjustice Legal Defense Fund, Environmental Defense Fund, Grassroots Environmental Effectiveness Network, Izaak Walton League of America, National Audubon Society, National Wildlife Federation, Natural Resource Defense Council, Trout Unlimited, U.S. Public Interest Research Group, Western Ancient Forest Campaign, the Wilderness Society, the World Wildlife Fund, and many others.

The League of Conservation Voters is looking at this very closely, I am told, as they should.

We have worked closely with these groups over the past years in coming up with the Endangered Species Act. One of their strongest concerns in this period of time is to ensure that we put in place a long-term mechanism to finance these programs. The proposal included in this resolution funds these important programs only for limited times and only for the one-time revenue scheme. As a matter of public policy, this doesn't make sense. The demand to participate in the program and additional obligation to maintain incentives over time is going to create a tremendous pressure to sell additional public lands.

That isn't how we should get rid of public lands, how we should get public lands into the private sector. We should not do it on a forced sale. It should be done in an orderly process, certainly not an auction so that we need money this year because we have three endangered species listed in Florida, two in Colorado, one in Nevada, and three in Hawaii. That isn't the way it should be.

To show you how disingenuous those who are pushing this proposal are, the Bureau of Land Management sells an average of 5,000 acres per year for about $2.5 million. It is interesting to note that Congress Daily quotes an unnamed BLM official as saying the Budget Committee estimates $350 million revenue from this proposal. Absurd. It is impossible.

Mr. President, there are a number of appropriate justifications for disposal of public lands. I have talked about the city of Henderson, the city of Carlin, the city of Mesquite, and other places in Nevada. I have also worked closely with Senator BRYAN and my two colleagues from the House on the Nevada Public Lands Act, which provides for the disposal of certain public lands in Nevada—a good piece of legislation. We are going to have a hearing in May on this matter before the committee of the senior Senator from Alaska, who is the chairman of the committee. We have confidence that he will report that bill out favorably and that it will pass.

Now, why in the world would they—whoever ''they'' are pushing this budget resolution—want to undermine something that is working well? We have general support from the committee—I spoke to the chairman myself—on the Nevada Public Lands Act. And it applies not only to Nevada, but to the entire West. It would allow lands to be auctioned, and those moneys would stay in the State from where the land is sold for environmental concerns. There may be a special piece of land that the Federal Government wants. There may be some things that the Federal Government needs, and auctioning off these lands would allow them to do that.

For example, we have a number of things in the State of Nevada for which the Federal Government wants these lands. They do not want the land to be subdivided. It is a special place to be used for a park or recreational purposes. So these lands would be auctioned off, and you could purchase that land to put it in the public sector or the private sector.

So I think it is important that some of the lands we identified in our legislation—the Nevada Public Lands Act—would, of course, be used now for this legislation, the budget resolution. That is not the way it should be. I am very concerned. I have worked long and hard on the Endangered Species Act, but I am not about to be part of an Endangered Species Act if it has this as a source of funding. I think there is probably some concern about why this is put in the budget resolution. I guess it is kind of like a fire auction. You get the best you can with what you have. I think what they have in this instance is a hot real estate market in the State of Nevada, southern Nevada particularly, and they are going to sell this land as quickly as they can. I think that is wrong. The amount of public lands in Las Vegas would be the only likely source today of a significant amount of money to fund these proposed programs. Tomorrow, it may be the outskirts of Denver. Next year, it may be the outskirts of Albuquerque. These would be places they would go to raise as much money as they could as quickly as they can—fire sales to fund the Endangered Species Act. Funds would then be made available for incentives throughout the country, not just in Nevada. This is a conflict with the legislation that I have talked about earlier that is now before the Energy Committee. The resolution puts in place a public lands disposal policy that is entirely driven by the need to sell excess lands. But unlike the meritorious programs they will fund, which are temporary, the disposal of public lands is permanent.

Mr. President, I have said that this proposal is a poison pill. I believe it is intended to kill reauthorization of the Endangered Species Act. We have been negotiating the reauthorization of this monumental act for 2 years or more, along with Senators BAUCUS, CHAFEE, KEMPTHORNE, and the administration. We sought to secure a dedicated source of funding for these private land programs. This is not it. While I can't speak for the administration, I repeat that we were never consulted on this proposal. Frankly, I don't like it. I think it is a poison pill. If our amendment is defeated, as far as I am concerned, it is the death of the Endangered Species Act. I could not agree to supporting a bill which so unfairly exploits the value of Nevada public lands and undermines the legislation. It has been more than a year in the making, the Nevada Public Lands Act.

Mr. President, I would like to make part of the RECORD a letter from the group of environmental concerns, including Friends of the Earth, American Oceans Campaign, and others, dated March 30, 1998. I ask unanimous consent that this letter be printed in the RECORD, along with a letter dated March 31 from the Sierra Club dealing with this subject, and a letter from the League of Conservation Voters.

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

MARCH 30, 1998.

DEAR SENATOR: We are writing to express our concern over a proposal described in the Senate Budget Resolution to use the proceeds from the sale of public lands under the Interior Department's Bureau of Land Management (BLM) to fund the private landowner incentive programs of S. 1180.

In general, we are supportive of providing private landowners with incentives for proactive efforts to conserve endangered species and would like them funded through sustainable, long-term revenue mechanisms. However, under the proposal being developed, the landowner incentives programs in S. 1180 would be funded presumably only for a limited time from a one-time revenue scheme. Thereafter, additional revenues would need to be generated to continue funding of these programs. The demand to participate in this program, and the obligation to maintain the incentives over time, could create pressure to sell additional public land if other, more acceptable, revenue sources were not identified. We believe a more sustained funding mechanism is needed.

In addition to failing to establish a reliable source of funding, the proposal would set an unacceptable precedent regarding the sale of public lands. Our public lands are an integral part of America's national heritage, and we strongly oppose the sell-off of such important assets. Disposing of public lands may be appropriate when the planning process concludes it is in the public interest to exchange or sell certain parcels. In such cases, the lands could be exchanged for—or revenues dedicated to—acquisition and permanent protection of lands that contain important natural habitats and/or resources. However, the need for revenues should not drive the decision-making on disposal of public lands. That is exactly the wrong reason to sell off public lands. From a policy and budget perspective, it is not appropriate to tie the permanent disposal of taxpayer-owned property to temporary measures for endangered species.

While we support efforts to find the necessary resources to fund the protection of endangered species, we believe this proposal creates serious problems and we will oppose it.

Sincerely,

GAWAIN KRIPKE,
Director, Appropriations Project, Friends of the Earth.

TED MORTON,
Program Counsel, American Oceans Campaign.

WM. ROBERT IRVIN,
Vice President for Marine Wildlife, Conservation and General Counsel, Center for Marine Conservation.

MICHAEL SENATORE,
Legislative Counsel, Defenders of Wildlife.

HEATHER WEINER,
Policy Analyst, Earthjustice Legal Defense Fund

MICHAEL J. BEAN,
Director, Wildlife Program, Environmental Defense Fund.

ROGER FEATHERSTONE,
Director, Grassroots Environmental Effectiveness Network.

JIM MOSHER,
Conservation Director, Izaak Walton League of America.

MARY MINETTE,
Director, Endangered Species Campaign, National Audubon Society.

SARA BARTH,
Legislative Representative, Endangered Species, National Wildlife Federation.

PHILIP M. PITTMAN,
Policy Analyst, Natural Resource Defense Council.

STEVE MOYER,
Vice President of Conservation Programs, Trout Unlimited.

KIM DELFINO,
Staff Attorney, U.S. Public Interest Research Group.

JIM JONTZ,
Executive Director, Western Ancient Forest Campaign.

FRAN HUNT,
Director, BLM Program, Wilderness Society.

CHRISTOPHER E. WILLIAMS,
Director, Endangered Species Policy and Chihuahuan Desert Conservation, World Wildlife Fund.

SIERRA CLUB,
Washington, DC, March 31, 1998.

DEAR SENATOR: On behalf of Sierra Club's over half million members, I am writing to convey our opposition to a provision currently in the Senate Budget Resolution which assumes the sale of Bureau of Land Management land in order to fund landowner incentives for endangered species programs.

While land exchanges may be appropriate for some federal lands if they have little public, ecological, or wildlife value, these exchanges should result in the acquisition and permanent protection of the scarce remaining lands that do have these values. This proposal would set a dangerous precedent regarding the management of our federal public lands and the amount and quality of public land available to future generations of Americans. The Sierra Club is firmly opposed to the selling off of these important assets.

Sierra Club is generally supportive of providing small, private landowners with incentives for proactive conservation measures, but such measures should be funded through sustainable means. The mechanism proposed in the Senate Budget Resolution is problematic because it fails to establish a reliable source of funding. Under the Proposal, funding for landowner incentives would likely come from the one-time sale of BLM lands. This would not provide a sound funding program for landowner incentives, and would create pressure to sell off additional public lands.

Some in Congress support the outright ''disposal'' of our public lands. The budget bill should under no circumstances be used as a backdoor mechanism to achieve this controversial goal.

Later this week, a Sense of the Senate amendment will likely be offered by Senator HARRY REID and DALE BUMPERS in opposition

to this provision. We strongly urge you to support this amendment and protect our federal public lands from this precedent setting provision. In addition, we urge you to refer to our previously delivered coalition letter in support Senator Frank Lautenberg's amendment to provide adequate funding for environmental protection programs. . .

Sincerely,

DEBBIE SEASE,
Legislative Director.

LEAGUE OF CONSERVATION VOTERS,
March 30, 1998.

Re Senate Concurrent Resolution 86. supporting the Latenberg amendment to fund environment and national resource protection.

U.S. Senate,
Washington, DC.

DEAR SENATOR, the League of Conservation Voters is the bipartisan, political arm of the national environmental movement. Each year, LCV publishes the *National Environmental Scorecard*, which details the voting records of Members of Congress on environmental legislation. The *Scorecard* is distributed to LCV members, concerned voters nationwide and the press.

Last year's balanced budget agreement contemplated decreasing spending every year until at least 2003 for natural resources and environmental programs. The American public has made clear that clean water, our public lands, fisheries and wildlife management, and other environmental programs require a higher priority than was reflected in this agreement.

During consideration of the Budget Resolution, S. Con. Res. 86, LCV urges you to support an amendment by Senator Lautenberg (D–NJ) that would restore funding for critical environment and natural resource programs that were proposed in the President's budget but omitted from the Resolution. This amendment would address the following crucial environmental initiatives:

The Clean Water Action Plan which will provide increased resources to states, tribes and individuals in order to address polluted runoff from urban areas, agriculture, mining and other sources.

A continuation of funding for the Drinking Water and Clean Water State Revolving Loan Funds which will help to ensure that our drinking water and wastewater treatment infrastructure can meet water quality and public health needs for the next century.

The Land, Water and Facility Restoration Initiative, which provides increased funding for ''Safe Visits to Public Lands'' and ''Supporting the Land and Water Conservation Fund Vision''.

An increase in funding to continue progress in cleanups at Superfund sites around the nation, where many communities have been waiting for over a decade to have toxic and hazardous sites restored to safety.

In addition, LCV urges you to support any amendments to address the following:

We understand that an amendment may be offered to reduce or eliminate the existing tax subsidy for mining on public and parented lands—known as the percentage depletion allowance.

The Budget Resolution assumes that landowner incentives programs for endangered species would be funded from the proceeds of the sale of public lands under the Interior Department's Bureau of Land Management. This proposal would set an unacceptable precedent regarding the sale of public lands and would fail to provide a sustainable, long-term revenue mechanism for endangered species protection.

America's land, water, fish, wildlife and plants are irreplaceable natural assets that belong to, and benefit our entire nation: their protection and stewardship warrant the modest increase in funding that Senator Lautenberg's amendment would allow. LCV's Political Advisory Committee will consider including votes on S. Con. Res. 86 in compiling LCV's 1998 *Scorecard*. Thank you for your consideration of this issue. If you need more information please call Paul Brotherton in my office at (202) 785–8683.

Sincerely,

DEB CALLAHAN,
President.

Mr. REID. Mr. President, as I have indicated earlier in my presentation, I think that Senator BUMPERS, at a subsequent time, would like to come speak on this. His not being here today does not waive his ability to come.

I yield the floor.

Mr. LAUTENBERG. Mr. President, if the distinguished Senator from North Dakota is ready, we just heard from the Senator from Nevada; he put his amendment in. Further action will occur at the appropriate time.

I would like now to ask our colleague from North Dakota to present an amendment he has been waiting for.

AMENDMENT NO. 2174

Mr. CONRAD. Mr. President, I rise to speak on the amendment on behalf of myself; Senator LAUTENBERG, the ranking member on the Budget Committee; Senator BINGAMAN of New Mexico; and Senator REED of Rhode Island.

Mr. President, this amendment will address one of the problems with the budget resolution that was passed out of the Senate Budget Committee. The Senate budget resolution says that if any tobacco revenues are forthcoming as a result of a conclusion to the tobacco controversy, that money can only be used for the Medicare Program.

I would be the first to acknowledge the critical importance of Medicare and to say that some of the tobacco revenues ought to go for that purpose. In fact, the measure that I have introduced, which has 32 cosponsors in the U.S. Senate, provides for some of the funds to go to strengthen the Medicare Program. But there are other important priorities as well. Under the budget resolution passed by the Republican majority in the Budget Committee, none of the funds can go for other purposes to address the tobacco challenge facing our country. In fact, none of the funds that could come from a resolution of the tobacco issue could be used for smoking cessation, smoking prevention, counter-tobacco-advertising programs, to expand health research on tobacco-related issues, to provide for additional funding for FDA increased regulatory authority over the tobacco industry.

That just seems to be a serious mistake. Every single expert that came before our task force on the tobacco legislation said that if you are going to be serious about protecting the public health, if you are going to be serious about reducing youth smoking, you need a comprehensive plan, a plan that raises prices to deter youth from taking up the habit; you need to have smoking cessation and smoking prevention programs; you need to have counter-tobacco advertising. You also need to expand FDA's regulatory authority. And, yes, you should have expanded health research into the diseases caused by tobacco addiction and tobacco use.

The resolution from our friends on the other side of the aisle says no to all of those other priorities. It says there is only one priority. It says all of the money should go for only one purpose. Mr. President, that is just a mistake. If we look at all of the comprehensive bills that have been introduced in this Chamber by Republicans and Democrats, every single one of those comprehensive bills provides funding for matters other than just Medicare. They provide money for smoking cessation, for smoking prevention, for counter-tobacco advertising, for expanded FDA regulatory authority, for increased health research into the problems caused by the addiction and disease brought on by the use of tobacco products.

I brought this chart that compares reality to rhetoric. If we look at the policy goals in all of the comprehensive bills that have been introduced in this Chamber, bills by three Republican chairmen—Senator MCCAIN, chairman of the Commerce Committee; Senator HATCH, chairman of the Judiciary Committee; and also Senator LUGAR, chairman of the Agriculture Committee—all of those bills provide for funding for these other priorities. In addition to my own bill, the HEALTHY Kids Act, Senator LAUTENBERG's bill and Senator KENNEDY's bill, all of them use tobacco revenue for anti-youth-smoking-education initiatives—every single one of them, Republicans and Democrats, provide for using some of the funds for that purpose. The Republican budget alternative available on the floor says no money for that purpose. All of the bills, Republicans' and Democrats', that have been introduced on the floor, use some of the tobacco revenue for public service advertising to counter the industry's targeting of our kids. But the Republican budget that is before the Senate says no money can be used for counter-tobacco advertising.

Mr. President, all of the major bills that have been introduced say use some of the tobacco revenue to fund tobacco-related medical research. That just makes common sense. But the Republican budget alternative says not one dime from a resolution of the tobacco controversy can be used for that purpose. What sense does that make? All of the major bills that have been introduced by Republicans and Democrats say some of the tobacco revenue should be used to fund smoking cessation programs. The Republican budget says no. The Republican budget says not one penny out of the tobacco revenues for the purpose of funding smoking-cessation programs. What sense does that make? All of the major bills say use part of the tobacco revenue to assist tobacco farmers.

The Republican budget resolution says no; not one dime to ease the transition for tobacco farmers that would result from the passage of tobacco legislation.

Mr. President, the Republican budget resolution would hold every comprehensive tobacco bill that has been introduced by Republicans or Democrats to be out of order on the floor of the Senate—all of them. They would all be out of order under the Republican budget resolution. What sense does that make?

I submit that we can do better. We should do better. We have the opportunity to respond by taking what is in the Republican budget resolution with respect to the funds that would be taken in, the revenue that might result if we are able to resolve the tobacco question, and, instead of only allowing those funds to be used for the Medicare Program, to broaden the use of those funds to allow them to be spent in a way the American people want to see them spent, and the way every bill which is comprehensive which has been introduced by Republicans or Democrats provides. It is in my amendment; that is, not only should the money go for Medicare; yes, some of the money should go for that purpose; but some of the money should go for public health efforts to reduce the use of tobacco products by children, including tobacco control, education, and prevention programs, counteradvertising, research, and smoking cessation.

Every expert who came before our task force—we heard from over 100 witnesses—said you have to have a comprehensive plan, you have to do some or all of these things, if you are going to be successful at protecting the public health; you have to do some or all of these things if you are really going to be successful at reducing youth smoking.

We should also provide the chance, at least for comprehensive tobacco legislation, to provide assistance for tobacco farmers. The budget resolution before us says no; no help for tobacco farmers. Not only are we not going to have any money from tobacco revenues for smoking cessation, for smoking prevention, or for health research, we have no money to assist tobacco farmers and their communities.

We also provide increased funding, or at least the chance for increased funding, for the Food and Drug Administration, which, under virtually every bill that is out here, would be asked to take on a greater role and more responsibility. If they are going to be given more obligations, they ought to be given the funding to match those obligations. They ought to be told yes, those additional resources to regulate the tobacco product will be provided. Virtually every bill that has been introduced here by Republicans and Democrats says that is an appropriate outcome. The Republican budget resolution says no—not one thin dime for that purpose, or for the purpose of the farmers, or for the purpose of smoking cessation, smoking prevention, health research, or countertobacco advertising—no tobacco revenues to be used for that purpose.

Mr. President, it just doesn't make sense. Yes, we provide that the funds which would be set aside taken from the tobacco revenues could also be used for expanded health research. If there is one thing we have heard from the experts, it is that we need to know more about the causes of the diseases which flow from the addiction and the use of these tobacco products.

The National Institutes of Health need additional funding to look into the cancers caused by the use of tobacco products, to examine the heart problems caused by the use of tobacco products, to examine the emphysema which is caused by the use of tobacco products. We need to do more research to understand the role of addiction in causing the diseases which flow from the use of tobacco products. But the budget resolution which is before us says no; not one thin dime for any of those purposes out of tobacco revenue.

That contradicts every single public health organization and every single public health leader in America. Dr. Koop and Dr. Kessler have pleaded with us: If you are going to have an effective program of protecting the public health, if you are going to have an effective program to reduce use of smoking, you have to have a comprehensive plan; you have to have one which addresses every one of these aspects. You can't just limit it to Medicare.

Yes, Medicare is very important. There is no question about it. Our legislation would provide some of the funding for Medicare. Our legislation would provide some of the funding for Social Security, which the Republican budget resolution also precludes. They wouldn't provide a penny to strengthen Social Security. They oppose providing any help to Social Security, even though we know it faces a demographic time bomb, the same demographic time bomb that Medicare faces. But they say no for any money to strengthen and protect Social Security. And they say no to any funding for smoking prevention, smoking cessation, countertobacco advertising, and additional health research out of the tobacco revenues. It does not make sense.

Mr. President, I am going to turn now to my colleagues, my leading cosponsor, Senator LAUTENBERG, the ranking member of the Budget Committee, and Senator REED of Rhode Island, who is here as well. I don't know—Senator REED has been waiting—if he would like to comment now, or if Senator LAUTENBERG would like to take this opportunity.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I ask how much time the Senator from Rhode Island would need.

I yield up to 10 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island may proceed.

Mr. REED. Thank you, Mr. President.

I strongly support the amendment proposed by Senator CONRAD, Senator LAUTENBERG, and my colleagues. The budget resolution before us today does not give us a fighting chance to do what we want to do, but more importantly, what the American people want us to do. That is to reduce teenage smoking in the United States. We know it is a curse. We know it is causing incalculable pain throughout this country in terms of health problems down the road.

But this budget resolution does not give us the tools to grapple with the issue of teen smoking. It is illogical, too, as Senator CONRAD pointed out so eloquently. All of the major legislative initiatives have specific provisions which require anti-youth-smoking efforts, increased research at the National Institutes of Health, FDA regulatory authority, State regulatory authority, and none of these can be funded from the budget resolution.

But there is something that is even more illogical, in my view. I do not want to take a brief for the tobacco industry. But with every one of these major pieces of legislation for the tobacco industry, you must reduce teen smoking by 50 percent, 60 percent, or 70 percent in so many years. Yet, if we take all of the proceeds from the increased tobacco taxes and all the other payments and we don't use them in some way to try to suppress teen smoking through counteradvertising campaigns, to try to get people who are addicted to nicotine over the addiction, there is no way that these goals can be met. We are setting up a test that is bound to fail. We have to recognize that if we are serious about mandating the reduction of teen smoking by significant percentages over the next several years, we have to provide the resources to do that job. This budget resolution does not make such a provision. It does not allow us to take the proceeds of whatever tobacco deal is ultimately reached and use those proceeds to invest in a healthier America, to invest in the health of our children.

All of these provisions, which Senator CONRAD has outlined, are so absolutely necessary in making any proposed agreement work, and also, fundamentally, to ensure that we reduce teen smoking, we have to adopt a very strong anti-youth-smoking effort. The principal means to do that is a counteradvertising campaign. Every year, the tobacco industry spends $5 billion on advertising, billboards, sporting events, teams, sponsorships, giveaways—hats, jackets, whatever, key chains—a powerful influence on the youth of America. In fact, all of us can think back through our sort of history, and, even if we do not smoke, we know we have been terribly influenced by tobacco advertising campaigns.

I was on the floor a few weeks ago talking about the legislation which I

had, and it came to me that if I asked anyone who is roughly my age—I will be kind, about 40—if I asked them what LSMFT meant, the light bulb would go right on. If I ask these young ladies and gentleman, they would say it is gibberish. I see the shake of the head. They do not know. LSMFT means ''Lucky Strike Means Fine Tobacco.'' Through literally millions of dollars of advertising over 20 or 30 years, a whole generation, or more, of Americans understood that. We have to reverse that. We have to convince a whole generation of Americans now and in the future that tobacco is dangerous, addictive, and will ultimately kill them. We can't do it just with good wishes here on the floor of the Senate; we have to do it with real resources. This budget resolution will not give us a chance to do that.

We have to look seriously at NIH research, because there are opportunities perhaps to develop antidotes to nicotine, to the harmful effects of tobacco smoke. There are ways through science and research. We might have better ways to wean individuals off tobacco smoke. All of these things have to be done if we are going to meet our objective of using this historic opportunity, this historic agreement, to improve the public health of Americans.

We also have to ensure that the FDA has the resources to do the job of enforcing on the tobacco industry. We know every year it is a battle here through the appropriations process to fund worthwhile programs for the FDA. We know at the end of the day that there are many worthwhile programs which just do not make the cut, not because they are bad but just because we run out of money long before the public health community runs out of problem. If we do not provide within this resolution for the use of the resources of the tobacco industry to invest in FDA, we are not going to be able to give them the tools to do the job to make sure that smoking is not contagious among young people.

Add to that our responsibility to help the States provide an important part of this overall agreement. We expect—in fact, in most of the legislation it is clearly explicitly written—that the States will fund elaborate programs of access control to tobacco through licenses of clerks, thorough investigations and inspections of facilities that are selling tobacco products, ensuring that products don't mysteriously appear in the State without these controls.

All of that takes money, and the States are going to look to us and say, ''Listen. You are the folks that have all of the money. You are the ones that are getting the $500 billion over so many years from increased taxes and increased fees and penalty payments. We need this to ensure that we can control access to tobacco products.''

One of the other aspects is thrown in our face constantly when we talk about this tobacco arrangement. That is the possibility, or the probability, the eventuality, of a black market in cigarettes because the price is going up. How are we going to counteract this black market if we do not have the resources at the State level and the FDA level and through other law enforcement means to actually counteract the potential growth of black markets? Once again, I don't see within this budget resolution those types of resources being available.

We also have to fund smoking cessation programs. Mr. President, 70 percent of smokers today want to quit. But wanting to quit and being able to beat this addiction are two different things. They cannot do it without resources—without access to counsel, without access to nicotine patches, without access to those items which are going to ensure that they can avoid their present dilemma, which is smoking but wanting desperately to quit.

Then, as Senator CONRAD also pointed out, every one of these pieces of legislation includes substantial payments to farmers who are likely to lose their valuable crops because tobacco is going to be suppressed in this country—not prohibited, not outlawed—but certainly we hope the demand will begin to shrink for tobacco products as fewer people smoke, particularly fewer young people smoke. Every one of these bills has it. Both sides of this aisle are trumpeting their support for the farmer. They are not going to let these innocent victims of this industry be left adrift without any resources, cut off from a lucrative economic crop and left to their own devices. Yet, once again, within the confines or context of this resolution, there is no resource to do the job.

We have to do something. Frankly, this amendment makes so much sense. It allows for the funding of all of these provisions. It allows for other important uses of the tobacco settlement, too. But at a minimum it allows us to do what we have to do, and I am supportive, not only of this effort but overall of developing strong and tough tobacco legislation. We have an opportunity, a historic opportunity, for the first time in many, many years, to put America on the path of sense and sanity when it comes to smoking policy.

We can, we hope, empower a generation of young Americans with the knowledge and with the support to stop smoking. If we do that, we will reap a tremendous benefit in a healthier America and a healthier society. Yet, without these resources we cannot, in fact, go forward because this budget resolution does not give us the opportunity and the flexibility to go ahead and do, again, not only what I want to do, what I assume the vast majority of my colleagues want to do, but what our constituents demand that we do: Use these historic opportunities, when the industry has recognized its past mistakes, when the industry is attempting to change its culture, when we have for the first time the support not only of the American people but the cooperation, to a degree at least, of the industry, to ensure that we prevent young people from smoking.

The fear is we will have debates on this floor about all of these legislative materials and all of the different aspects of the proposed agreements, but, ultimately, when it comes down to the bottom line, when we have to put our money where our words are, there will be no money because this resolution takes that option off the table for us. So I hope all of my colleagues will join us in supporting this amendment, will join us in the continued effort to ensure that we have good, tough tobacco legislation, but legislation that not only will say the right things but have the money and resources to do the right things.

My colleague from New Jersey, I think, is going to speak in a moment. I think he is present. While he is coming forward, let me just say that we have before us a very challenging set of issues. This is a critical one, getting this budget resolution in a shape where it will support sound legislation on the floor. There are other issues, too, that will come up before us.

Many aspects of this proposed settlement are controversial, not only between the two contesting parties, the tobacco industry and those who are trying to protect the public health, but also controversial by their nature. I talked a little bit about the need for adequate resources to fund smoking cessation advertisements that will actually go out and convince young people not to smoke. That will become particularly crucial if some provisions we have in the legislation are stricken down because of the first amendment. As you realize, most of these legislative initiatives contain language which essentially asks that the industry give up their first amendment rights to advertise in exchange for immunity protection. There is always the threat that someone—perhaps not even in the tobacco industry, perhaps a third party, like convenience stores—would come out and suggest that these restrictions are contrary to the first amendment. In this regard, we would really definitely, most definitively, need resources to keep up an effective counteradvertising campaign.

So for these reasons and many others, we must, I think, support this amendment, and we must, in fact, ensure that we have the dollars as well as the legislative language to prevent teen smoking. If we do that, then we will achieve the historic conclusion to these debates.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Senator from Rhode Island, Senator REED. He has been one of the most dedicated members on our task force on tobacco. He has been absolutely committed to the effort to form sound national tobacco policy. Nobody

worked harder in our task force. Nobody is more thoughtful, more creative about how we approach this set of challenges and problems than the Senator from Rhode Island. I thank him personally and publicly for the role that he has played.

If we ultimately succeed in passing comprehensive national tobacco legislation, in no small measure it will be because of the contribution of the Senator from Rhode Island, Senator REED. I especially thank him for his contribution to the debate on this amendment, because I think this goes right to the heart of the question. Are we going to have a chance to write comprehensive national tobacco legislation or are we going to be foreclosed and that effort endangered because the Republican budget resolution puts at risk any chance of passing a comprehensive bill? They would create supermajority vote requirements to pass any comprehensive tobacco bill. Instead of requiring 50 votes or 51 votes, we would have to have supermajority votes of over 60 because they have created points of order against any of the major bills that have been introduced by Republicans or Democrats.

This is a matter that must be fixed. This amendment that Senator LAUTENBERG and Senator REED and Senator BINGAMAN and I have introduced is the key to unlocking the chance to have national tobacco legislation. So I especially thank my colleague from Rhode Island, Senator REED.

Mr. REED. If the Senator will yield 30 seconds, just to not only commend the Senator and thank him for his kind words, but also for his tremendous leadership with respect to the tobacco task force and also to commend the senior Senator from New Jersey for his leadership over many years. I thank both the Senators.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank my colleagues for their kind comments and would say, while this looks like a mutual admiration society, we kind of get that way because we work on an issue we care an awful lot about, something with which several of us have had a history for a long time. I particularly say what a delight it is to work with our distinguished Senator from North Dakota, Senator CONRAD. He is always very thorough in his review of budget matters or whatever the subject is. He is on the Finance Committee. He has done a lot of good work there and has earned the respect of all the people he works with because he is so thoughtful and so deliberate and so direct in the things he sees and that he wants to work on.

Senator CONRAD was designated as chairman of the tobacco task force by our leader. It was a singular honor, because what the minority leader wanted to do was to pick someone whose objectivity could be counted on because we do have different views on how we ought to treat the tobacco negotiations, deal with the tobacco companies, and deal with our constituents and the public at large. The Democratic leader, Senator DASCHLE, chose Senator CONRAD because he knew he could be counted on to do a thorough analysis, bring the parties together, and certainly that has been the case. Senator CONRAD had people there who were friends of the industry, unabashedly. They made sure the industry point of view was being represented. On the other hand, we had those from the science community, Dr. Koop and Dr. Kessler, and people who had seen the effects of tobacco directly in their homes and often on their own person.

So he has done a thorough job all the way through the discussions here. We have a chance now to finally come to the beginning of the analysis of what might take place here in the Senate as it regards a kind of comprehensive settlement. It is discouraging, I must say, at this point, to find out, despite the good intentions of our friends on the other side, that we wind up with a budget resolution facing us that totally restricts our ability to work with the problem. The problem, very simply, is how do we protect young people—kids, if I may use the affectionate expression—kids, from starting to smoke when they are 8, 9, 10, 11 years old? We had a boy, a young man, in front of our committee. I think he was 12, a young man from Iowa, 12 years old. He was pleading for help to stop his addiction—12 years old—because he didn't want his little brother to start smoking and be addicted to tobacco—12 years old. He said he was already hooked and he tried to stop several times.

I looked at him and I said, ''My gosh, how can that happen that someone that age, still in the full bloom of development and growth, how could he be hooked on tobacco?'' He told it as it was. He wasn't a city slicker. He was a boy from—kind of country. He came in with a member of the police department, as I remember, who was his friend and kind of counselor.

We have lost the mission, I think, by directing the language so that we are hamstrung. We are unable to say to the country at large that what we want to do is we want to see that the tobacco industry finally makes up for some of the terrible damage it has brought on our community, brought on our people. We lose sight of that sometimes, the damage, as we go through the debate, because we talk about immunity from the suit, protection from litigation, talking about how we can cut a deal with the tobacco industry. I, frankly, think it comes under the umbrella of nonsense.

I don't like to be casual with language. We are dealing with an industry that has taken a terrible toll on America. To put it in some frame that makes it quite clear, in all of the wars of the 20th century—World War II, World War I, Korea, Vietnam—the casualties, those killed in combat in all the wars of the 20th century, don't equal the number that die each year as a result of smoking. It is incredible when you think about it.

We know there are over 400,000 deaths a year, most of them premature, often fatal after surgery—after surgery—lungs, throat, you name it, respiratory conditions galore, gastrointestinal conditions. We found out not too long ago, via the Harvard School of Public Health, that in addition to those who we knew died from tobacco-developed illnesses, that those who have exposure to secondhand smoke, numbering over 50,000 persons a year, 50,000 persons a year have fatal heart attacks, fatal heart attacks from exposure to secondhand smoke.

We look at this and we say, ''Well, what do we do about our arrangement with the companies?''

The first thing we have begun to find out—and we are about to find out a lot more—is what they have hidden in their planning over the years, their papers over the years, their attempt to hide information from the public by pretending that there is a client-attorney relationship.

The reason I mention these things is, we have to understand who it is that we are working with, that we are talking to. This is an industry which has been a foul-play industry for decades, knowing very well that addiction was being created by the manipulation of the nicotine, trying to grow plants that have a higher nicotine content that will addict quicker and firmer.

After a lot of discussion, after the attorneys general of most of the States in the country have met and have fashioned out what they think is a settlement—which we didn't all fully agree with, but they made a start, and I give them credit—they began to lay out what the parameters might be, an arrangement which would have the companies stepping up to help us develop a proper public health policy, because that is the primary mission.

Money, in this case, while not unimportant, is certainly a secondary part of the discussion, because with that money what we want to do is stop kids from smoking. We want to teach people how to stop even after they have begun smoking. We want to do some research. We want to find out what that nicotine does to the body, to the lungs, to the digestive system—the whole thing. We want to be able to stand up face to face with the powerful tobacco industry and say, ''Hey, listen; whatever you do, understand that we are going to limit your ability to get your message out to children and to other unsuspecting people, and we want you to pay for it, but we want you to work with us to help us develop these programs.''

We thought we were doing pretty well, because that proposed settlement served as a springboard for other discussions. It served as a springboard for what else we might do, as the President so carefully and positively laid out. We saw that there would be programs as a result of an agreement with

the tobacco companies and to ask the public to join in and help pay for some of the costs that tobacco renders on our society. There are guesstimates that it goes from $30 billion, $40 billion a year, up to $100 billion a year when you talk about lost productivity and problems which arise for individuals and families which go beyond just the treatment of the health problem. We worked hard.

Mr. President, we have just been joined by the distinguished chairman of the Budget Committee, who has become a friend over the years as we worked together and with whom we had an unusually successful program last year to get to a balanced budget, to help continue the process begun by President Clinton and his policy and watch that deficit go down. We look forward to surpluses in the future, possibly over $1 trillion in the next decade. Think about what good we could do with that money.

The President laid it out very carefully. It had to do with teen smoking programs, how we stop that from happening, and all the things I just talked about to improve health, prevent people from becoming addicts, which they are, over 41 million of them—addicts. It doesn't sound pleasant, but that is the truth. As a matter of fact, it is said in some quarters that addiction to smoking is almost deeper and longer lasting than it is with some of the illegal drugs that we hear so much about in our society.

We were enthusiastic. I know I speak for the Senator from North Dakota and I speak for myself, Senator REED, Senator DURBIN, and Senator BINGAMAN, when I say we thought, ''OK, we're on a good track; we talked to our friends on the Republican side of the Budget Committee, and we worked to find a plan so that we could use whatever revenues developed effectively,'' even as we developed a good health policy, because that was outside the Budget Committee directly. But it did include the programs which would be considered as part of the budget resolution, budget planning, for fiscal year 1999.

I don't have to tell you how disappointing it was to find out we were not at all going to be able to implement the policies we thought were positive—that we thought would prevent the kids from starting to smoke, that we thought would help us counter advertising, that we thought would help us with research, the NIH—to find out that by design, certainly more than by coincidence, what we were doing was restricting the use of any funds which might derive from a fee—we might even call it a user fee—from those who smoke, but a fee, an excise tax—that it was going to be restricted to something we like, by the way.

All of us want to see a more solvent Medicare, a stronger Medicare. The President has confirmed his view of what ought to be done, because he has appointed a commission. They are going to have a chance for deliberation. In the next year, there are going to be specific recommendations on how to protect Medicare, how to create the kind of solvency which will give us all some confidence that Medicare is going to be there as a program to use for all who reach 65.

We find out, however, despite the fact that we want to see Medicare protected, what has happened is the use of funds has become so narrowed that we can't do the other programs; that we are going to be unable to take the money which was earned off the addiction, off the habit that ruined so many people's health. Out of the 41 million people who are out there, we don't know how many are going to die prematurely, but we know a lot of them are, and we know a lot of them will be wrestling with diseases which will render them unable to conduct their lives in a normal fashion, and we are not going to be able to use those funds for that.

Again, there is not a suggestion of anything underhanded— not at all, Mr. President. I want to make sure that is completely understood. It is a focus on what the programs are that we are going to be able to put into place as a result of having those funds available. Our friends on the Republican side have decided you are not going to use it for any of those things; you are not going to use it for developing an appropriate health policy program; you are not going to be able to use it to stop teen smoking. I know there are programs within the basic budget resolution to encourage that, but, Mr. President, those programs are financed to the tune of $125 million a year. That is the recommendation. My gosh, even the tobacco companies, who hate to admit they have done anything wrong, were willing to put $2 billion into the anti-teen-smoking program.

We find ourselves in the position where we agree with the interests and the effort on behalf of the majority of the Budget Committee in developing a program, but we also find ourselves saying, ''Hey, wait a second, is this going to help the tobacco companies in some way? Is this going to hurt our ability to attack the programs that we so desperately need to do? Or is it just a little bit of a disguise to say, 'Well, OK, what we are going to do is, we are going to support health programs very narrowly'?''

It is with regret that we talk about that today. Mr. President, you have seen the list that the Senator from North Dakota has alongside him there: Reality versus rhetoric. We have some work to do. We have to try to amend what it is that came out of the Budget Committee. I am the ranking member. I like working with Senator DOMENICI. I hope he will like working with me when I am the chairman. But that is the way these things go, Mr. President. Sometimes what goes around comes around.

Mr. DOMENICI. How long do you plan to be a Senator?

Mr. LAUTENBERG. Long enough to accomplish that objective. Anyway, we are going to want to amend this, and I hope we can get that done. That would be a positive start. Think about it: 3,000 young people a day start smoking; over 1 million a year. One-third of them will die prematurely, just as sure as we are standing here, if we don't make significant changes in the way tobacco is understood in our society—1 million kids a year. Wow, that is larger than some of our biggest cities. It is certainly larger than a lot of the countries that are on this globe.

It is time we reach out a helping hand and say, ''OK, we are going to help you stop before you get started on this addiction.'' I hope our friends on the Republican side will join us.

It was interesting for me to see what happened on two different occasions in these last couple of weeks. One was this very day, when a senior Member of the Senate on the Republican side, the Senator from New Hampshire, offered an amendment to say that there would be no protection for the tobacco companies, that they would have to face up to what the process is—whether it is the courts or negotiated settlements, or what have you—and take their chances. It drew a lot of votes. I think there were 75 votes in favor of the Gregg amendment.

The other was an earlier time, when we were marking up the budget resolution, when we had six members of the Republican Party stand up with Democrats and confirm the fact that we think the $1.50 price per pack of cigarettes put in place over 3 years at the rate of 50 cents a year ought to move ahead.

And that was the only amendment that had any bipartisan support—the only amendment. It meant that some of our friends on the Republican side, just as we have heard in these Capitol Grounds, just could not say no. They had to say yes. They had to say yes, we want to see a $1.50 per pack fee imposed on cigarette use.

We are looking at a lot of money. We are looking at hundreds of millions of dollars over the next 25 years. I make a plea for those who are going to be voting on this amendment tomorrow sometime: Take a look at what it is you are doing. We understand the interests in Medicare, but we want you to share our concern that the place to start in preventing disease from the use of tobacco starts with kids, starts with the youngest of them, starts with the most helpless of us, and join us in amending this budget resolution so that we can get a different kind of message out there.

Mr. President, to reiterate I strongly support this amendment, which would expand the tobacco reserve fund to allow tobacco revenues to be used for anti-tobacco efforts.

This amendment, in effect, is a test of whether the Senate is serious about comprehensive tobacco legislation. If we vote down this amendment, then

we're saying ''no'' to tackling the issue of tobacco this year.

Senators on both sides of the aisle have various visions of how tobacco revenue should be spent. But there had been a bipartisan consensus that, at the very least, we should dedicate tobacco revenue to fighting teen smoking and developing smoking cessation programs.

The majority leader, Senator LOTT, has taken that position. Senator MCCAIN is developing legislation that would use tobacco revenues for anti-smoking efforts. And other bills by Senators HATCH, CONRAD, JEFFORDS, KENNEDY, and myself all would devote tobacco revenue to anti-teen smoking programs, tobacco-related research, smoking cessation, and other tobacco related programs.

Even the tobacco industry's proposed settlement called for tobacco revenue to be used for a variety of programs, including teen education, smoking cessation and tobacco research.

Unfortunately, this budget would block all of these activities. That's wrong. And it just makes no sense.

The distinguished chairman of the Budget Committee has argued that there is enough funding available in the resolution for these activities. I strongly disagree.

The budget resolution assumes $125 million in budget authority for anti-youth smoking and cessation in fiscal year 1999. But that is far below any of the major tobacco bills. In fact, it's not even in the same ballpark.

The tobacco industry's original proposed settlement included over $2 billion per year for these programs. Senator CONRAD's bill included a similar figure. That's $2 billion versus $125 million.

That is not even close.

Also, the $125 million assumed for teen smoking reduction programs and smoking cessation in the budget resolution must be accommodated within the discretionary spending caps. And there's reason to be skeptical that this will happen. After all, those caps are very tight. And increasing funding for these activities would require cuts in other programs. Maybe that will happen. But I certainly wouldn't count on it.

The bottom line, though, is that the restrictive reserve fund language in this resolution makes it much less likely that we will pass tobacco legislation this year. That's a grave concern to me, and to most of my colleagues on this side of the aisle.

After all, 3,000 kids a day start smoking every day; 1,000 of them will die prematurely as a result. We simply must act. And this resolution would create a major roadblock.

I ask my colleagues to support the Conrad amendment, and pave the way for comprehensive tobacco legislation this year.

With that, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. What is the status of time under the Budget Act on the Conrad amendment?

The PRESIDING OFFICER. The proponents have 8 minutes remaining, and the opponents have 1 hour.

Mr. DOMENICI. I say to the Senator, my friend, the ranking member from New Jersey, when we are finished with this, however soon it is or in a half hour, the Senator from Colorado is going to be heard next. Is that what we have tentatively understood?

Mr. LAUTENBERG. Absolutely. That is what we promised him.

Mr. DOMENICI. I say to the Senator, can you let me respond a bit since there has been a little response? I will certainly not use anything like an hour.

Mr. ALLARD. Take your time, Mr. Chairman. I will be glad to wait until you are finished.

Mr. DOMENICI. For your State and mine, a half hour from now or so is a better time for your people anyway.

Mr. ALLARD. That is correct.

Mr. DOMENICI. Mr. President, let me start by saying that the Senator that has proposed this amendment, in my opinion, even though we may not have agreed on a number of things, as I have watched things evolve on matters pertaining to fiscal policy, has grown tremendously in his understanding and his forthrightness and his ability to articulate the fiscal condition of this country.

I want to acknowledge right up front that there are some who worry about this budget resolution, but there are some who worry about 10 years from now. And, frankly, we have an awful lot of new sources of information and new sources of estimating that have become very, very reliable so that as adult leaders of our country we ought to be able to look at a budget 10 years from now and 15 years from now in terms of some big big-ticket items and be able to honestly and forthrightly indicate where we are.

I just say to him, he has done a very good job in that respect, and I thank him for that. Like I say, I do not necessarily, when he gets up and makes his frequent speeches about how wonderful America has become since the Democrats voted in a budget, I join him in attributing to that the great success of the American economy. But I do acknowledge that he has a perfectly valid opportunity to so allege to the world. I have not yet really found enough time to really talk with the American people about how that is impossible in terms of having been the primary reason for America's sustained economic recovery. I am not going to do that tonight either, but in a sense—in a sense—I am going to talk about something that I believe my good friend, the proponent of the amendment that is before us, has stated as well as I will or better time and again in the Budget Committee and in the Committee of Finance.

That is what this chart before us, in back of me, shows to all of us—a very, very simple chart. You see that red line, and you see 2021. That red line is the Medicare hospitalization trust fund balances at the end of each year.

Now, you see, anything close to that zero line means that the balances are pretty close—the outgo and the intake. But look what happens to that red line out there in the future, but not so far in the future that people like KENT CONRAD would not stand up and say, with PETE DOMENICI, for all the accolades we are giving ourselves about how great we have done on fixing the fiscal policy of our Nation, if we sit back and do not fix that, where that red line can, in a year or so when we have reformed this program, start to move up and parallel the line that is at about zero, we have failed the American people in a most serious way.

Because of that we could put one up here on Social Security. We could argue about their trust fund. And, frankly, that is a very, very exciting argument for 2 or 3 hours, if we want to do it. But essentially, in terms of the impact on America, if we do not fix something, the impact is apt to be more severe if we do not fix this than if we do not fix Social Security.

Both are serious. Both are predictable. We understand all the reasons for what is happening. And we can choose, as we have in the past when we did not know any better, we could wait 10 years. We could all be running around saying how wonderful everything is. Probably 25 years ago nobody could run around after us as we campaigned and say, ''You're not facing up to the facts.'' But I tell you, they can now, because we know that red line is a pretty accurate presentation of the most serious fiscal and social problem that this country has—bar none.

Now, having said that, the budget I chose to present, after much consultation with the Budget Committee, which was adopted by the Senators on that committee, I regret, on a party-line basis—but I actually believe the total reason for that party-line vote had to do with this issue that is before us, because I do not believe that every Democrat who voted against the Domenici mark voted against it because they want to spend a lot more money on new programs.

As a matter of fact, if this tobacco settlement, as fragile and as amorphous as it is, had not come along—and it was not available either to the President in his budget or to us in our markup—there would have been little to argue over, because we do not have any money to spend unless we want to break the agreement and knock those caps on discretionary spending off of their pillars and say, ''We just made a deal, but we're going to break it.'' I do not believe that would have happened. And I do not think Senator CONRAD, who is here with an amendment tonight on the tobacco settlement—I do not think he would have joined in saying, ''We've got to invent some new programs and spend some new money and break those caps.''

Essentially, we got off on the wrong foot, because the President of the United States gave a speech called a State of the Union Address, and, in his normal manner, he was eloquent. The problem was, nobody had an opportunity to check his budget. So America got excited about an era of balanced budgets where all of a sudden we could spend a lot of money that we did not spend the year before. And it was interesting. Some of us listened and said, what's happening? I mean, we have a literal freeze on all the programs the President is talking about—more education money, classroom sizes, interest reduction so you can build more classrooms, child care—you know, on and on—oh, more health programs for children who are smoking, and a huge advertising campaign for that.

And I was thinking, ''Man, all of those belong over here on that side of the ledger where already we've agreed we can't spend any more money.'' The President said, ''Well, we'll spend it out of the tobacco settlement'' that may never occur. If it occurs, it might be very different than he assumed. And lo and behold, the Congressional Budget Office told us, he cannot spend it the way he says without breaking the Budget Act of the United States and breaking the caps by $68 billion over 5 years.

That is where we found ourselves, with everybody getting excited that we could have some new programs, we could preserve the surpluses, right—which my friend from Colorado is going to speak to in a minute—and we could spend on at least six new programs that pop in my head, and a whole bunch of add-ons, we could spend $124 billion over 5 years on things we were not paying for last year.

Mr. President, that sounded like a fairy land, that we would have tombs and beautiful songs and we could dream and say, ''Boy, isn't that just fantastic?'' Sort of like Alice in Wonderland. But we soon found out it was all predicated upon a tobacco settlement that the tobacco companies agreed to with the attorneys general. And we had no more idea up here how that was going to get resolved than the Man in the Moon.

And I regret to say, while I think we ought to try to settle that dispute—I am not averse to raising cigarette taxes—we are still not very close, when you look at the House and the Senate, to coming up with a way to do that which has enough votes to do what Howard Baker used to say, ''Whatever the rules and procedures are, don't worry about it if you've got enough votes.'' Nobody has enough votes yet. But I believe there are enough votes for this budget resolution, because it does the right thing. This Republican budget—which I wish some Democrats would vote for—says: Don't spend the surplus in the regular budget of the United States on anything but Social Security, or, as we put it, ''Social Security reform.''

My friend from Colorado has another suggestion—it is intriguing, and I hope everybody looks at it—as to the surplus. But we said that. And the President said it a little differently than us. But essentially, for the year 1999, don't touch it. For those who might think it is very big, let me remind you, ''Don't touch it '99'' means don't touch $8 billion worth of surplus, I say to my friend in the Chair, not $30 billion, not $60 billion, not $100 billion—$8 billion.

So this euphoria about, ''We've got to protect that, we can't spend it,'' with others saying, ''Let's cut taxes''—it is $8 billion. So we said two big goals: Save Social Security—and I might add, under our budget resolution that is before us, we literally use the word ''reform,'' so that we do not just contemplate putting the surplus into the Social Security trust fund; we contemplate having it available for those who will reform and rewrite Social Security to use, if they need it, to make that program one that is far better for America's retired people in the future and which has a chance of making the fund itself more solvent.

The second thing we said was once the next program that the American U.S. Government has a responsibility to pay for—not a State issue, not a city issue, one of ours—and lo and behold, we find the American U.S. problem is that one, Medicare. Medicare. We found the second big problem is that, one, that huge red line on the chart going down. It almost moves in a direction like when you are a young kid and you wondered where hell was—that is sort of looking like it is going down to hell, down into the depths of the Earth, in the red, going broke.

We said, what do we do about that? There is nothing more important than doing what we can to start fixing that. We said whatever the Federal Government keeps from the settlement—if it ever happens, and we assume the President's number, but we said whatever it is and whenever it happens—put the Government share in that fund.

What we are going to do with the amendment of my friend, whom I have just spoken to, is to say we are not going to put all the money in that hospital insurance fund for seniors that is going bankrupt; we are going to spend it on some other things. Frankly, I believe for a budget, a blueprint, that is a mistake. It will be subject to a point of order, and I will make it. It is not with any reluctance that I make it, because I think what we have planned in the budget before the Senate is better for our country, so long as we have no agreed-upon plan to do otherwise. I remind the Senators, and the occupant of the Chair was working hard and very knowledgeable about the tobacco settlement, we don't have a plan. We have a lot of people talking about a lot of things, and a lot of wonderful things we ought to buy, but we don't have a plan that has broad-based bipartisan support. I believe unless and until that happens, the money ought to go where this budget says—every nickel should go in Medicare.

Now, I am amazed—and I want to allude back and forth to other proposals—that the President of the United States in his State of the Union Address, and in his budget which followed, which not even the Democrats have used in budget debates, that budget that he told the American people about, that he sent us, I am amazed in that budget there was $124 billion in new expenditures from this, that, and the other, but a huge amount of it from the tobacco settlement and not a penny for the second worst problem that America has. Not a penny.

Not so with the budget that is before the Senate. The reverse. Not a penny for any other new program but all the money for that one.

Now, from this Senator's standpoint, I did not set about to ignore what many people said we ought to pay for if we get the tobacco settlement. Fellow Senators, I want you to know if there is never a settlement of the cigarette controversy, if it is never settled and never resolved, the budget before the Senate, because we chose to prioritize, to put first things first, has the largest increase for the National Institutes of Health over the next 5 years for research related to the effects of cigarette smoking that we have ever put together in the history of our biological and chemical research programs of America, the largest. On average, 11 percent a year. We are not waiting for a cigarette settlement to pay for that.

When you vote for the budget before the Senate that I put together—and I hope it is not just Republicans—we will have dramatically increased the National Institutes of Health because we chose to look at the President's cuts, and he had many. And we said, amen. But we want to spend it where we think we should spend it and we put it in NIH. This afternoon we argued about child care, and we put it there, too. We put $5 billion there in a new block grant to add to what we are doing, and we don't have to wait for the tobacco settlement to do it.

A number of other items, such as an advertising campaign to address the issue of trying, with advertising, to mellow the effect of cigarette advertising on young people. We don't have to wait around for the cigarette settlement. We have funded that to the tune of $825 million.

Now, frankly, we will never have enough for some. There are some who would think we should spend $2 billion a year on children's programs and on health programs for children out of this settlement. Mr. President, what is intriguing about it all is that in order to get that done, most amendments around here, and the amendment that is presently before the Senate, attempt to solve these problems by creating new mandatory permanent programs for ideas that are being implemented about which we have little certainty they will succeed. If anything, they

ought to be annually appropriated so we can look at them each year. Mr. President, you understand that can't be done without breaking the budget agreement because we don't have any more room in our budget for that kind of expenditure. So this amendment and others spend it in a new entitlement program for kids' advertising or for tobacco research or whatever the five or six programs are that are there.

Now, $825 million over 5 years for various antiteen smoking and public health initiatives—I have heard from some of my colleagues we have not put enough resources into these antismoking initiatives, without a settlement. I have even heard that we need to spend, maybe, and I repeat, ''multiple billions of dollars, perhaps even as much as $2 billion a year,'' on such a campaign. Frankly, fellow Senators, I find those proposals hard to believe. First, the President's budget identified $400 million over the next 5 years for antismoking initiatives at the Federal level through the Centers for Disease Control.

Let me quote from the HHS 1999 budget press release. This was when the President was still living off the budget that turned out not to be doable because it violated the budget but they had money to spend. It said, ''We will expand our support for State and community programs from $34 million in 1998 to $51 million in 1999,'' a 50 percent increase. ''The Centers for Disease Control,'' the quote continues, in their public relations submission, ''will now fund all States and the District of Columbia to implement innovative tobacco prevention programs as a core component of the public health.'' We fund that much and more without waiting around for the tobacco settlement. Now, it more than doubles the funds identified in the President's budget for this initiative.

Let me also point out that we have some history with public campaigns aimed at youth. According to this administration, we have increased our efforts to prevent and treat drug use from $4.1 billion in 1992 to $5.4 billion in 1998. Much of that funding was aimed at young Americans. Nonetheless, teenage drug use has increased from 15 percent in 1992 to 22.2 percent in 1995, the last year we have evidence, and everyone here knows it is higher now than 1995, and the campaign continues to spend money, to affect their lives on drugs, with advertising and other programs.

I only say that not because I do not think we should continue trying, but I firmly believe it would be wrong to put huge amounts of money in an entitlement program in this area and just say for the next 5 to 10 years, that is where it goes. So, wherever I look and however I think about this, I say to those committees and those assigned by our leadership to try to work a tobacco settlement—good luck. I also say, if you put it together and you can find 60 votes, you will pass your program in the Senate. And if you do, who knows? I may be one of the 60. I haven't said I would not, but I believe since we are not anywhere close to that and we have no consensus on that, that we ought to do what is the most prudent thing.

I have failed to discuss and I have failed to put up the chart that clearly depicts what is happening to Medicare spending on tobacco-related illnesses. It is there now. It is simple and frightening.

The hospital insurance trust fund for the seniors of America has been made stable for about another 10 years. But we didn't really reform the program; we reformed the payment plan. It will, once again, as that red line on the previous chart, it will start to go down again, and when the baby boomers hit entitlement age, it will go broke. But look at that, one of the reasons it has gone broke is we never could have estimated the costs that program would bear on its shoulders from tobacco-related illnesses of senior citizens. And there it is, $25.5 billion, 14 percent of total Medicare spending, in 1995. Mr. President, 1995 is the best we can do. Say it got better. I don't believe so. In fact, I am prepared to speculate with a bit of intuition that I think is right that it is higher now, not lower.

So I submit the budget that is before us is better for America and has a better chance of solving our serious problems than a budget with the amendment before the Senate added to it, because I do not believe there is a better way to spend that money than on the program that is going bankrupt and is so necessary and was so infringed upon by smoking costs that we cannot ignore the reality of the relationship between the smoking and the bankruptcy of the hospital insurance program.

Now, this does not mean, Mr. President, that the Senator from New Mexico thinks the distinguished Senator, whom I have spoken of this evening with great affection and as honestly and positively as I have spoken about a Democrat Senator since I have been here— perhaps my friend Sam Nunn has had me do that once before, and perhaps my friend, the ranking member, has had me do that before. But in any event, that is not to say that this is a wild idea. It is just that I believe if you have the facts before you and you don't know how the tobacco is going to come out at all, we have no idea—and there are all kinds of things people want to spend it on, right? We could add to this list here, in the next 48 hours, another six or seven things, and we might, I say to my friend from Colorado. If this amendment fails, we are going to see more. They won't all try to do the same things. They will have other things we ought to do and pay for it out of this fund.

So the best I can do is to say that I believe the best budget we can do is to save the surplus for reform and solvency of Social Security, save the Government's share of the cigarette tax to save Medicare, increase the National Institutes of Health, put some additional money in child care, add about $9 billion to education. A whole bunch of amendments are going to say we didn't do enough about education. I just want to say to everybody that we will take those one at a time, one at a time. But we put everything in this budget on education that the bipartisan administration budget agreement contemplated for the year 1999. There is an $8 billion-plus increase year after year on education, which is exactly what we contemplated. It is there. When the appropriators finally do it—we don't know what they are going to do, but we suggested some things that were very interesting. We don't wait around for the settlement of the tobacco issue for those educational add-ons. The President did. We don't. We put $2.5 billion in IDEA or disability education to try to move forward in our commitment to pay our share. It is embarrassing that we have mandated that disabled young people be educated in a certain way from here down to our school districts and we are supposed to pay 40 percent of the tab. Senator, if you are not embarrassed that your schools have never seen the Government put up more than 9 percent of that program, I am. We are going to start putting more in there, and do you know what. They are going to be relieved of expenditures and be able to hire new teachers, as they see fit, and do the other things they may need. We will live up to our responsibilities. They will have money left over to do theirs. That is in our budget.

Yet, whatever you do, it isn't enough. Tomorrow, we will speak about building classrooms. Let me suggest, for those who want to build classrooms and think the President is for it, you will have a surprise tomorrow. Two budgets ago, the President said in his Department of Education that it is no business of the Federal Government to build schools in the school districts of America. He said it even better than that. And then he canceled the $100 million worth of programs to build schools. All of a sudden, it's the greatest program ever and we better do it from up here, even though we have never done that in any big way as part of American Government's help to our schools. We will debate that. Some will say we should pay part of that out of the cigarette settlement. Can you imagine. If you are talking about things related to cigarette smoking, isn't that one more related? Isn't that fund more bankrupt than any other fund around and any other obligation? So, Mr. President, when the time comes after tomorrow—we have a few more minutes, and I hope some people listened tonight—we will vote. The point of order will be the issue. I have no doubt that significant numbers of Senators will vote with my friend. I have nothing but praise for him, and if they do that, that is OK. But I don't believe there are going to be enough votes to get around the point of order.

We will be back to where we started, which we think is a very good place to be. That is, we are going to spend the money, if we ever get the tobacco settlement, to pay for making that Medicare Program solvent.

Mr. President, make no bones about it; we have appointed a national commission. It is bipartisan. I have already seen them on C-SPAN, and they disagreed violently. I don't know if the chairman is going to be able to ever get them together. We were all wondering who ought to be chairman and we said, ''Senator BREAUX, you ought to be.'' I like him very much. He is a Democrat. Frankly, the more I look at the different views, I am glad that he is there because, frankly, it is going to be hard to put them together. If we have a few tens of billions of dollars to help them get this reform put together, it will be one of the best things we have ever done. It may just be the ointment, along with reforms, that will glue it together. And, conversely, if we throw it away on programs that we are not sure will work, we will be real sorry if they can't put together a Medicare reform package because we spent the money that might have helped them do it.

With that, I don't know how much time remains, but from my standpoint, I yield the floor on this. I will shortly be prepared to move with the distinguished Senator from Colorado.

Mr. LAUTENBERG. Mr. President, I wonder if we can get the Senator's question answered as to how much time is left on both sides.

The PRESIDING OFFICER. The proponents have 7 minutes 42 seconds. The opponents have 24 minutes 42 seconds.

Mr. LAUTENBERG. Mr. President, the Senator from New Mexico just volunteered to give us 5 minutes on our side, with the understanding that the rest will be yielded back. What I would like to do is ask my colleague from North Dakota to say what he wants to do. Does he want 7 minutes or so? I would like 5 minutes. If that would be all right, I would agree with the proposal offered by the Senator from New Mexico.

Mr. CONRAD. That would be acceptable.

Mr. LAUTENBERG. I thank the Senator from Colorado thus far for his ever-present indulgence.

I will take my 5 minutes first, and I ask the Chair to remind me when my 5 minutes is up so that I can give the remaining 7 minutes to the Senator from North Dakota.

First of all, I am not personally insulted, I promise you that, not at all. I heard the chairman of the Budget Committee talk about what a great guy and a good friend and a nice Democrat and everything else the Senator from North Dakota was. Then he talked about the Senator from Louisiana. It doesn't bother me. It is just one of those things, Mr. President, two Democrats being described as great guys and all that. But we will go on from there.

Mr. DOMENICI. Will the Senator yield?

Mr. LAUTENBERG. Yes.

Mr. DOMENICI. Let me say, Mr. President, whatever I have said about other Senators from the other side of the aisle, it is quite obvious that the most significant achievement that I have participated in was the balanced budget agreement of last year, and without my good friend, Senator LAUTENBERG from New Jersey, we could not have achieved that result. So he knows with that statement that I am very proud to work with him. You got it, Senator.

Mr. LAUTENBERG. We are together, believe me. As a matter of fact, I want to tell you something, Mr. President. You have no idea—few have—how hard I worked to get this man to stop smoking. It showed my true affection for him because I wanted him to be around here. Even when I disagree with him, I like him here because he stimulates reactions and gets us going at times, if you know what I mean.

Mr. President, I ask people to consider this question with me. What grandparent, I ask you, would not say: Take care of my grandchild first, help my grandchild so that when he or she grows up, they are healthy, help my grandchild to not become an addict to tobacco or other drug substances? What grandparent would not stand up and proudly say ''take care of them first'' because eventually they will be the ones who will shoot the Government programs and health insurance programs up through the roof?

Yes, there is $22 billion worth of spending in Medicare on tobacco-related illness. We are not sure, but there is a significant amount, perhaps a like amount, in Medicaid tobacco-related illness. But if we don't inhibit smoking among the youngsters today, this price will continue. Sometimes you have to make an investment in the long term before you can obtain the result that you want. You can't always do it overnight.

So I submit, Mr. President, that we are determined not to break the caps. We are determined to abide by CBO accounting. We are determined not to spend money that we don't have. And to correct something the Senator from New Mexico said a moment ago, he said the surpluses should be used for Medicare. I think he didn't quite mean it that way because, technically, the words are, ''surplus is going to Social Security,'' and hopefully the proceeds from the tobacco legislation would go toward creating a more solvent Medicare.

So, Mr. President, I kind of rest the case here. My colleague from North Dakota is going to want to wrap up, as they say, but I say as an experienced grandparent—and if anybody wants to see the pictures of my five grandchildren, I have them here in my pocket. But I tell you that there is nothing—nothing—in my life that I would not give to prevent sickness or illness to any one of my grandchildren. There is no price that is too high to pay. I will take care of myself, but I want to make sure I give my grandchildren a chance to grow, develop, and be healthy.

With that, Mr. President, I yield the floor for my friend from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, first of all, I want to say to the chairman of our committee, he knows that I have the utmost regard for him for the way he conducts our committee. I have real respect for the chairman. I have, as well, an affection for the chairman. That really is not the issue before us tonight. We work together, and on the larger issues of where we are going for the long term, there is much more that unites us than divides us because we are both persuaded that if we don't address the long-term entitlement changes that are necessary in this country, we put this country at risk.

We are talking about the national security of our Nation because, fundamentally, that cannot be preserved if we don't get our long-term fiscal house in order. We are united on that question. Mr. President, the issue before us tonight is a reserve fund in the budget for tobacco revenue. The chairman of our committee says that he believes if we get a tobacco settlement, all of the revenue ought to go for Medicare. I would be swift to acknowledge that Medicare is a priority, but it's not the only priority. Medicare does not represent the national tobacco policy. We have to do more with those tobacco revenues than just strengthen the Medicare Program. And, in fact, I think the chairman would be quick to acknowledge that even if we took all of the revenue from tobacco, we would not do the job that needs to be done with respect to Medicare. We need fundamental reform of Medicare, and I voted in the Finance Committee very controversial votes to do precisely that, because I deeply believe we do need to reform the Medicare Program, to preserve it and protect it for the long term.

Mr. President, the tobacco revenues won't do that job. In fact, in an odd way, they actually may retard our facing up to the long-term challenge of Medicare. But there are other challenges we face as well. One of them is, if we get the tobacco revenue, how should it be used? The Republican budget resolution says none of it should be used for youth-smoking-reduction-education programs. None of it should be used for public service advertising to counter the tobacco advertising of the industry. Their resolution says none of it should be used for tobacco-related medical research; that none of it should be used for smoking cessation and prevention programs; none of it should be used to assist tobacco farmers in their communities in the transition. That is an honest disagreement.

In the bill I introduced, some of the money was used for Medicare, some of it was used to strengthen Social Security. But we also believe that, just as every comprehensive bill that is before this body by Republicans and Democrats has said, some of the money has to go for tobacco control problems, smoking cessation, smoking prevention. The chairman says he has money elsewhere in the budget. Let me just say that what he has elsewhere in the budget is wholly inadequate. That is not just my judgment; that is the judgment of the public health community on a united basis.

In the budget resolution, there is $125 million a year for smoking cessation, smoking prevention, counter-tobacco advertising, and health research that is specific to the question of tobacco issues. That is apart from the NIH money. But in every comprehensive bill that is out here by Republicans, or Democrats, it is not $125 million for those purposes. It is $2 billion a year to $4 billion a year. The chairman elsewhere in the budget has provided for $125 million, and the truth is that under the budget resolution it may be the result that not a single dime is available for any of those programs because the Budget Committee doesn't make that decision. All the money goes in a pot and the appropriators determine what are their priorities. If they have a difference on that question, they may decide not to provide one thin dime for smoking cessation, smoking prevention, counter-tobacco advertising, or even health research. That is the hard reality.

That is why some of us believe deeply that we have to broaden out this reserve fund to accommodate the other priorities, to have a chance to have comprehensive tobacco legislation without a supermajority requirement here on the floor of the U.S. Senate. A 60-vote point of order lies against any of these comprehensive tobacco bills that have been offered by three Republican chairmen on that side and every comprehensive tobacco bill on our side. We do not believe we should put supermajority hurdles in the way of accomplishing national tobacco legislation.

I will just conclude by saying I respect our chairman, I respect the work of his staff, I respect the work of our ranking member, and his staff. Let me just say with respect to our ranking member that no one has been more dedicated on the question of reforming our Nation's policy with respect to tobacco than the Senator from New Jersey. If people on airplanes like the fact that they are smoke free, there is one person who is responsible for it—more responsible than any other individual—and that is the Senator from New Jersey. We can all thank him for the contribution he has made to try to do something to get our kids off the tobacco habit, off the addiction, and the diseases that it causes. I think we should recognize his leadership in this regard. Nobody has been a more forceful advocate of changing the tobacco culture than the Senator from New Jersey.

At some point we are all going to be on the same page because I believe we are going to find a way to get together on national tobacco legislation. But I hope that we do not put in the way as a roadblock the budget resolution. We could broaden that reserve fund so that if we do get tobacco revenue it can be used, yes, for Medicare, and, yes, to help strengthen Social Security, as my bill also provides, but in addition to that provide for smoking cessation, smoking prevention, counter-tobacco advertising—all of the things that the public health community has told us is important to a comprehensive approach to protecting the public health.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from ENACT, a coalition of more than 45 major public health organizations with millions of volunteers and members who support comprehensive legislation that will prevent children from taking up tobacco and will dramatically reduce tobacco use among adults. They support the type of amendment which I have offered.

I ask unanimous consent to also have printed in the RECORD a letter from the American Lung Association, who say in their letter, ''As you know, the budget resolution recently approved by the Budget Committee is a disaster for public health.''

I also ask unanimous consent to have printed in the RECORD a letter from Public Citizen making the same point; finally, a letter from Smoke Free 2000, a coalition interested in advancing the public health with respect to the question of tobacco policy.

So, we will have those letters in the RECORD demonstrating the support of the public health community for broadening our tobacco reserve plan so that a comprehensive bill is possible.

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

ENACT,
March 27, 1998.

DEAR SENATOR: The ENACT coalition of more than 45 major public health organizations with millions of volunteers and members supports comprehensive legislation that will prevent children from taking up tobacco and dramatically reduce tobacco use among adults.

We are writing to express our serious concerns regarding the restrictions contained in the Budget Resolution that limit the use of money in the Tobacco Reserve Fund to the Medicare Hospital Trust Fund. These restrictions will hinder efforts to enact effective and comprehensive tobacco legislation by requiring 60 votes to include funding for key anti-tobacco programs. We believe that the Budget Resolution should be changed to allow the Tobacco Reserve Fund to be used for programs that will reduce the use of tobacco and its harmful effects.

To reduce tobacco use among children and adults, comprehensive tobacco legislation must contain funding for tobacco-related public health programs, including:

1. A nationwide public education and counter advertising program as well as state and local tobacco control programs and projects.
2. Cessation programs to help children and adults who want to quit.
3. Regulation of tobacco products by the Food and Drug Administration.
4. Research into how we can best prevent tobacco use and help those who want to quit—this research will build on what we already know and ensure that our efforts to drive down smoking rates are effective.

Funding for tobacco-related public health programs should be the first priority for any funds raised through tobacco legislation; we are therefore opposed to the current provision in the Budget Resolution that limits the use of such revenue to the Medicare Hospital Trust Fund.

We recognize that the Budget Resolution includes funding for teen smoking prevention and cessation programs, but these programs would have to compete for limited discretionary dollars available in the Labor-HHS-Education appropriations bill. Additionally, the funding called for in the Budget Resolution under the discretionary caps is far below the funding levels recommended by virtually every major public health organization and below what was outlined in the proposed Attorneys General agreement.

The undersigned groups support amending the Budget Resolution to ensure that funds in the Tobacco Reserve Fund can be used to support critical tobacco-related programs that will help drive down smoking rates. This is a historic opportunity to achieve fundamental change in tobacco addiction and disease and to save lives. We are committed to working with you and other members of Congress to pass a Budget Resolution that will help protect America's children from the dangers of tobacco addiction.

Sincerely,

Allergy & Asthma Network—Mothers of Asthmatics, Inc.; American Academy of Family Physicians; American Academy of Pediatrics; American Association for Respiratory Care; American Cancer Society; American College of Chest Physicians; American College of Preventive Medicine; American Heart Association; American Psychiatric Association; American School Health Association; American Society of Internal Medicine; Campaign for Tobacco-Free Kids; College on Problems of Drug Dependence; Family Voices; Federation of Behavioral, Psychological and Cognitive Sciences; The HMO Group; Interreligious Coalition on Smoking or Health; Latino Council on Alcohol & Tobacco; National Association of Children's Hospitals; National Association of County and City Health Officials; National Association of Local Boards of Health; National Hispanic Medical Association; Oncology Nursing Society; Partnership for Prevention; and Summit Health Coalition.

AMERICAN LUNG ASSOCIATION,
New York, NY, March 25, 1998.

Hon. FRANK LAUTENBERG,
Ranking Member, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: As you know, the Budget Resolution recently approved by the Budget Committee is a disaster for public health.

Instead of allowing the use of tobacco revenues for public health programs, as is the case with every major piece of tobacco control legislation before the Congress, the committee bill actually precludes the use of any new tobacco revenues for public health. Moreover, the provisions of committee bill will set up procedural barriers that will hamstring the use of these new revenues for preventing youth smoking, lifesaving research

at the National Institutes of Health, or FDA efforts to rein in the tobacco industry. Monies that are provided—$800 million over five years, is way below most other bills. For example, the Health Kids Act, (S. 1638) calls for over $2 billion per year for tobacco control efforts.

The American Lung Association strongly supports an amendment to the Budget Resolution that would include funding for public health programs in the tobacco reserve fund established by the Budget Committee. We believe that the goal of tobacco control legislation should be to control tobacco use—not raise revenue.

Lastly, we support any amendment expressing the sense of the Senate opposing immunity and supporting full FDA authority to control tobacco. Recent public opinion polls conducted by the American Lung Association indicate the American people strongly oppose granting special protections to the tobacco industry. The Senate should follow their lead.

We look forward to working with you to craft tobacco control legislation that protects the public health without creating special protections, like immunity, for the tobacco industry.

Sincerely,

FRAN DU MELLE,
Deputy Managing Director.

PUBLIC CITIZEN,
Washington, DC, March 26, 1998.

Hon. FRANK LAUTENBERG,
Ranking Member, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: Public Citizen has long supported efforts to reduce the death and disease caused by tobacco products and has worked for years against legislation that would protect corporate wrongdoers from legal accountability for the harm caused by their dangerous products. We applaud your work in pursuit of the same public health goals.

We are concerned that the Budget Resolution recently approved by the Senate Budget Committee does not reflect sound public health priorities. The measure contains no funding for many of the health related programs that should be funded by new tobacco revenues. Instead, the Budget Resolution proposes that these new tobacco revenues be earmarked for Medicare. In addition, the money the Budget Resolution provides for tobacco control—$800 million over five years—is well below the amount that would be generated by most of the tobacco bills now before Congress. For example, the Healthy Kids Act, (S. 1638), calls for over $2 billion per year for tobacco control efforts. We urge that these deficiencies be corrected.

Further, Public Citizen strongly supports a floor amendment expressing the sense of the Senate that the tobacco companies must not be given any special protection from legal liability as a *quid pro quo* for its payments—or for anything else. We oppose any sweetheart deal for this industry that lied to and cheated the American public and costs the U.S. economy over $90 billion each year in health care costs alone.

Finally, Public Citizen believes that the FDA must be given full authority to regulate nicotine and tobacco products, and we would also support a sense of the Senate amendment advancing that position.

Thank you for your leadership on these important issues. We look forward to working with you to craft tobacco control legislation that protects the public health without creating special protections, like immunity, for the tobacco industry.

Sincerely,

JOAN CLAYBROOK,
President.

SMOKE FREE 2000 COALITION,
St. Paul, MN, March 25, 1998.

Hon. FRANK LAUTENBERG,
Ranking Member, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: The Minnesota Smoke-Free Coalition strongly supports an amendment to the Budget Resolution that would include significant funding for public health programs in the tobacco reserve fund established by the Budget Committee.

In order to reduce tobacco and prevent tobacco use, a comprehensive approach is needed including, counter-advertising and education campaigns, reducing illegal sales to minors, smoking cessation for those who want to quit. The goal of tobacco control legislation should be to control tobacco use—not just raise revenue.

The budget resolution recently approved by the Budget committee prohibits the use of tobacco control revenues for public health programs. This would be a disaster for public health and exactly what the tobacco industry would support.

The Minnesota Coalition represents more than 60 health, education, consumer and civic organizations from across the state of Minnesota. Collectively, we urge your support of an amendment to the Budget Resolution that would include funding for public health.

Sincerely,

A. STUART HANSON, M.D.,
President.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, is it fair to assume now that we have both yielded our time on this?

Mr. LAUTENBERG. Yes.

AMENDMENT NO. 2209

(Purpose: To express the sense of the Senate that the Committee on Finance shall consider and report a legislative proposal this year that would dedicate the Federal budget surplus to the establishment of a program of personal retirement accounts for working Americans)

Mr. DOMENICI. Before our friend from Colorado proceeds, I send to the desk an amendment on behalf of Senators ROTH, BREAUX, GREGG, ROBB, HATCH, NICKLES, GRAMM, GORDON SMITH, and SANTORUM, and ask it take its place among the amendments to be determined in the future as to when a vote will occur.

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

The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself, and Mr. ROTH, Mr. BREAUX, Mr. GREGG, Mr. ROBB, Mr. HATCH, Mr. NICKLES, Mr. GRAMM, Mr. GORDON SMITH, and Mr. SANTORUM, proposes an amendment numbered 2209.

At the end of title III add the following:

SEC. ___. SENSE OF THE SENATE ON SOCIAL SECURITY PERSONAL RETIREMENT ACCOUNTS AND THE BUDGET SURPLUS.

(a) FINDINGS.—The Senate makes the following findings:

(1) The social security program is the foundation of retirement income for most Americans, and solving the financial problems of the social security program is a vital national priority and essential for the retirement security of today's working Americans and their families.

(2) There is a growing bipartisan consensus that personal retirement accounts should be an important feature of social security reform.

(3) Personal retirement accounts can provide a substantial retirement nest egg and real personal wealth. For an individual 28 years old on the date of the adoption of this resolution, earning an average wage, and retiring at age 65 in 2035, just 1 percent of that individual's wages deposited each year in a personal retirement account and invested in securities consisting of the Standard & Poors 500 would grow to $132,000, and be worth approximately 20 percent of the benefits that would be provided to the individual under the current provisions of the social security program.

(4) Personal retirement accounts would give the majority of Americans who do not own any investment assets a new stake in the economic growth of America.

(5) Personal retirement accounts would demonstrate the value of savings and the magic of compound interest to all Americans. Today, Americans save less than people in almost every other country.

(6) Personal retirement accounts would help Americans to better prepare for retirement generally. According to the Congressional Research Service, 60 percent of Americans are not actively participating in a retirement plan other than social security, although social security was never intended to be the sole source of retirement income.

(7) Personal retirement accounts would allow partial prefunding of retirement benefits, thereby providing for social security's future financial stability.

(8) The Federal budget will register a surplus of $671,000,000,000 over the next 10 years, offering a unique opportunity to begin a permanent solution to social security's financing.

(9) Using the Federal budget surplus to fund personal retirement accounts would be an important first step in comprehensive social security reform and ensuring the delivery of promised retirement benefits.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that this resolution assumes that the Committee on Finance shall consider and report a legislative proposal this year that would dedicate the Federal budget surplus to the establishment of a program of personal retirement accounts for working Americans and reduce the unfunded liabilities of the social security program.

AMENDMENT NO. 2210

(Purpose: To express the sense of the Senate regarding repair and construction needs of Indian schools)

Mr. LAUTENBERG. Mr. President, before we go on to the Senator from Colorado, I, too, have an amendment to be sent up to the desk on behalf of the Senator from South Dakota, Senator JOHNSON, and ask that it be placed in the order for such time as it is called up.

Mr. DOMENICI. Is that the amendment on Indian schooling?

Mr. LAUTENBERG. Yes. We should note that the Senator from New Mexico is a cosponsor of that amendment, and please note that carefully.

Mr. DOMENICI. Thank you.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey (Mr. LAUTENBERG), FOR MR. JOHNSON, Mr. DOMENICI, Mr. DORGAN, Mr. DASCHLE, Mr. BINGAMAN, Mr. WELLSTONE, and Mr. MCCAIN, proposes an amendment numbered 2210.

The text of the amendment follows:

At the end of title III, insert the following:

SEC. . SENSE OF THE SENATE REGARDING REPAIR AND CONSTRUCTION NEEDS OF INDIAN SCHOOLS.

(a) FINDINGS.—The Senate finds that—

(1) many of our nation's tribal schools are in a state of serious disrepair. The Bureau of Indian Affairs (BIA) operates 187 school facilities nationwide. Enrollment in these schools, which presently numbers 47,214 students, has been growing rapidly. A recent General Accounting Office report indicates that the repair backlog in these schools totals $754 million, and that the BIA schools are in generally worse condition than all schools nationally;

(2) approximately 60 of these schools are in need of complete replacement or serious renovation. Many of the renovations include basic structural repair for the safety of children, new heating components to keep students warm, and roofing replacement to keep the snow and rain out of the classroom. In addition to failing to provide adequate learning environments for Indian children, these repair and replacement needs pose a serious liability issue for the Federal government;

(3) sixty-three percent of the BIA schools are over 30 years old, and twenty-six percent are over 50 years old. Approximately forty percent of all students in BIA schools are in portable classrooms. Originally intended as temporary facilities while tribes awaited new construction funds, these ''portables'' have a maximum 10 year life-span. Because of the construction backlog, children have been shuffling between classrooms in the harsh climates of the Northern plains and Western states for ten to fifteen years;

(4) annual appropriations for BIA education facilities replacement and repair combined have averaged $20–$30 million annually, meeting only 4% of total need. At the present rate, one deteriorating BIA school can be replaced each year, with estimates of completion of nine schools in the next seven years. Since the new construction and repair backlog is so great and growing, the current focus at BIA construction must remain on emergency and safety needs only, without prioritizing program needs such as increasing enrollment or technology in the classroom; and

(5) unlike most schools, the BIA schools are a responsibility of the federal government. Unfortunately, the failure of the federal government to live up to this responsibility has come at the expense of quality education for some of this nation's poorest children with the fewest existing opportunities to better themselves.

(b) SENSE OF THE SENATE—It is the sense of the Senate that the assumptions underlying the functional totals in this budget resolution assume that the repair and construction backlog affecting Bureau of Indian Affairs school facilities should be eliminated over a period of no more than five years beginning with Fiscal Year 1999.

Mr. DOMENICI. I yield the floor so the Senator from Colorado can call up and debate his amendment.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I ask that the pending amendment be laid aside.

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

AMENDMENT NO. 2170

(Purpose: To require the reduction of the deficit, a balanced Federal budget, and the repayment of the national debt)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado (Mr. ALLARD) proposes an amendment numbered 2170.

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

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

The amendment is as follows:

At the end of title II, add the following:

SEC. . REDUCTION OF NATIONAL DEBT.

(a) IN GENERAL.—In the Senate, beginning with fiscal year 1999 and for every fiscal year thereafter, it shall not be in order to consider any concurrent resolution on the budget, or amendment thereto or conference report thereon, that—

(1) that would cause budgeted outlays for that fiscal year to exceed budgeted revenues; and

(2) does not provide that actual revenues shall exceed actual outlays in order to provide for the reduction of the gross Federal debt as provided in subsection (b).

(b) AMOUNT.—The amount of reduction required by this section shall be equal to the amount required by amortize the debt over the next 30 years in order to repay the entire debt by the end of fiscal year 2028.

(c) WAIVER.—The Senate may only waive the provisions of this section for a fiscal year in which a declaration of war is in effect.

(d) PASSAGE OF REVENUE INCREASE.—No bill to increase revenues shall be deemed to have passed the Senate unless approved by a majority of the total membership of each House of Congress by a rollcall vote.

Mr. ALLARD. Mr. President, first of all, I would like to commend the chairman of the Budget Committee, the Senator from New Mexico, for his very laudable statement, which he made earlier on in the debate this evening. I think we are very fortunate in this body to have somebody who is trying to bring accountability to the process. I hope that America was listening, because I think he made some very good points, and I think as Americans we need to stop to think about our priorities and how we would like to see those priorities come down in the budget and how we would like to see those priorities in the budget reflect how we want to live our lives as Americans.

I have an amendment that I would like to see added to the budget plan that this chairman and his committee has put forward, the plan to pay down the American debt.

I think back last year when I proposed an amendment to the then-budget, a sense-of-the-Senate resolution, that asked the President of the United States to come forward with a plan on how he might want to pay down the debt that we have. I think we ought to take a little time to define the terms. The deficit is how much more we spend in any 1 year than what we bring in in revenue. The debt is an accumulation of all of that excess spending over the years—the accumulation of all of these deficits. So I am of the view that we need to do something; we need to have a plan before us to pay down that debt.

The President ignored the sense-of-the-Senate resolution that was part of the budget resolution last year, and we got into the budget debate this year. There was simply not any plan coming from the President, or anybody else at that point, on how we might pay down our national debt running somewhere around $5.6 trillion.

So I have decided I will put forward my plan on how I think we might be able to pay down the debt. As we go through the discussion and the debate, I will show that we will even have some money left over as we pay down the debt to provide some tax relief for Americans.

I think we are very fortunate that we have somebody like the chairman of the Budget Committee who really believes we need to work to eliminate the deficit and to balance the budget. It brings forth a certain amount of accountability to the process. I think we need to have leaders like him due to the fact that we do not have a balanced budget amendment.

I was very disappointed last year that a balanced budget amendment did not pass, because I think we needed that accountability in order to assure that the Members of this Senate would work hard to set priorities and not ignore deficits that have been accumulating over the years out into the future and to continue to allow the debt to grow year after year.

I would like to move forward by beginning to congratulate, again, Chairman DOMENICI and the Budget Committee on crafting a sensible resolution that maintains the discretionary spending caps previously set forth. I reemphasize that is very key in this debate to assure that we have protected the future for our children and grandchildren by having a responsible budget which holds the promise that we made to the American people.

Even though it appears that we will realize a surplus before the year 2002, I believe that it is essential for this Congress to show restraint when it comes to budget surpluses. The future solvency of the Federal Government will likely rest on what we do in the next 3 years. There is simply no doubt that the economy is performing well—much better than anyone has expected. But today's rosy predictions could turn out to be a black future if we do not plan appropriately. We must begin the process of paying down the Federal debt and preparing for an investment-based Social Security system. Some have said that they would like to see the surplus used for Social Security. I say let's do it. The fact of the matter is that making payments on the national debt is the best way to provide flexibility for changes in Social Security in the short term. The last time I came to the floor to discuss the national debt, it stood at $5.476 trillion. Yes, $5.476 trillion. Today, even as the U.S. economy continues to grow, we have added $114 billion to the debt, which is now over $5.59 trillion. I believe to not apply at least a portion of any surplus to pay down the debt is simply unconscionable.

In February, Senator ENZI and I introduced the American Debt Repayment Act legislation. It is legislation that I believe is integral to the future of this country. I am a realist. I understand that we cannot retire the Federal debt immediately. What we can do is create a plan which I hope will become a part of the budget plan by which we pay down the debt over a set number of years.

This is just a minimal plan. There is nothing in it that says we cannot do more. In fact, I hope we can do more because we need to sign on to a plan to pay down the debt. The American Debt Repayment Act provides such a plan. Senate bill 1608 would amortize and pay off the debt in the year 2028.

Frankly, this is as simple as it gets. The plan puts the Federal Government on a 30-year mortgage to pay its creditors and place our country on sound financial ground.

Because I believe that we must have a plan when dealing with the debt, I am offering this legislation today as an amendment to the budget resolution. By approving this amendment, we have made the initial commitment to pay down the debt. We are saying to the American people that the Federal Government has finally recognized the time has come to begin to pay off our Nation's credit card balance.

I realize that there are many competing interests when it comes to using the surplus, and I am willing to meet my colleagues halfway. Anything above the amortized payment is not affected by my amendment and can be used in any way that Congress may deem appropriate. While I advocate tax relief for the American family from any surplus above the required payment, my colleagues might decide differently. This amendment proves that debt reduction and tax relief are not mutually exclusive.

I would like to take just a moment and refer to the chart that I have here on the floor with me and talk a little bit about the chart. This is an amortization schedule, much along the lines of what you would be shown if you were to buy a new home. Say you are a new American family; you have just been married; you decide to make probably the first big investment of your marriage, and you will make a commitment to pay that down over 30 years. Your banker may very well give you a similar chart which shows how you are going make that payment year after year to pay down the mortgage on your home.

This is the plan where we talk about paying down the mortgage of the Federal Government year after year. It is a 30-year plan, just pretty much like everybody's home mortgage. To keep things simple, I have just adopted in this proposal pretty much what the Budget Committee has estimated will be the surpluses for their 5-year plan. I say fine, we will not argue with the Budget Committee. We will keep that in place. But after that period of time, we ought to set $11.7 billion a year, in addition to what we did the year before, towards paying down the debt. This accelerates and accumulates over time.

If we do that, let's look at the year 2004, after the current plan has been adopted. In the year 2004, we have $616 million left over for tax relief, or maybe program growth or some other needs. When we drop into 2005, that comes up to $2.1 billion over and above what I put together on this amortization part for program growth or to reduce the tax burden. My personal preference, as I stated earlier, is to reduce the tax burden on the American family.

What happens over a 30-year period? We save $3.7 trillion. I think that is a pretty substantial step, savings that we can use for Social Security reform or maybe doing something with our Medicare problems. This is a plan that shows how we can begin to address those very serious problems we have before us, but to also keep as a top priority of this Congress and this Senate a commitment to pay down this national debt. This plan reflects the amount of savings we are going to save for the future generations, our children and our grandchildren.

The important point I want to make here is to have a commitment to pay down the debt. With even a minor commitment with a 30-year payment, where we are setting aside $11.7 billion a year, we can accomplish this. We can accomplish this with just a simple, straightforward commitment. I remind everybody, our total budget is somewhere around $1.7 trillion. It is not much of the total picture.

I believe an excerpt from an article on March 23, 1988, in Newsday strikes right at the heart of the issue. I have a quote out of that particular article. I will read part of it. I have it up here on the floor. It says:

> * * * if Congress and the President agreed to toe the line and direct all surpluses to pay down the debt for the next 30 years [apparently he has thought about this, too] and if the economy remained on a steady, moderate growth path, the government could pay off its entire debt while covering Social Security and other costs.

Mr. President, I have that article. I ask unanimous consent it be printed in the RECORD.

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

[from Newsday, March 23, 1998]

DEAR UNCLE SAM: USE CASH SURPLUS TO PAY OFF DEBT

(By Clay Chandler and John M. Berry)

Imagine that after years of struggling to gain control of your finances, you suddenly come into some extra money. Even better: Suppose you're likely to earn more money than expected every year for the next decade.

How best to use the windfall? A good financial planner might recommend you start by cutting debt.

''One of the very first things I tell my clients is to get rid of debt,'' says L. Edward O'Hara, a financial planner in Silver Spring, Md. ''A lot of people are reluctant until I show them what a huge difference it can make to their financial situation over a long period of time.''

Economists are offering much the same advice to Uncle Sam.

With the federal government suddenly expecting surpluses estimated between $660 billion and $1.1 trillion over the next decade, a large contingent of fiscal experts is recommending that President Bill Clinton and Congress resist calls for new tax cuts or increased government spending. Instead, many economists argue, the government is likely to get the highest economic return from future surpluses by using them to whittle down the $3.8 trillion in federal debt held by the public.

''Pretty much all macro-economists would be in the debt-reduction camp,'' asserts N. Gregory Mankiw, a professor of economics at Harvard University and author of one of the most popular economic textbooks for undergraduates. ''For most of us, the choice seems clear.''

Others aren't so sure. Supply-side economists and GOP presidential hopefuls Jack Kemp and Malcolm (Steve) Forbes Jr. blast debt reduction as a ''castor oil'' remedy of no benefit to the economy. A recent Wall Street Journal editorial excoriated Republicans who would ''stand for an abstraction of paying down the national debt . . . even if it means taxing Americans at higher rates than needed to balance the federal books.''

At the opposite end of the political spectrum, liberals such as Sen. Paul Wellstone (D–Minn.) and Northwestern University economist Robert Eisner decry the folly of extinguishing Treasury IOUs with money that might otherwise be ''invested'' in new schools or health care for needy children.

Meanwhile, lawmakers from both parties, rallying behind House Transportation Committee Chairman Bud Shuster (R–Pa.), can tick off reasons why using the surpluses to fund construction of new roads, bridges or other projects in their districts will make the economy more productive.

Still, a little-noticed set of long-term projections prepared by the White House Office of Management and Budget makes a tantalizing case for the benefits of using projected surpluses over the next 30 years to pay down the debt. If Congress and the president agreed to toe the line and direct all surpluses to pay down debt for the next 30 years, and if the economy remained on a steady, moderate growth path, the government could pay off its entire debt while covering Social Security and other costs.

Such an optimistic scenario hasn't been previously envisioned, in part, because official economic projections rarely go out longer than 10 years. But also, pragmatic economists note that it is unlikely a government would direct all surpluses to paying down the debt rather than funding important programs.

''From a political standpoint, the problem is simple: Paying down the debt doesn't get your picture in the paper,'' says economic historian John Steele Gordon. ''There are no ribbon-cutting ceremonies,'' no throngs of grateful constituents.

Brookings Institution economist Henry Aaron said the OMB projections—while they are based on conservative economic assumptions—may be overly optimistic because they do not incorporate the distinct possibility of a recession. ''The right way to look at this is to say that there has been a distinct change in the budgetary climate,'' Aaron said, noting that he believes current tax and spending policies could produce surpluses for the next 20 years. ''The sun is shining, but that does not mean we won't have deficits

arising from recessions . . . It does mean we have more elbow room to plan for the restructuring of Medicare and Social Security than we had just a few years ago.''

One reason the OMB projections turn out to be so favorable is the enormous saving on interest payments as the size of the debt is reduced. If paying down the debt also caused interest rates to fall somewhat, as some economists believe it would, the fiscal picture would be even brighter.

Debt-burdened U.S. families last year used an average of 17 percent of their after-tax income to make interest payments. Similarly, last year the government paid out $244 billion, more than 15 percent of its income, to cover interest on the debt owed to the public.

Paying down debt triggers a sort of virtuous cycle: As the amount owed drops, so does the interest due on the remaining unpaid balance, and the saving on interest leaves still more money available to reduce the debt.

May economists in the debt-reduction camp concede, however, that their position of pay-down-the-debt-first is colored by assumptions about the mechanics of American democracy. In theory, they acknowledge, it might be possible to craft tax cuts or new spending programs that would harness projected surpluses as efficiently as shrinking the debt. But as a practical matter, they say, such ideas aren't likely to emerge from the legislative sausage grinder in an economically rational form.

Mr. ALLARD. I say to my colleagues, this is exactly what my amendment does, what is talked about in this article. It creates future flexibility to deal with the impending Social Security crisis by paying down the debt over 30 years. I understand we cannot budget 30 years out—the free market economy does not allow us to do that—but what we can do is adopt a blueprint for the future, a blueprint that Congress can follow to eliminate the debt and show the American people, with a little bit of discipline, we can do that—and a little bit of accountability. The American people know how difficult it is to make a living and pay the home mortgage. Let's give them a hand by retiring the national debt and thereby decrease the interest rates that we pay on everything from a home loan to a student loan.

If somebody asks you, ''How am I going to benefit if you pay down the debt?'' they are going to benefit because we have lower interest rates with tremendous savings for home loans and student loans. A tax cut would most certainly be beneficial, but we cannot cut taxes at the expense of our children's future and our grandchildren's future. I ask that each and every one of my colleagues join me in this effort and make a commitment to retiring the Federal debt by voting to pass this simple, commonsense proposal.

Mr. President, if we don't have any further debate on this on either side, I yield back the time, if that is appropriate at this particular point, so the Senator from Idaho can be recognized.

Mr. DOMENICI. Mr. President, I suggest the Senator not yield back his time but, rather, let us set his amendment aside, reserving whatever time he has, and we will proceed with the next debate. So tomorrow, if my colleague wants to pick it up when we are in session and use another period of time, maybe that will give the opponents a chance and we will have a good debate. If we don't need it, we will yield it back then.

Mr. ALLARD. I thank the chairman for his suggestion. Mr. President, I will amend my unanimous consent request. I will just yield the floor and reserve my time until tomorrow. I may use it at that time.

The PRESIDING OFFICER. The Senator's time is reserved.

Mr. DOMENICI. I understand the distinguished Senator from Idaho, Mr. CRAIG, would like to speak for about 5 minutes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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. How much time did the distinguished Senator from Colorado have under the unanimous consent agreement?

The PRESIDING OFFICER. He had 45 minutes remaining.

Mr. DOMENICI. Remaining?

Mr. LAUTENBERG. That is with an hour allowance.

Mr. DOMENICI. Yes.

Mr. President, I ask unanimous consent whatever time the Senator has, he reserve that time and we set aside his amendment so Senator CRAIG can introduce an amendment and speak to it.

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

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask unanimous consent the pending amendment be set aside.

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

AMENDMENT NO. 2211

(Purpose: To modify the pay-as-you-go requirement of the budget process to require that direct spending increases be offset only with direct spending decreases)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for himself, Mr. ALLARD, Mr. GRAMS, Mr. HELMS, Mr. INHOFE, Mrs. HUTCHISON, and Mr. THOMAS, proposes an amendment numbered 2211.

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

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

The amendment is as follows:

At the end of title II, add the following:

SEC. ___. 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.

Mr. CRAIG. Mr. President, as I debate this amendment this evening, let me first recognize my colleague from Colorado, who has just brought before the Senate an almost unbelievable proposal. I say that because it is difficult for us to fathom a savings of $3.7 trillion to the American taxpayer and to future generations in this Nation by taking it upon ourselves to pay down the Federal debt over a 30-year period. I am proud to support my colleague from Colorado. It is these kinds of initiatives that I think reflect to the American people that we really are sincere about getting the spending habits of this Government, and the debt we have accumulated over the last good number of years, under control. It is also very reflective of the kind of impact that controlling deficits and debts has on our economy and on our future generations.

So, in my offering of the amendment this evening, I am proud the Senator from Colorado has joined me along with Senator HELMS, Senator HUTCHISON, Senator INHOFE, Senator GRAMS, and Senator THOMAS. Mine is a similar measure to once again shape the spending habits of this Congress. My amendment is entitled the ''Surplus Protection Amendment,'' because it does just that; it protects the surplus from irresponsible spending.

Current budget policy as we know it, pay-as-you-go—so-called PAYGO—budget enforcement rules were established to help put Washington's fiscal house in order. Since fiscal year 1994, the Senate has had a point of order requiring 60 votes to waive against any legislation which would result in mandatory spending increases that would increase the deficit. Mandatory spending in Washington's version of a fiscal autopilot. Once enacted, it requires no

further congressional action to operate. And we know that. We see it happening right here. It is a part of this budget resolution. Rather than a perpetual motion machine, mandatory spending is a perpetual spending machine. It is the Energizer Bunny of budgeting, and it has kept this budget growing and growing and growing.

What does all of this mean? Any increase in mandatory spending must be paid for with a tax increase, and any tax cut must be paid for by a mandatory spending cut. We wonder why taxes are high. We wonder why it is so difficult to cut taxes. Those are the reasons. As anyone can tell, PAYGO—that is what we call this provision in its present form—isn't sufficient. Mandatory spending has increased dramatically and will continue to increase dramatically as far as any of us can sense it.

According to the Congressional Budget Office, in 1987, mandatory spending accounted for 47 percent of the Federal budget. In 1997, it accounted for 56 percent of the Federal budget, and in the year 2008 under this budget resolution, it will account for about 70 percent of the total Federal budget.

Now remember, that is the portion that is on auto pilot; that is the portion that just keeps growing and growing and growing. This means that there has been and will increasingly be a crowding out of what the Federal Government can spend on schools, on roads, on law enforcement, and some of those fundamental things that keep our country operating in a civil way, the kind of things for which historically our Government was envisioned to have a responsibility.

I believe because of that it is time that we try to make a change. Current estimates are that the budget will be balanced this year, and the budget chairman, my colleague from New Mexico, the senior Senator who has done such a marvelous job shaping and nurturing and bringing this balanced budget along, is going to see that that happens. We are going to help him, and of that we are proud.

As far as we can see out there, we are 4 years ahead of schedule on balancing the budget, and I applaud it. I am proud to have been a part of it, and I think it is wonderful for the American people, for our economy, for job creation and all that that means. The Senator from New Mexico can be rightfully proud of it, and I know he is. However, we must look not just at the horizon of the current budget, but we ought to look beyond it, beyond the 4 years. I know we can't get beyond it in the budget process, but we can get beyond it in the policy. We can get beyond it in how we operate moving toward the future.

To avoid what will happen in the future, we must change the way we work now. I am proposing, as a modest first step, that like a good doctor, we first pledge to do no harm, and I believe my modest first step does no harm.

My surplus protection amendment establishes a point of order that requires new mandatory spending programs be paid for by mandatory spending savings. Let me repeat that.

My amendment establishes a point of order that requires new mandatory spending programs be paid for by mandatory spending savings. In other words, it would require 60 votes in the Senate to create a new mandatory spending program that was not funded by an equivalent mandatory spending savings.

If all of the new mandatory spending programs had been paid for, as we had claimed, we would not be facing a fiscal future with exploding spending and exploding deficits in the outyears.

Why does this Senate and this country need the Craig amendment? I think the current budget path that the Senator from New Mexico and all of us have worked so hard on is truly unsustainable. As good as a balanced budget today is, without ever more fundamental changes, it will not remain balanced. And it ought to be our goal to at least strive to maintain a balanced budget.

That this path is unsustainable is no secret. We all know because of what we have been told by so many. My colleague, Senator KERREY of Nebraska, who chaired the Bipartisan Commission on Entitlement and Tax Reform has said that is impossible to do. The General Accounting Office says we cannot sustain a balanced budget under our current scenario, and the President's own budget office says so.

In its most recent report, the Congressional Budget Office states:

> Currently, more than half of the nearly $1.7 trillion in Federal spending goes for entitlements and other mandatory programs (other than net interest) . . . As a share of total outlays, mandatory spending has jumped from 32 percent in 1962 to 56 percent in 1997. If current policies remain unchanged, such spending will continue to grow faster than other spending, reaching 63 percent of total outlays by the year 2002—or twice the size of discretionary outlays. Under baseline assumptions, continued growth in mandatory outlays would raise their share of the budget to 70 percent by the year 2008.

Last year, the Congressional Budget Office wrote:

> [T]his year's budgetary news should not lull people into complacency: the retirement of the large baby-boom generation is just over the horizon—

Just beyond where this budget and all of us can see—

> . . .If the budgetary pressure from both demography and health care spending is not relieved by reducing the growth of expenditures or increasing taxes, deficits will mount and seriously erode future economic growth.

That is the reality of what we deal with. That report concluded, Mr. President:

> [C]urrent budget policy is unsustainable, and attempting to preserve it would severely damage the economy.

How serious are future projections? The Congressional Budget Office concluded that even if the budget were balanced through 2002—and that is our goal, that is the goal of this budget—if that were true, we would still have a deficit equal to 34 percent of the gross domestic product by the year 2050 and the public debt would be 283 percent of the gross domestic product.

There will be a demographic shift to an older population. We all know that. The experts show us that. I am part of that. I am a baby boomer.

In 1995, there were 34 million 65-year-old, or older, citizens. In the year 2030, there will be twice that number or 68 million. There will be more elderly. They will be living longer and using Federal services much more intensively. There will be relatively fewer workers around to pay all the bills. Let us remember that it is the current working population that generates the economy that pays the bills.

In 1950, there were 7.3 workers for every senior. In 1990, there were 4.8 to 1 senior. In the year 2030, there will be 2.8 workers per every 1 senior.

So if that senior is receiving well over $1,000 a month in Social Security benefits and maybe health care benefits, who is paying for it? Those 2.8 workers. Divide it up. Count it out. It is pretty obvious how much has to come out of their wages on a monthly basis to transfer it to that senior's well-being.

What the demographic shift means is that spending will rise rapidly relative to revenues. Quoting the Congressional Budget Office:

> Revenues will be squeezed as the number of people working—and the economy—grows more slowly. At the same time, outlays for Government programs that aid the elderly will burgeon as the number of people eligible to receive benefits from those programs shoots up.

What the fiscal squeeze means, if we don't begin to recognize it now, is enormous deficits. Just at a time when we thought the deficit battle was over, when this Congress has battled through to get to a balanced budget, where we are now, all of a sudden this begins to dramatically shift. We know it will happen because the facts, the figures and the spending programs are already in law.

The deficit last year was less than 1 percent of the gross domestic product of our country. In 2035 it would be 29.8 percent. Let me repeat that. The deficit by the year 2035 will be 29.8 percent of the gross domestic product if we don't begin to shape it down and scale it down.

The Federal debt was 50 percent of the gross domestic product last year. Now we are talking about debt. It would be 250 percent by the year 2035. These are not my figures. These are the projections of the professionals, the budget professionals—the Congressional Budget Office and others—who look at the long term, who put on the binoculars and look over the horizon to see what our spending programs must yield to benefit the citizens who are

living today who will be recipients of those benefits in the year 2035.

Those figures I have given you are truly unprecedented. We have never had to deal with them before as a percentage of the gross domestic product of this country. The deficit has been higher than 10 percent of GDP, but only briefly and during a major war. Not during peace times, not during prosperity, but at a time when we were fighting for the safety and the security of this country.

The debt exceeded 100 percent only once, briefly during World War II. The results, if we were to continue to do this with these projections I have just given you, would be economic catastrophe. Even to make the burden sustainable, in CBO's terminology, allowing debt to rise but keeping it at a constant to the gross domestic product rate would have dire consequences. In other words, we can't just sustain where we are. We have to begin to back away from where we are and do so over an extended period of time. The tax burden would have to increase 20 percent above where it is today just to continue running deficits and adding debt.

Of course, some will say that this budget agreement solves the problem. I wish it did. It solves the problem in the short term, and for that we are proud. For that all of us who vote for it and support it and support the chairman in what he is bringing before us ought to be proud. We have a right to be. But it is within the short term. It is in the foreseeable future.

It is certainly an improvement, but it only delays the same scenario that I have just sketched out. According to the CBO, even if the budget is balanced through the year 2010—and that is the Congressional Budget Office speaking—it will take less than 15 years to reach the scenario that I have just projected, and that is a debt that consumes over 250 percent of the gross domestic product of this country.

The Congressional Budget Office states:

> Regardless of how the budget is balanced in the near term, additional budgetary action. . .would still be needed to put the budget on a sustainable path.

I am offering, as I said, a modest first step. The year 2030 and the year 2050 are unreal to any of us on this floor. But if there are any young people in the galleries tonight, it is their budget. It will be their Government. It will be their responsibility to run it. And it will be their responsibility to pay for it. The Congressional Budget Office paints such an alarming picture that even the authors cannot imagine it, and they write this:

> Policymakers would surely take action before the economy was driven to such dire straits.

So even those who analyze it are willing to say surely those of us—that's me, that's you, Mr. President—as policymakers would never allow this to happen. But we are not taking steps to change it. We are dealing in the short term, and we have to deal in the short term first. For that I have already applauded the chairman and the ranking member, but we have to do more.

Now is the time for us at least to prepare for such an action. My amendment takes this first modest step that we do no fiscal harm to our children, like a good doctor would.

The first frightening thing in the CBO report is that it only addresses existing programs. It makes plain that our children cannot afford them. The existing programs are not now and will not in the future be paid for by our taxes. We certainly cannot responsibly add more.

Regrettably, the President's budget adds more: $28 billion in new mandatory spending, $118 billion in total new spending, and $43 billion less in surplus that would be saved for Social Security as the President himself has called for.

My amendment will not affect a single beneficiary for a single existing program. My amendment will not even affect anyone who would be qualified in the future for one of these programs. My amendment will not prevent a tax increase in order to reduce deficits. And my amendment will not even prevent a new spending program if a new program is so important that there is a supermajority, 60 votes in this body, to bring about a new spending program. This amendment should appeal to everyone serious about deficits. It will merely make sure that there is an overwhelming demand for a new program before we create it.

These are shared goals. By all 66 who supported the balanced budget amendment to the Constitution last year. By even those who opposed it because it included Social Security. For whatever purpose people want to use the surplus, they must first be protected. My amendment not only protects them now but will for the future. Because mandatory spending has historically failed to adhere to estimates, we must offset new mandatory spending with mandatory savings.

Good-faith first steps are something that we should all come together on. So I urge my colleagues to take a look into the future to recognize those figures that are very real, that no one disputes, whether it is the President's budget estimators or whether it is our Congressional Budget Office. My amendment is a modest first step to look beyond the horizon of a balanced budget, to recognize that our current spending programs produce deficits and debts in the future that we have not yet devised a method to respond to. And I would suggest, Mr. President, that my amendment would attempt to do just that.

With that, I have spoken about this issue all that I would care to tonight. I would be happy to reserve the balance of my time if no one else wishes to speak to this issue this evening.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. CRAIG. Before the chairman speaks, let me ask, Mr. President, that Senators SESSIONS and COVERDELL be put on my amendment as original cosponsors. I ask unanimous consent that that be done.

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

Mr. DOMENICI. Mr. President, let me just say, when we were attempting to come up with a constitutional amendment that would work with reference to a balanced budget, Senator CRAIG was the leader, and we all worked with him in an effort to get an amendment which controlled spending through controlling the amount of debt that could be issued. And, frankly, that was a lot better approach than many before it because it was actually doable, it was achievable, and it was understandable.

And it controlled spending in the right way, because essentially spending is one thing, but spending when you do not have the money is another thing. And we have such a powerful country that we can borrow and borrow and borrow. It is just in recent years that we have finally got a hold of our senses and have taken such a lead in the world, the industrial world where we have competition and capitalism and free enterprise. We have taken such a lead of late because we are getting our debt under control.

I think it is fair to say we are also getting our entitlement programs under control. We have never before, before the last decade, been so concerned—and rightly so—about entitlement programs as part of the package of expenditures that make up our budget for which we either pay or, if we do not have enough tax receipts, for which we borrow. And while I am not certain that I will support the amendment exactly as it is—I have not made up my mind—I do think it is welcome here on the floor, because we have been talking about a lot of new entitlements in an era where we are proud of balanced budgets and an era of surpluses.

While they are not totally inconsistent—to be talking about an era of surpluses and balanced budgets for many, many decades—it is obvious that the biggest danger is new entitlement programs. And since we cannot increase discretionary programs, as the Senator well knows, because we finally found a way with the caps and the automatic sequester at the end of the year—found a way to control them, and everybody now expects us to, the next front is to increase entitlements and in some way find money to pay for them, but that will just make a much bigger, bigger budget and it will be more and more dangerous than even if you increase discretionary spending.

If you increase discretionary spending 1 year, you don't have to the next year. But if you increase entitlements, you have to change entitlements. If

your estimating is wrong, you have to have an amendment. By then, you have people who have been receiving the entitlement; right? Not so easy to change.

So I commend you on the thrust of the amendment and the remarks tonight. I think they are welcome in the debate we have had for the last 2 years.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Let me thank the chairman of the Senate Budget Committee for those remarks. I think they are candid and appropriate to the very essence of my own that, at a time when we have an opportunity to begin to shape control over mandatory spending, we ought to take a look at this time, and we can do that in a unique period in our Nation's history which we all fought to get to. So I thank my colleague for those comments.

I ask to retain the balance of my time.

Mr. DOMENICI. I understand the amendment will take its place among the many amendments which will be at some point appropriately sequenced for votes.

Does the Senator from New Jersey wish to speak?

Mr. LAUTENBERG. Mr. President, I listened with interest and do not want to enlarge the debate at this time. Obviously, the hour is late, but I listened with a degree of interest and care to the comments of the Senator from Idaho. And we have this debate sometimes that centers around whether the glass is half empty or half full. And we are looking at the same matrix, but I see it differently. I do not see a nation out of control. I do not see an economy that is in great jeopardy. I do not despair over what is taking place in our economic structure. Yes, we are paying more taxes in total, but that is because people's incomes have gone up and thus they are paying a larger share of the tax burden than they used to pay.

But when we look at a time when the unemployment rate compares to all-time lows, when we see inflation so well controlled, when we see the investment climate in our country so appetizing, no one knows when this is going to change, but the fact of the matter is, lots of people, lots of hard-working, what we will call modest-income people, have made good returns on their investments. And, Lord willing, they will be protected.

But why is all that taking place? Why has the stock market galloped up like it has? It is not simply because there is some kind of a speculation fever out there. A lot of it has to do with the fact that the United States is the most attractive investment country in the world. People feel secure. They know if they invest in America that they have a better chance of keeping their money safe and getting a return than any other place because of the structure of our financial being. We cannot ignore these things.

I share the Senator's view. I would like to see us paying off the debt. I am one of those who said, yes, I want to shore up Social Security. And how are we going to do it? We are going to do it by paying down the debt. The President has forecast over $1 trillion worth of surpluses over the next 10 years. That is a pretty encouraging prediction.

So, I hope we will continue this debate on the morrow, because I think there are other people here who would also want to comment.

Mr. President, I do not think we ought to ever lock ourselves into straitjackets to say that you cannot do this unless you do that. We are sent here to exercise judgment. And when I hear the speeches of some of my colleagues, I say, well, we sound like a bunch of recalcitrant children who have to be locked in a corner or put in our seats, or we are so bad—why can't we control ourselves? I do not see it that way.

I must tell you, I have great respect for those that I disagree deeply with here. They are sent here to represent a constituency who thinks that these people, the Senators in this Chamber, are going to carry a point of view that they share. And if not, there is a test that comes every 6 years. And you can see what happens. You have either passed the test or you have flunked it; it is very decisive.

But with all of that, I just do not see this, if I might call it, self-flagellation, this beating of ourselves. Look at the facts. The economy is really good. I know that I feel better about my children's future now than I did a few years ago. I think we have proven one thing. And some would say, well, we have not, Alan Greenspan has. He is part of our crowd, whether we think we are in his league or not.

The fact of the matter is, we have inflation under control—something that was hard to believe could be done, and has not caused deflation, has not caused a crisis. Things are going along very well.

So I hope, Mr. President, we will have a chance to chat about this a little bit tomorrow, and I hope we will be able to encourage our colleagues to vote against the Craig amendment, to say that we do not have to put on the handcuffs and apologize for our behavior. I do not think I do everything right, but I know one thing: I work at what I do. And so does everybody else here.

I do not think there is anybody here who shirks their responsibility, who does not take it seriously. And I do not think I have to be put in a corner like a child and told, well, you are not going to be allowed to do this unless you do that; you are not going to be allowed to spend money. How do we know when the crisis is coming?

We have done the things we said we ought to do. We have a balanced budget. I think we are all proud of that. We can argue whether it is CBO balanced. We say, yes it is. We all kind of believe that on a unified budget basis we are going to be seeing a slight surplus in the very short period. So I hope our colleagues will stand up and say no to limiting our ability to use our heads, to use our judgment, to take the risk of our votes and to see if we can do things without limiting our ability to act.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I think we are about ready, as soon as the clock strikes 10 o'clock, to recess. I think I have a long enough list of unanimous consent requests for all those wonderfully glowing, smiling faces lined up alongside of the dais there. We will be 1 minute or 2 past 10 before we finish.

Mr. President, on behalf of the leader, I ask unanimous consent that the vote in relationship to the Conrad amendment No. 2174 now occur at 2 p.m., with no second-degree amendments in order prior to the vote.

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

Mr. DOMENICI. I also ask unanimous consent that when the Senate resumes the budget resolution on Wednesday, there be 20 hours remaining under the overall statutory time limitation. And, finally, I ask unanimous consent that when the Senate resumes the resolution on Wednesday, the Coverdell amendment No. 2199 be the pending business.

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

MORNING BUSINESS

Mr. DOMENICI. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business.

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

WOMEN'S HISTORY MONTH: TRIBUTE TO SISTER MAURICE CROWLEY

Mr. DASCHLE. Mr. President, today is the last day of Women's History Month.'' Throughout the month of March, we've paid tribute to the vision of women like Elizabeth Cady Stanton, Lucretia Mott and Susan B. Anthony, the founders of the first Women's Rights Convention 150 years ago in Seneca Falls, New York. We've recognized the historic achievements and celebrated the legacies of Ameila Earhart, Marion Anderson, Eleanor Roosevelt, Dolores Huerta and hundreds of other American leaders.

During Women's History Month, it is also appropriate that we pay tribute to the countless American women whose names and great works are known only to their families, neighbors and friends. These women may not grace the pages of history books, but their contributions as mothers, teachers, entrepreneurs, farmers, and scientists have

shaped the direction and progress of this great country.

In my own state of South Dakota, women of the plains have a long history of facing challenges with self-reliance and fortitude. Courageous women pioneers worked alongside fathers, husbands, and brothers to clear land, build homesteads, and establish schools, businesses and towns. In 1998, the women of South Dakota continue to build upon the legacy left by their foremothers of strong families and a better life for future generations.

Sadly, we lost one such woman this year. But the spirit of Sister Maurice Crowley of Aberdeen, South Dakota will remain alive in the hearts of all who knew her. Her legacy of laughter, joy and a lifelong commitment to education continues on in those whose lives she touched. As one of her first grade students more than forty years ago, I am one of those people.

Sister Crowley was an incredible human being blessed with great warmth, sharp wit and Irish charm. With characteristic humor Sister Maurice Crowley used to joke, God created Adam, stepped back, took a look, and said, ''I can do better than that.'' Man or woman, we all benefit when we pay respect and honor those who make a difference in others' lives. It is with great respect and admiration that I pay personal tribute to Sister Maurice Crowley during Women's History Month.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, March 30, 1998, the federal debt stood at $5,545,895,416,499.33 (Five trillion, five hundred forty-five billion, eight hundred ninety-five million, four hundred sixteen thousand, four hundred ninety-nine dollars and thirty-three cents).

Five years ago, March 30, 1993, the federal debt stood at $4,225,653,000,000 (Four trillion, two hundred twenty-five billion, six hundred fifty-three million).

Ten years ago, March 30, 1988, the federal debt stood at $2,487,434,000,000 (Two trillion, four hundred eighty-seven billion, four hundred thirty-four million).

Fifteen years ago, March 30, 1983, the federal debt stood at $1,235,145,000,000 (One trillion, two hundred thirty-five billion, one hundred forty-five million) which reflects a debt increase of more than $4 trillion—$4,310,750,416,499.33 (Four trillion, three hundred ten billion, seven hundred fifty million, four hundred sixteen thousand, four hundred ninety-nine dollars and thirty-three cents) during the past 15 years.

MR. DONNEE GRAY

Mr. DASCHLE. Mr. President, last night millions of people across the country sat in their living rooms and at friends' houses, transfixed to the television sets as the Kentucky Wildcats became the NCAA national basketball champions. One of our very own, an employee of the United States Senate, Mr. Donnee Gray, was at that game—not as a player or as a spectator, but as an official.

Mr. Gray has worked in the Senate Library for 22 years, diligently helping Senate staffs with legislative and legal research. His expertise is well known and respected.

For more than a decade, Mr. Gray also has been officiating basketball games at various levels of competition—from Olympic and international tournaments to NCAA Division I college games. During the past several years, Mr. Gray has been honored by the NCAA by being chosen to officiate the first round of the tournament. This year, Mr. Gray's involvement in March Madness began with the first round, continued in the Sweet Sixteen round and culminated last night in the final game. The NCAA's selection of Mr. Gray exemplifies his judgment and integrity, as well as his superior knowledge of the game and its rules.

This really is a remarkable achievement by a remarkable and talented young man. We are proud of Mr. Gray and congratulate him on his selection as an official in the national championship NCAA basketball game. We also thank him for his outstanding work here in the United States Senate.

NOMINATION OF JAMES C. HORMEL AS AMBASSADOR TO LUXEMBOURG

Mr. KENNEDY. Mr. President, I urge the Majority Leader to schedule a vote on the nomination of James Hormel as U.S. Ambassador to Luxembourg.

Jim Hormel is a man of outstanding qualifications with a clear and deep commitment to public service, the promotion of human rights, and the national interests of the United States. America would be well served to have a leader of his high caliber representing this country in Luxembourg.

On the international level, he has recently completed his term as Alternate Representative of the U.S. Delegation to the 51st Session of the United Nations General Assembly. He was confirmed by the Senate for that position in 1997. He was also a member of the U.S. Delegation to the United Nations Human Rights Commission. In 1995 he participated in President Clinton's Conference on the Pacific Rim.

Jim Hormel is a talented lawyer who has shown his commitment to public service by establishing the James C. Hormel Public Service Program at the University of Chicago. This program is designed to encourage law students to enter careers in public service.

Jim Hormel is also a dedicated and energetic community activist. He was instrumental in developing resources for organizations serving people affected by HIV and AIDS, and he serves on the board of directors of the American Foundation for AIDS Research. Recently, he was honored by Breast Cancer Action for his leadership of the Men's Campaign Against Breast Cancer. He has also been a leader for human rights in his capacity as a director of the Human Rights Campaign Foundation.

Jim Hormel is also a renowned philanthropist, and he has supported an impressively diverse array of causes, including the American Indian College Fund, the United Negro College Fund, Jewish Family and Children's Services, the Catholic Youth Organization, the NAACP, the San Francisco Symphony, the San Francisco Museum of Modern Art, the San Francisco Public Library, the San Francisco Ballet, and the Virginia Institute of Autism.

It was entirely fitting that the Senate Foreign Relations Committee overwhelmingly approved his nomination last November. At the time, no Senator spoke in opposition. Only after the meeting did two Senators ask to be recorded against the nomination.

I share the concern expressed by other strong supporters of this nomination that action on Jim Hormel's confirmation is being delayed because he is gay. Delay on that basis would be irresponsible and unacceptable. Prejudice based on sexual orientation should have no place in this debate, no place in the Senate, and no place in America.

It is long past time for the Senate to vote on this nomination. Jim Hormel will be an excellent ambassador for the United States, and deserves to be confirmed as soon as possible.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORTS CONCERNING B–2 BOMBERS—MESSAGE FROM THE PRESIDENT—PM 116

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services.

To the Congress of the United States:

In accordance with the Department of Defense Appropriations Act, 1998, Public Law 105–56 (1997), and section 131 of the National Defense Authorization Act for Fiscal Year 1998, Public Law 105–85 (1997), I certify to the Congress that no additional B–2 bombers should be procured during this fiscal year.

After considering the recommendations of the Panel to Review Long-Range Air Power and the advice of the Secretary of Defense, I have decided that the $331 million authorized and appropriated for B–2 bombers in Fiscal year 1998 will be applied as follows: $174 million will be applied toward completing the planned Fiscal Year 1998 baseline modification and repair program and $157 million will be applied toward further upgrades to improve the deployability, survivability, and maintainability of the current B–2 fleet. Using the funds in this manner will ensure successful completion of the baseline modification and repair program and further enhance the operational combat readiness of the B–2 fleet.

The Panel to Review Long-Range Air Power also provided several far-reaching recommendations for fully exploiting the potential of the current B–1, B–2, and B–52 bomber force, and for upgrading and sustaining the bomber force for the longer term. These longer term recommendations warrant careful review as the Department of Defense prepares its Fiscal Year 2000–2006 Future Years Defense Program.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 31, 1998.*

MESSAGES FROM THE HOUSE

At 12:04 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, has announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 34. An act to amend the Federal Election Campaign Act of 1971 to prohibit individuals who are not citizens of the United States from making contributions or expenditures in connection with an election for Federal office.

H.R. 2186. An act to authorize the Secretary of the Interior to provide assistance to the National Historic Trails Interpretive Center in Casper, Wyoming.

H.R. 2786. An act to authorize additional appropriations for the Department of Defense for ballistic missile defenses and other measures to counter the emerging threat posed to the United States and its allies in the Middle East and Persian Gulf region by the development and deployment of ballistic missiles by Iran.

H.R. 3113. An act to reauthorize the Rhinoceros and Tiger Conservation Act of 1994.

H.R. 3301. An act to amend chapter 51 of title 31, United States Code, to allow the Secretary of the Treasury greater discretion with regard to the placement of the required inscriptions on quarter dollars issued under the 50 States Commemorative Coin Program.

H.R. 3582. An act to amend the Federal Election Campaign Act of 1971 to expedite the reporting of information to the Federal Election Commission, to expand the type of information required to be reported to the Commission, to provide the effective enforcement of campaign laws by the Commission, and for other purposes.

The message further announced that the House has passed the following bill, without amendment:

S. 750. An act to consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes.

At 4:54 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, has announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3579. An act making emergency supplemental appropriations for the fiscal year ending September 30, 1998, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 34. An act to amend the Federal Election Campaign Act of 1971 to prohibit individuals who are not citizens of the United States from making contributions or expenditures in connection with an election for Federal office; to the Committee on Rules and Administration.

H.R. 2186. An act to authorize the Secretary of the Interior to provide assistance to the National Historic Trails Interpretive Center in Casper, Wyoming; to the Committee on Energy and Natural Resources.

H.R. 2786. An act to authorize additional appropriations for the Department of Defense for ballistic missile defenses and other measures to counter the emerging threat posed to the United States and its allies in the Middle East and Persian Gulf region by the development and deployment of ballistic missiles by Iran; to the Committee on Armed Services.

H.R. 3113. An act to reauthorize the Rhinoceros and Tiger Conservation Act of 1994; to the Committee on Environment and Public Works.

H.R. 3582. An act to amend the Federal Election Campaign Act of 1971 to expedite the reporting of information to the Federal Election Commission, to expand the type of information required to be reported to the Commission, to provide the effective enforcement of campaign laws by the Commission, and for other purposes; to the Committee on Rules and Administration.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4458. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule received on March 30, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4459. A communication from the Chairman of the Federal Prison Industries, Department of Justice, transmitting, pursuant to law, the annual report for the calender year 1997; to the Committee on the Judiciary.

EC–4460. A communication from the Acting Assistant Attorney General, transmitting, a draft of proposed legislation entitled ''Drug Testing, Intervention and Trafficking Reduction Within Prisons Act of 1998''; to the Committee on the Judiciary.

EC–4461. A communication from the Chairman of Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1997; to the Committee on Governmental Affairs.

EC–4462. A communication from the Secretary of the Department of Agriculture, transmitting, a draft of proposed legislation entitled ''Federal Meat and Poultry Employees Pay Act of 1998''; to the Committee on Governmental Affairs.

EC–4463. A communication from the Federal Register Liaison Officer, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule received on March 30, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–4464. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule received on March 30, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–4465. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Ruling 98:20 received on March 30, 1998; to the Committee on Finance.

EC–4466. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Procedure 98:27 received on March 30, 1998; to the Committee on Finance.

EC–4467. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of three rules received on March 26, 1998; to the Committee on Environment and Public Works.

EC–4468. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Emission Standards for Locomotives and Locomotive Engines''; to the Committee on Environment and Public Works.

EC–4469. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the reports of twelve notices of proposed issuances of export licenses; to the Committee on Foreign Relations.

EC–4470. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the Memorandum of Justification relative to the Government of Georgia; to the Committee on Foreign Relations.

EC–4471. A communication from the Secretary of State, transmitting, pursuant to law, the report of voting practices at the United Nations for the calender year 1997; to the Committee on Foreign Relations.

EC–4472. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–4473. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of the U.S. Government voluntary contributions to international organizations for the period April 1 through September 30, 1997; to the Committee on Foreign Relations.

EC–4474. A communication from the Comptroller of the Under Secretary of Defense, transmitting, pursuant to law, the report relative to the AV-8B aircraft programs; to the Committee on Armed Services.

EC–4475. A communication from the Director of Defense Procurement (Acquisition and Technology), Office of the Under Secretary of Defense, transmitting, pursuant to law,

the report of a rule received on March 24, 1998; to the Committee on Armed Services.

EC–4476. A communication from the Director of Defense Procurement (Acquisition and Technology), Office of the Under Secretary of Defense, transmitting, pursuant to law, the report of a rule received on March 24, 1998; to the Committee on Armed Services.

EC–4477. A communication from the Director of Defense Procurement (Acquisition and Technology), Office of the Under Secretary of Defense, transmitting, pursuant to law, the report of a rule received on March 24, 1998; to the Committee on Armed Services.

EC–4478. A communication from the Acting Assistant Secretary (Health Affairs) and the Assistant Secretary of Defense (Reserve Affairs), transmitting jointly, pursuant to law, the report relative to members of the reserve components; to the Committee on Armed Services.

EC–4479. A communication from the Secretary of Defense, transmitting, pursuant to law, the report relative to Vessel War-Risk Insurance Program; to the Committee on Armed Services.

EC–4480. A communication from the Assistant Secretary (Legislative Affairs), Department of State, transmitting, pursuant to law, a report of property transfer; to the Committee on Armed Services.

EC–4481. A communication from the Director of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, the report of a rule entitled ''DOD Grant and Agreement Regulations'' received on March 25, 1998; to the Committee on Armed Services.

EC–4482. A communication from the Secretary of Labor, transmitting, pursuant to law, the report entitled ''Pension Plans for Professional Boxers''; to the Committee on Commerce, Science, and Transportation.

EC–4483. A communication from the National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule received on March 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4484. A communication from the Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule received on March 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4485. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled ''Maritime Administration Authorization Act for Fiscal Years 1999 and 2000''; to the Committee on Commerce, Science, and Transportation.

EC–4486. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of a rule received on March 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4487. A communication from the Acting Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, the report of a rule entitled ''Recreational Fishing, Shenandoah National Park'' (RIN1024-AC33) received on March 30, 1998; to the Committee on Energy and Natural Resources.

EC–4488. A communication from the Acting Director of the Minority Business Development Agency, Department of Commerce, transmitting, pursuant to law, the report of a rule received on March 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4489. A communication from the General Counsel, Office of the Secretary of Transportation, transmitting, pursuant to law, the reports of nine rules received on March 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4490. A communication from the General Counsel, Office of the Secretary of Transportation, transmitting, pursuant to law, the reports of forty-four rules received on March 26, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4491. A communication from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule received on March 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4492. A communication from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule received on March 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4493. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule received on March 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4494. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule received on March 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4495. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule received on March 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4496. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule received on March 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4497. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule received on March 24, 1998; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated on October 1, 1997:

POM–231. A resolution adopted by the Mayor and Councilmen of the City of Oak Ridge, Tennessee relative to the Land and Water Conservation Fund; to the Committee on Appropriations.

POM–232. A resolution adopted by the Mayor and Council of the City of Hialeah, Florida relative to the HABDI Project; to the Committee on Armed Services.

POM–233. A resolution adopted by the Township Committee of Freehold, New Jersey relative to ocean dumping; to the Committee on Environment and Public Works.

POM–234. A resolution adopted by the Council of the City of El Segundo, California relative to truck trailers; to the Committee on Environment and Public Works.

POM–235. A resolution adopted by the Assembly of the Kenai Peninsula Borough (Alaska) relative to the Tustumena Lake Sockeye Salmon Fisheries Enhancement Project; to the Committee on Environment and Public Works.

POM–236. A resolution adopted by the Council of the City of Kanai, Alaska relative to the Tustumena Lake Sockeye Salmon Fisheries Enhancement Project; to the Committee on Environment and Public Works.

POM–237. A resolution adopted by the Board of Directors of the Dade League of Cities relative to coastal beach erosion; to the Committee on Environment and Public Works.

POM–238. A resolution adopted by the Mayor and Board of Trustees of the Village of Westmont, DuPage County, Illinois relative to proposed stronger air quality standards; to the Committee on Environment and Public Works.

POM–239. A resolution adopted by the City of Brooksville, Florida relative to the Intermodal Surface Transportation Efficiency Act; to the Committee on Environment and Public Works.

POM–240. A resolution adopted by the President and Board of Trustees of the Village of Willowbrook, DuPage County, Illinois relative to proposed stronger air quality standards; to the Committee on Environment and Public Works.

POM–241. A resolution adopted by the Board of Supervisors, County of Los Angeles, California relative to military; to the Committee on Veterans' Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SHELBY (for himself and Mr. SESSIONS):

S. 1883. A bill to direct the Secretary of the Interior to convey the Marion National Fish Hatchery and the Claude Harris National Aquacultural Research Center to the State of Alabama, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ROBERTS:

S. 1884. A bill to amend the Commodity Exchange Act to remove the prohibition on agricultural trade options outside contract markets; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. D'AMATO (for himself, Mr. ROCKEFELLER, Mrs. HUTCHISON, Mrs. FEINSTEIN, and Mrs. BOXER):

S. 1885. A bill to amend the Internal Revenue Code of 1986 to provide for a medical innovation tax credit for clinical testing research expenses attributable to academic medical centers and other qualified hospital research organizations; to the Committee on Finance.

By Mr. DURBIN (for himself and Ms. MOSELEY-BRAUN):

S. 1886. A bill to designate the facility of the United States Postal Service located at 3750 North Kedzie Avenue in Chicago, Illinois, as the ''Daniel J. Doffyn Post Office Building''; to the Committee on Governmental Affairs.

By Mrs. FEINSTEIN (for herself, Mr. TORRICELLI, Mr. KENNEDY, Mr. DURBIN, Mr. LAUTENBERG, and Mr. BUMPERS):

S. 1887. A bill to ban the importation of large capacity ammunition feeding devices, and to extend the ban on transferring such devices to those that were manufactured before the ban became law; to the Committee on the Judiciary.

By Mr. GREGG (for himself and Mr. LIEBERMAN):

S. 1888. A bill to establish a moratorium on exactions that would interfere with the flow of commerce via the Internet, to establish a commission to develop a uniform set of definitions and principles for State and local jurisdictions to utilize regarding regulation

and taxation of commercial transaction on the Internet, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN (for himself, Mr. CHAFEE, and Mr. GRAHAM):

S. 1889. A bill to reduce tobacco use by children and others through an increase in the cost of tobacco products, the imposition of advertising and marketing limitations, assuring appropriate tobacco industry oversight, expanding the availability of tobacco use cessation programs, and implementing a strong public health prevention and education strategy that involves the private sector, schools, States, and local communities; read the first time.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mrs. BOXER, Mr. DODD, Ms. MIKULSKI, Mrs. FEINSTEIN, Mr. DURBIN, Mr. REED, Mr. INOUYE, Mr. TORRICELLI, Mr. KERRY, Ms. MOSELEY-BRAUN, Mr. WYDEN, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mr. CLELAND, Mr. LEAHY, Mrs. MURRAY, Mr. WELLSTONE, Mr. SARBANES, Mr. AKAKA, and Mr. BINGAMAN):

S. 1890. A bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; to the Committee on Labor and Human Resources.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mrs. BOXER, Mr. DODD, Ms. MIKULSKI, Mrs. FEINSTEIN, Mr. DURBIN, Mr. REED, Mr. INOUYE, Mr. TORRICELLI, Mr. KERRY, Ms. MOSELEY-BRAUN, Mr. WYDEN, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mr. CLELAND, Mr. LEAHY, Mrs. MURRAY, Mr. WELLSTONE, Mr. SARBANES, Mr. AKAKA, and Mr. BINGAMAN):

S. 1891. A bill to amend the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Finance.

By Mr. KYL:

S. 1892. A bill to provide that a person closely related to a judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court) may not be appointed as a judge of the same court, and for other purposes; to the Committee on the Judiciary.

By Mr. DEWINE (for himself, Mr. HATCH, Mr. LEAHY, and Mr. SPECTER):

S. 1893. A Bill to establish a law enforcement block grant program; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself and Mr. THOMPSON):

S. Res. 203. A bill expressing the sense of the Senate that the University of Tennessee Lady Volunteers basketball team is the new dynasty in collegiate women's basketball; considered and agreed to.

By Mr. FORD (for himself and Mr. MCCONNELL):

S. Res. 204. A resolution to commend and congratulate the University of Kentucky on its men's basketball team winning its seventh National Collegiate Athletic Association championship; considered and agreed to.

By Mr. FAIRCLOTH (for himself, Mr. JEFFORDS, Mr. BOND, Mr. FRIST, Mr. CHAFEE, and Mr. INOUYE):

S. Res. 205. A resolution expressing the sense of the Senate that the Nation should recognize the contributions of public health and prevention services to this Nation and celebrate ''National Public Health Week'' during the week of April 6 through April 12, 1998; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROBERTS:

S. 1884. A bill to amend the Commodity Exchange Act to remove the prohibition on agricultural trade options outside contract markets; to the Committee on Agriculture, Nutrition, and Forestry.

THE TRADE OPTIONS FOR FARMERS AND RANCHERS ACT

Mr. ROBERTS. Mr. President, today I am pleased to introduce the Trade Options for Farmers and Ranchers Act (TOFRA). This legislation will provide farmers and ranchers across the United States with new, improved and affordable risk management products to help producers succeed in the 21st century.

This bill fulfills a promise we made to America's farmers and ranchers during the 1996 farm bill debate. The far-reaching, market-oriented reforms contained in the Freedom to Farm Act have provided substantial financial benefits to agriculture producers throughout the country. At the same time, this policy must be buttressed by proper risk management tools, regulatory relief, tax changes and a consistent, strong export policy. As a result, while leading the fight to get the federal government out of producers' daily lives and pocket-books, I promised to fight for better tools to help manage the tremendous financial risk that is inherent in life on the farm today.

The TOFRA would repeal the Commodity Futures Trading Commission's prohibition on the sale of over-the-counter agriculture trade options. The CFTC ban dates to the Great Depression. It was put in place during a time when financial and commodity markets were viewed with both suspicion and fear. Today, we live in a time of mutual funds, computerized financial transactions and round-the-clock, global commodity trading. While we should never forget the important lessons of the Great Depression, we must not let the troubling memories of the past hold back our nation's farmers and ranchers when there is so much promise in the future.

The CFTC's agriculture option ban created a monopoly. Today, if a farmer or rancher wants to hedge his price risk with an agriculture option, he must purchase the option from a commodity exchange. Over the years, the exchanges have performed a valuable service to farmers and ranchers by giving them the opportunity to manage their price risk in a regulated environment. Despite their best efforts, organized exchanges—primarily as a result of excessive regulation—have not been able to keep up with the tremendous demand in Farm Country for newer, better alternatives to existing risk management tools.

I will continue to support legislative efforts to allow all interested parties—commodities exchanges included—to sell a wider variety of financial products. In fact, I continue to be frustrated with the CFTC's unwillingness to provide organized exchanges with the same basic business opportunities available to over-the-counter brokers. This bias is unfortunate and counter-productive to both buyers and sellers of commodities.

At the same time, overly restrictive regulations are preventing America's farmers and ranchers from receiving the new, innovative products they need. The CFTC ban on over-the-counter agriculture options has been maintained in order to ''save farmers from themselves.'' The argument here is that farmers, grain elevators and others in rural America don't understand how options work. Therefore, the federal government has seen fit to limit severely the development of, and competition in, financial instruments that would provide substantial benefits to producers who understand commodity marketing in order to protect the few remaining producers who have no interest in managing price risk. Basically, current federal policy in this area is targeted towards the 1930s instead of the 2030s.

Agriculture options are complex, expensive financial instruments. In order to use them properly, producers must have specialized knowledge of commodity marketing and the risks associated with participating in them. As a result, many producers may choose not to use the additional financial products made possible through this legislation. However, agriculture options should be readily available to those producers with the skill, knowledge and desire to use them.

It is important that agriculture options—whether sold on an organized commodity exchange or through an over-the-counter broker—be sufficiently regulated. This legislation will simply make agriculture options just like all other options. If you purchase an option on wheat, natural gas or common stock, the bookkeeping, registration and disclosure requirements should be the same. Similarly, strong protections against fraud and manipulation are included to help prevent and punish fly-by-night operations and bucket-shops. In short, this bill establishes a simple formula: provide business opportunity with limited, but vigorously enforced rules. With proper oversight, this bill will be good for producers, brokers, businesses and consumers alike.

I do want to thank the CFTC for recently submitting a proposed rule that would begin to lift its long-held ban on over-the-counter agriculture trade options. They have taken the initial step toward removing the ban on off-exchange agriculture options trading. Unfortunately, the CFTC's proposal is so limited, so burdened with red-tape and reporting requirements, that significant benefit is doubtful. No new

products, no improved products and no more competition to drive down the price of risk management for America's farmers and ranchers.

I am hopeful this legislation will renew CFTC interest in a workable regulation to govern agriculture option trading. I also urge the CFTC to act quickly to make these important tools available to America's farmers and ranchers. In conclusion, let me simply say this: if we give our producers a helping hand and appropriate safeguards, they will do the rest.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1884

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AGRICULTURAL TRADE OPTIONS OUTSIDE CONTRACT MARKETS.

The Commodity Exchange Act is amended by inserting after section 4p (7 U.S.C. 6p) the following:

"SEC. 4q. AGRICULTURAL TRADE OPTIONS OUTSIDE CONTRACT MARKETS.

''(a) DEFINITIONS.—In this section:

''(1) AGRICULTURAL TRADE OPTION OUTSIDE A CONTRACT MARKET.—The term 'agricultural trade option outside a contract market' means an agreement, contract, or transaction (or class thereof) entered into on other than a contract market for—

''(A) the purchase of an agricultural trade option involving a commodity by a person who is a producer, processor, commercial user, or merchant handler of the commodity;

''(B) the sale or transfer of an agricultural trade option involving a commodity; or

''(C) a purpose related to the business of a person referred to in subparagraph (A).

''(2) COMMODITY.—The term 'commodity' means an agricultural commodity referred to in section 1a(3).

''(b) AUTHORIZATION.—Subject to subsection (c), an agricultural trade option outside a contract market shall be permitted and shall be considered to be consistent with the other provisions of this Act.

''(c) REGULATION.—

''(1) SAFEGUARDS.—Subject to paragraph (2), an agricultural trade option outside a contract market shall, to the extent determined to be applicable by the Board, be subject to—

''(A) sections 4b and 4o;

''(B) the provisions of sections 6(c) and 9(a)(2), to the extent that the provisions prohibit manipulation of the market price of any commodity in interstate commerce for future delivery;

''(C) prohibitions against fraud or manipulation under section 4c(b);

''(D) registration requirements of the Commission administered by the National Futures Association;

''(E) a requirement that the person providing the option has a net worth of at least $50,000;

''(F) requirements for full disclosure of risks and responsibilities involved in the contract or agreement for the option; and

''(G) recordkeeping and reporting requirements of the Commission.

''(2) LIMITATIONS.—

''(A) TOTAL ASSETS.—Except for the fraud and manipulation provisions of the provisions of law referred to in subparagraphs (A), (B), and (C) of paragraph (1), paragraph (1) shall not apply to an agricultural trade option outside a contract market if the buyer and seller of the option each have assets of a value of at least $10,000,000.

''(B) PHYSICAL DELIVERY; STRUCTURE AND STRATEGIES.—An agricultural trade option outside a contract market shall not be subject to—

''(i) a requirement that the option, if exercised, be physically delivered; or

''(ii) a limitation on the structure of the option or trading strategies for the use of the option.

''(c) TERMINATION OF EFFECTIVENESS.—The authority provided by this section terminates effective September 30, 2002.''.

SEC. 2. CONFORMING AMENDMENTS.

(a) Section 4(a) of the Commodity Exchange Act (7 U.S.C. 6(a)) is amended—

(1) in paragraph (1), by inserting ''(A)'' after ''(1)'';

(2) by redesignating paragraphs (2) and (3) as subparagraphs (B) and (C), respectively;

(3) in subparagraph (C) (as so redesignated), by striking the period at the end and inserting ''; or''; and

(4) by adding at the end the following:

''(2) the contract is an agricultural trade option outside a contract market permitted under section 4q.''.

(b) Section 4c(b) of the Commodity Exchange Act (7 U.S.C. 6c(b)) is amended in the first sentence by striking ''No'' and inserting ''Except as provided in section 4q, no''.

SEC. 3. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Commodity Futures Trading Commission shall issue such regulations as the Commission determines are necessary to carry out this Act and the amendments made by this Act.

By Mr. D'AMATO (for himself, Mr. ROCKEFELLER, Mrs. HUTCHISON, Mrs. FEINSTEIN, and Mrs. BOXER):

S. 1885. A bill to amend the Internal Revenue Code of 1986 to provide for a medical innovation tax credit for clinical testing research expenses attributable to academic medical centers and other qualified hospital research organizations; to the Committee on Finance.

THE MEDICAL INNOVATION TAX CREDIT ACT OF 1998

Mr. D'AMATO. Mr. President, I rise today to introduce legislation with my colleagues, Senators ROCKEFELLER, HUTCHISON, FEINSTEIN and BOXER, to create a new tax credit that will make it easier for medical schools, teaching hospitals, and non-for-profit research hospitals to invest in potentially life saving medical research. Our bill will add Section 41A to the Internal Revenue Code to establish a Medical Innovation Tax Credit. This new credit would apply to qualified medical innovation expenses for biopharmaceutical research activities, including clinical trials, at qualified academic institutions. The credit rate would be 20% of qualified expenses on research conducted in the United States. This tax incentive is necessary in order to assure that the United States maintains its position as the leading country for biomedical research.

The Medical Innovation Tax Credit will supplement the current law Research and Experimental Tax Credit (R&E) which has allowed biopharmaceutical companies to invest hundreds of billions of dollars in research for new drug therapies. Clinical trials are conducted by these drug companies in order to obtain FDA approval. However, these initial studies are only a fraction of the applied research needed to follow patients and to discover possible combinations of drugs which provide the most effective therapy. These post-approval studies are performed by clinical investigators and major academic medical centers.

Until recently, medical schools, teaching hospitals, and not-for-profit hospitals were able to fund research from their operating profits. Many physicians chose to practice at these hospitals at a reduced salary based on the opportunity to engage in teaching and clinical research. With the profound changes in the health care industry over the last few years, this profit no longer exists. In the era of managed care, many insurance companies are reimbursing physicians and hospitals at the cost of services. Combined with cuts in Medicare payments and reduced subsidies for graduate medical education, teaching hospitals can barely afford to pay their medical staff's salary, let alone fund its research.

These financing changes have had the largest impact on hospitals affiliated with academic medical centers. A recent study found a 22% decline in clinical research conducted at member hospitals of the Association of American Medical College's Council of Teaching Hospitals. This drop is alarming because it demonstrates that these hospitals no longer have the financial resources to contribute to the public's health. Traditionally, academic medical centers trained new doctors, supported applied biomedical research, and provided the bulk of uncompensated care for uninsured patients. Under this system medical residents had the opportunity to treat a wide spectrum of patients, regardless of their health insurance status. In addition, uninsured patients were able to receive the latest care within the scope of clinical trials performed at academic hospitals. With reductions in private and public funding these medical centers have been forced to reduce these social services to compete with for-profit-hospitals with no research agenda. This development promises only to stagnate the level of care and number of treatment options that the next generation of doctors can offer their patients.

Mr. President, my state of New York has 12 medical schools and 40 teaching hospitals, in addition to 8 designated cancer centers. Each of these institutions will be eligible for the Medical Innovation Tax Credit. Without continued funding of research at these institutions, many New Yorkers will recognize a profound effect upon the quality of their health care. Without the opportunity to conduct research many of the country's top doctors may leave to

practice in locations where they can earn more money. Such a move will also reduce the need for research specialists and their staffs. Patients will have to choose between hospitals that only recognize the bottom line while their children will not enjoy the same medical advances as they did. Many uninsured patients will not be able to receive uncompensated care and will not be able to receive the most advanced medicine possible.

And these changes aren't just particular to my state. Almost every state has a medical school which serves as the epicenter for a network of teaching hospitals which employ thousands of physicians, nurses, research specialists, and support staff. A large percentage of each state's economy is based on these medical centers. Thus, we all stand to recognize two main benefits from the Medical Innovation Tax Credit, more jobs and better health. Only by encouraging private investment in medical research can our health care infrastructure develop new and innovative ways to deliver the most advanced care to all citizens of our country.

We urge all of our colleagues to support this legislation that will restore to medical schools and teaching hospitals the ability to perform applied biomedical research to help treat and cure many of our pressing health needs such as cancer and heart disease. This is a targeted measure which has widespread benefits for all citizens.

Mrs. FEINSTEIN. Mr. President, I rise today to join Senator D'AMATO, Senator BOXER, Senator ROCKEFELLER and others in support of legislation to create the Medical Innovation Tax Credit. The proposed tax credit can be an effective complement to the existing research and experimentation tax credit. The new proposal will support additional medical research at fine research universities, like the University of California and Stanford University, assisting in the development of new products to improve health and save lives. I am pleased to support Senator D'AMATO's proposal.

Under the legislation, the Medical Innovation Tax Credit would provide a pharmaceutical or biotechnology company with a tax credit equal to 20% of their expenditures for human drug clinical trials conducted at medical schools, university teaching hospitals or non-profit research hospitals working in conjunction with the National Institutes of Health.

The proposal will provide an important incentive to conduct the research trials in the university hospital setting, improving academic training, health care and the development of new research and bio-medical products.

The legislation will assist medical schools and research institutions leverage additional private sector support for medical schools and teaching hospitals. Teaching hospitals have historically been an important site of research activity. However, partially because of the universities' broad education mission, teaching hospitals face a cost-disadvantage when compared to a ''for profit'' contract research organization. This new research credit will help level the playing field for medical schools and teaching hospitals.

The proposal will help provide, in an indirect manner, additional resources for medical research. The administration and Congress both enthusiastically support increasing federal support for medical research through the National Institutes of Health. However, with our acute budget needs, Congress may face difficulty in meeting our goals. Congress can provide new sources of revenue for these research hospitals by encouraging them to serve as sites for clinical trials. Only clinical research activities conducted in the United States can qualify for the credit, decreasing the economic incentive to move the research activities to lower cost facilities off-shore.

The support is appropriate because academic health centers address important societal priorities, accepting expenses other medical facilities may not have to incur.

University-based teaching hospitals provide a disproportionate share of high-cost, critical services to low-income or uninsured individuals.

University-based teaching hospitals carry a higher burden of necessary, but in many cases unprofitable, services, such as emergency trauma care and burn unit facilities. Academic health centers represent only 2% of all non-federal community hospitals, but have 33% of the trauma units and 50% of its burn units.

The credit will help provide, in an indirect manner, additional funds for medical research by encouraging them to serve as clinical trial sites. The infusion of research dollars will support their vital missions.

The proposal will help arrest the declining rate of clinical research trials conducted at these facilities.

The American Association of Medical Colleges, which supports the legislation, reports a 22% drop in clinical research at member hospitals.

A recent study of three pharmaceutical companies indicates that although pharmaceutical R&D is larger than the research funds of the National Institutes of Health, the level of university-based clinical trials has declined from 82% in 1989 to 68% in 1993.

This proposal can help schools arrest the steady, five year decline and make the most of their research dollars.

The credit will serve as an effective supplement to the current Research and Experimentation Credit and the Orphan Drug Tax Credit and provide a cost-effective incentive to encourage companies to pursue research in an academic setting. The credit will promote research at teaching hospitals, lead to the development of stronger research universities, contribute to new medical therapies and products and strengthen our world leadership in the important field of medical innovation. I am pleased to lend my support.

Mrs. BOXER. Mr. President, I want to take a few minutes to talk about an important piece of legislation which is being introduced today, the ''Medical Innovation Tax Credit.'' I am an original co-sponsor of this legislation.

The Medical Innovation Tax Credit will establish a new, free-standing credit in the Internal Revenue Code. The credit, modeled after a law in my home state of California, provides a targeted tax incentive for companies to increase clinical trials at medical schools and teaching hospitals. The California law has been successful in encouraging biotechnology and pharmaceutical companies to expand their pioneering research activities at medical schools and teaching hospitals throughout the state. The Medical Innovation Tax Credit will encourage and stimulate such pioneering research in California and throughout the country.

Many medical institutions today face significant financial pressures as a result of fundamental changes in the health care marketplace. With fewer funding sources available, medical schools, teaching hospitals, and charitable research hospitals designated as cancer centers by the National Cancer Institute (NCI), are having to cut back on their cutting-edge research activities.

The Medical Innovation Tax Credit will help alleviate some of these financial pressures by encouraging more clinical trials to be conducted at medical schools, hospitals and NCI-designated cancer centers; thus providing these institutions additional private sector resources to fund cutting-edge medical research projects which otherwise may not have been funded. These extra resources will also enhance research and training opportunities, thereby ensuring our nation's continued leadership in innovative medical research.

Moreover, the Medical Innovation Tax Credit encourages companies to conduct their research activities here in the United States since only domestic clinical trials are eligible for the credit. By decreasing the economic incentive to move such activities offshore, more clinical research projects will be conducted in the U.S. Such domestic based research will ultimately lead to increased jobs, investments and productivity here at home.

So, Mr. President, I am very proud to support this bill and I congratulate my colleague Senator D'AMATO for his hard work on this legislation. The enactment of this legislation will provide important resources for our nation's leading medical schools, teaching hospitals and NCI-designated cancer centers and it will help ensure America's continued preeminence in innovative medical research. I encourage my colleagues to join in supporting the Medical Innovation Tax Credit.

By Mr. DURBIN (for himself and Ms. MOSELEY-BRAUN):

S. 1886. A bill to designate the facility of the United States Postal Service

located at 3750 North Kedzie Avenue in Chicago, Illinois, as the ''Daniel J. Doffyn Post Office Building''; to the Committee on Governmental Affairs.

THE DANIEL J. DOFFYN POST OFFICE BUILDING DESIGNATION ACT OF 1998

Mr. DURBIN. Mr. President, I rise today together with my distinguished colleague, Senator CAROL MOSELEY-BRAUN, to introduce legislation to designate the United States Post Office facility at 3750 North Kedzie Avenue in Chicago, Illinois, as the ''Daniel J. Doffyn Post Office Building.''

This legislation honors the service and heroism of Daniel Doffyn, a 40-year-old rookie officer with the Chicago Police Department, who was fatally shot in the line of duty two years ago.

On the afternoon of March 8, 1995, Daniel Doffyn and his partner, Milan ''Mike'' Bubalo, who had just completed their regular shift, responded to a report of a burglary in progress. What they encountered, in broad daylight, just a few steps away from the Austin precinct house on Chicago's West Side, were three gun-wielding gang members hiding in an apartment. Believing the officers to be there to arrest them for their involvement in an earlier gang shooting, the trio panicked and tried to escape through a window.

After capturing one suspect, Doffyn was shot in the head and chest by a second man, who opened fire with a TEC-DC9 semiautomatic pistol, one of the 19 assault weapons banned under the 1994 Federal law. Officer Doffyn died in surgery later that evening. In the barrage of gunfire, Officer Bubalo was seriously wounded in the thigh, and has an artificial left hip as a result of the shooting.

Officer Doffyn tragically lost his life in the course of performing a job that he truly loved, less than a year after graduating from the Chicago Police Academy, following a three-year quest to fulfill a dream to protect and serve his community. If someone needed help, Danny Doffyn was the first one there. In the words of District Commander LeRoy O'Shield, ''he exemplified the very finest the police department has to offer. He was not assigned this job but responded to it.''

The post office sought to be designated is in the neighborhood where Officer Doffyn, who was posthumously awarded the Medal of Valor for his ultimate sacrifice, resided with his parents, bicycled and roller skated with his eight-year-old daughter, Brittany, and donned his blue uniform and police star #14030 with pride.

We trust our colleagues will agree that this designation is a worthy tribute to salute the life and courage of Daniel Doffyn, and to pay respect to the thousands of men and women in law enforcement careers who risk their lives every single day striving to keep our citizens, streets, and sidewalks safe.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1886

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF DANIEL J. DOFFYN POST OFFICE BUILDING.

(a) IN GENERAL.—The facility of the United States Postal Service located at 3750 North Kedzie Avenue in Chicago, Illinois, shall be known and designated as the ''Daniel J. Doffyn Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility of the United States Postal Service referred to in subsection (a) shall be deemed to be a reference to the ''Daniel J. Doffyn Post Office Building''.

By Mr. HARKIN (for himself, Mr. CHAFEE, and Mr. GRAHAM):

S. 1889. A bill to reduce tobacco use by children and others through an increase in the cost of tobacco products, the imposition of advertising and marketing limitations, assuring appropriate tobacco industry oversight, expanding the availability of tobacco use cessation programs, and implementing a strong public health prevention and education strategy that involves the private sector, schools, States, and local communities; read the first time.

THE KIDS DESERVE FREEDOM FROM TOBACCO ACT OF 1998

Mr. HARKIN. Mr. President, today I am joined by my colleagues Senators JOHN CHAFEE, BOB GRAHAM in introducing the first bipartisan comprehensive proposal to cut youth smoking—The Kids Deserve Freedom From Tobacco Act, or simply, The KIDS Act. Today marks the turning point in the drive for tobacco reform this year.

Before I go further, I want to thank my partners in this effort, JOHN CHAFEE and BOB GRAHAM. They are real heroes in the fight to save kids from tobacco. They've taken significant risks in joining this effort. And they have done a terrific job in putting our proposal together. This has truly been a bipartisan team effort.

I also want thank the leaders of the public health community who have joined us to support our efforts. They will play a critical role in shaping the course of this historic tobacco reform effort in the coming months. And their support is vital to the success of The KIDS Act. Finally, I want to thank Dr. C. Everett Koop and Dr. David Kessler, for their help and counsel to us in crafting our proposal.

We are introducing this bill because we face a public health crisis affecting our children. 3,000 kids start smoking every day and fully 1,000 of them will die prematurely because of it. That's the equivalent of 3 jumbo jets packed with kids crashing every day. 400,000 Americans die every year of tobacco related illness at a cost of over $50 billion. And the tobacco industry has been engaged in a systematic campaign of distortion and deceit to hook kids and hide the facts from the American people.

Tobacco reform is the issue of 1998. It is the crown jewel of this Congress. And passing a tobacco bill like the KIDS Act is a once and a lifetime opportunity. Unfortunately, though, the tobacco debate so far has been largely partisan. That's why we've joined arms across party lines behind the KIDS Act. We hope and believe that the introduction of our bipartisan bill will change the debate and significantly increase the odds that reforms will be made.

The KIDS Act would cut tobacco use by kids in half over the next three years through aggressive and comprehensive reforms. That's the sharpest and fastest reduction achieved by any bill proposed to date. Our goal is to cut it by at least 65 percent shortly after that. The Food and Drug Administration has found that reducing the use of tobacco by children by 50 percent could prevent well over 60,000 premature deaths every year, and will save up to $43 billion annually in reduced medical costs and improved productivity.

Now is not the time for anything but the strongest, most effective bill possible.

Experts agree that a substantial price hike over a very short period of time is key to changing teen smoking behavior. If left unchanged, the Commerce Committee draft bill, which spreads a $1.10 price increase over 5 years will do little to impact teen smoking. In contrast, the KIDS Act increases the price by $1.50 in just two years, achieving a 50% reduction in just three years. That's the bottom line and anything less is just smoke and mirrors.

In addition, our bill gets tough on the individual companies that addict the most kids by imposing tough penalties if the company doesn't meet teen smoking reduction targets. I'm very concerned that the Commerce Committee proposes no company-specific penalty. Without a profit-based deterrent, the penalty will just be passed through to consumers, giving companies no incentive to cut youth smoking.

Finally, our bill caps the annual liability of the tobacco industry as part of a tough, comprehensive bill that dramatically reduces youth smoking. Without a tough public health bill, the annual liability cap is not acceptable.

As Drs. Koop and Kessler say in their letter, our bill is ''tough medicine for a tough problem.'' Our proposal sends a simple message to the tobacco industry: Keep away from our kids. Our plan will be a very, very bitter pill for the industry. And no doubt they will criticize us. But in the end, I believe they are going to have to swallow it.

Creating a more sensible policy toward tobacco has been a goal of mine for many years. It was in 1977, over 21

years ago, that I first introduced legislation calling for repeal of the tax deductibility of tobacco advertising and marketing.

Unfortunately, victories in the tobacco wars have come few and far between. In 1988, we finally changed federal law on smoking in airplanes. It was a full ten years later, and after failing one time, the Senate took its next step last September by passing the Harkin-Chafee plan to fully fund enforcement of the FDA youth ID check.

But I am more hopeful now than ever that we can pass a comprehensive plan that would once and for all change how this nation deals with tobacco and dramatically cut the number of our kids addicted to this deadly product. Mr. President, our goal is to be on the Senate floor three years from now announcing that indeed, child smoking has been cut in half. We're going to put all our energies into making that happen.

We urge our colleagues to review our proposal and join us in sponsoring it. We look forward to working with all our colleagues on a bicameral, bipartisan basis to make good on the historic opportunity we have this year.

Mr. President, I ask unanimous consent that a summary of the KIDS Act, letters of endorsement of our bill and copies of several editorials in support our the KIDS Act be included in the RECORD.

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

KID DESERVE FREEDOM FROM TOBACCO ACT OF 1998 ''THE KIDS ACT''

Principles

Congress has an historic opportunity to enact legislation this year which will significantly reduce tobacco use—especially among children. Nearly one in five deaths in America today is attributable to tobacco use, making it the single most preventable cause of premature death, disease and disability facing this country. These facts compel us to act now. However, to ensure the most effective result, legislation must embody the following principles:

It must be bipartisan and comprehensive—not piecemeal—to ensure a fundamental and lasting change in the way tobacco products are marketed and sold in this country.

It must attack the youth smoking epidemic as rapidly as possible by forcing the price of cigarettes to increase by $1.50 per pack within the first two years, and providing for comparable increases in other tobacco products.

It must preserve the rights of individuals and groups to sue tobacco manufacturers for the damages they have caused, while at the same time establishing a framework to ensure that funds are available to cover awards and settlements secured by successful claimants.

It must provide incentives to states, local communities, schools, research institutions, health professionals and other stakeholders to develop innovative strategies to discourage youth smoking, and to assist adult smokers in kicking the habit.

It must have as its primary purpose the promotion of aggressive anti-tobacco initiatives and public health improvements, including the provision of significant new resources for medical research.

Summary

The Kids Deserve Freedom From Tobacco Act of 1998 (''The KIDS Act'') significantly improves upon and strengthens the June 1997 Attorneys General Tobacco Settlement Agreement (''June 1997 Tobacco Agreement''). The legislation would substantially reduce youth tobacco use through a comprehensive set of policy changes. These include increasing the cost of tobacco products, curtailing advertising and marketing to children, assuring appropriate industry oversight, expanding the availability of smoking cessation programs, and implementing a strong public health prevention and education strategy involving the private sector, schools, states and local communities.

I. ECONOMIC INCENTIVES

Price Increase. Public health experts agree that the single most important component of a comprehensive plan to reduce youth tobacco use is to significantly increase the price of tobacco products over a short period of time. A gradual increase, phased in over 5 or more years, will not significantly reduce teen tobacco use. Therefore, our proposal would increase the price of a pack of cigarettes by $1.50 within two years ($1.00 the first year; $0.50 the second year). The price of other tobacco products with significant market shares would be increased by a comparable amount. These increases would be achieved through annual industry payments totaling $20 billion the first year and $25 billion per year thereafter (indexed to inflation).

Annual Youth Reduction Targets. There is clear and abundant evidence that the tobacco industry has tailored its marketing and advertising programs to attract and encourage children to smoke. Largely because of the industry's success in this regard, 3,000 children start smoking every day in America. Accordingly, the KIDS Act would make the tobacco industry accountable for promoting and achieving a significant reduction in tobacco use among children. Our proposal would set an ambitious, but realistic schedule for reducing the rate of youth smoking by 65 percent over the next ten years.

The schedule would follow the recommendations of the Final Report of the Advisory Committee on Tobacco Policy and Public Health, chaired by Dr. C. Everett Koop and Dr. David Kessler. The following targets would be set:

Year:	*Percent of reduction*
2	15
3	20
4	25
5	30
6	40
7	50
8	55
9	60
10	65
Beyond	65

(youth prevalence measured by monthly use)

Tough Look-back Penalties. The KIDS Act would impose up to an additional $10 billion per year in non tax-deductible penalties (indexed to inflation) on the tobacco industry for failure to meet these targets. First, and most importantly, company-specific penalties would be imposed to prevent individual manufacturers from achieving any financial reward from addicting children to their products. Second, industry-wide penalties would be assessed for failure to meet the above targets. Finally, unlike the June 1997 Tobacco Agreement, the KIDS Act would provide no abatement or rebate relief to tobacco companies.

Company-specific Penalties: The KIDS Act would impose the strongest possible incentives for individual tobacco companies to stop recruiting and addicting children. It sets up a system of tough and escalating penalties for those companies that miss youth reduction targets. This is crucial because, unlike industry-wide penalties which can be passed on to consumers equally by all companies without affecting market share, company-specific penalties directly tie company profits to reducing teen smoking.

Under the KIDS Act, for each percentage point a company misses between 0 and 10 percent, a penalty of 1 cent per pack is imposed. The penalty doubles for each percentage point missed between 11 and 20 percent and triples for each percentage point missed over 21 percent. For those companies that miss the targets by 20 percent or more for 3 consecutive years, this portion of the penalty is doubled to 6 cents per pack.

Industry-wide Penalties: The KIDS Act imposes a similarly tough penalty structure industry-wide if it fails to meet the youth reduction targets. In addition, if the industry fails to meet the targets for 3 consecutive years, the penalties are doubled.

No Anti-trust Immunity. Anti-trust laws are the most important safeguard we have against anti-competitive actions which hurt consumers and undermine the free market. As such, exceptions to these laws should be made only in rare circumstances, where important policy objectives outweigh the benefit of free market protections. The tobacco industry has not made a persuasive case for the grant of immunity it seeks. Therefore, unlike the June 1997 Tobacco Agreement, the KIDS Act would not extend any anti-trust exemptions to tobacco manufacturers.

State Performance Bonus Pool. The June 1997 Tobacco Agreement and pending legislative initiatives fail to provide strong economic incentives for states and communities to help decrease tobacco use among children. The KIDS Act would address this shortcoming by establishing a $500 million annual ''Performance Bonus Pool'' for states that meet or exceed the reduction targets within their own borders.

This would serve as an important incentive for states and localities to develop aggressive and innovative anti-smoking strategies suited to their own individual needs. State-specific baselines and targets would be developed using a standardized methodology determined by the Centers for Disease Control and Prevention. Furthermore, the KIDS Act would clarify the authority of states and local governments to encourage the enactment of stronger anti-tobacco policies.

II. CHANGING HOW TOBACCO PRODUCTS ARE SOLD

Marketing and Advertising Reforms. The tobacco industry spends an estimated $5 billion per year on marketing and promotional activities—much of it targeted to children. The KIDS Act would fundamentally alter tobacco marketing and advertising practices to eliminate this reprehensible practice.

Health Warning Labeling Reforms. Evidence suggests that the current warning label regime for tobacco product packaging fails to adequately convey to children the risks associated with tobacco use. For example, nearly half of the 8th graders in a 1993 study denied any great risk associated with pack-a-day smoking, despite the presence of health warnings on cigarette packaging. Moreover, consumer research indicates that alterations in format, composition and warning label content would make them far more effective in reaching children. Thus, the KIDS Act proposes to significantly strengthen warning labels on all tobacco products to improve their impact on the behavior of children. These messages would be regularly reviewed and updated by the Secretary of Health and Human Services to reflect

changes in public awareness and attitudes about tobacco use.

Minors' Access Reforms. Illegal sales to minors and shoplifting are the primary means by which children obtain tobacco products. An estimated 516 million packs of cigarettes per year are consumed by minors, of which at least half are obtained through direct, illegal sales to minors. Shoplifting is another serious concern. In Iowa alone, more than 4 million packs of cigarettes are shoplifted every year.

The KIDS Act would address these problems by banning self-service displays in stores that sell tobacco products, prohibiting vending machine sales in places children frequent, requiring retailers to verify age, and fining those vendors caught selling to children. In addition, the KIDS Act would require states to conduct spot checks of tobacco retailers to ensure compliance with minors' access provisions. If a retailer repeatedly violates the law, it could face suspension or revocation of their registration to sell tobacco products. These reforms would build upon those developed by the U.S. Food and Drug Administration (FDA), and those contained in the June 1997 Tobacco Agreement.

Importantly, the tobacco companies would be bound by enforceable consent decrees precluding them from challenging such restrictions in the courts, or providing any means of support to third parties for this purpose.

State Preemption. The KIDS Act would clarify the authority of states and local governments to regulate the sale and use of tobacco products by repealing the preemption clause in existing federal law. However, it would preserve the national requirement for uniform packaging and labeling standards to ensure the free flow of interstate commerce.

AT-A-GLANCE: CHANGING HOW TOBACCO PRODUCTS ARE SOLD

ADVERTISING

B&W text only (except in adult-only facilities and publications).

No human images or cartoon characters.[1]

No outdoor advertising.[1]

No advertising on the Internet.[1]

No self-service displays.

MARKETING

No ''trinkets & trash'' (caps, jackets, bags, etc.) or proof-of-purchase clubs.

No sponsorship of sporting events or other forms of entertainment.

No paid product placement in movies, TV shows, on Internet or video games.[1]

No free samples.

LABELING

Improved and updated warnings.

Increased size.

Rotating messages.

Statements of intended use.

Regularly reviewed and updated by HHS.

MINORS' ACCESS

No distribution or sales to minors under age 18.

Photo id required up to age 27.

Face-to-face sales required.

No single cigarettes sales.

No vending machines sales (except in adult-only facilities).

No self-service sales (except in adult-only facilities).

III. OVERSIGHT AND ENFORCEMENT

FDA Authority. Given the addictive, disease-causing nature of tobacco products, full and appropriate regulation is needed. Therefore, in addition to establishing new advertising and marketing restrictions, the KIDS Act would assure that FDA has the authority to effectively monitor and regulate the manufacture and distribution of tobacco products, promote the development of safer alternatives, and to conduct research. For these purposes, the KIDS Act would allocate $300 million over and above those provided in the annual appropriations process. Importantly, FDA would not be required to overcome special burdens or procedural hurdles in its regulatory activities—a major flaw of the June 1997 Tobacco Agreement. The KIDS Act would classify ''nicotine'' as a drug, and ''tobacco products'' as drug delivery devices (to include cigars, pipes and loose tobacco). In addition, our legislation would authorize FDA to implement a ''public health'' standard in its review of tobacco products.

The FDA's authority over tobacco products would be no more and no less than its authority over other drugs and devices. However, because of the addictive nature of tobacco products, and the high prevalence of their use, the KIDS Act would specifically prohibit the FDA from banning the sale of tobacco products to adults. Finally, the KIDS Act would ensure that FDA has adequate financial resources and appropriate access to tobacco industry documents to carry out its responsibilities.

Ingredient Disclosure. Evidence strongly suggests that tobacco companies design and manufacture their products to satisfy and enhance nicotine dependence. Therefore, increased information about the role and function of tobacco additives is essential to the effective regulation of such products. The KIDS Act would substantially strengthen current ingredient disclosure requirements for tobacco manufacturers. For example, each company would be required, by brand and content, to submit lists of all tobacco additives. Further, if the Secretary of Health and Human Services determines that any of these additives pose a particular risk to smokers or others exposed to tobacco smoke, this information will be fully and promptly disclosed to the public.

Reduced Risk. Much remains unknown about the feasibility and effectiveness of developing a less hazardous tobacco product. However, it is clear that tobacco manufacturers have the ability and knowledge to modify their products. Indeed, various forms of ''reduced risk'' nicotine delivery devices already have been introduced into the market. The KIDS Act would require tobacco companies to come forward with information in their possession about reduced risk products, and provide increased monitoring of new technologies. It would also stop tobacco companies from making misleading claims about these products.

Licensing. There are approximately one million tobacco outlets in the United States, and as recently as 1994, nearly three-fourths sold tobacco products to minors. These include supermarkets, newsstands, hotels, gas stations, convenience stores, and other types of vendors. Additionally, each year interstate cigarette smuggling costs states millions of dollars in lost excise tax revenues. To address these problems, the KIDS Act would establish minimum federal licensing standards for tobacco manufacturers, importers, exporters and distributors, and the registration of tobacco retail establishments. States could continue to impose additional licensing requirements, and would work closely with federal officials to enforce licensing and registration policies, just as they do with the distribution and sales of alcoholic beverages. By providing for the permanent revocation of tobacco licenses and registration permits for repeated violations of any provision of our law. The KIDS Act will put the worst offenders out of the business of making or selling tobacco products.

IV. STOPPING CHILDREN FROM SMOKING BEFORE THEY START

Prevention in Communities and Schools. In addition to economic incentives, changes in tobacco product advertising and marketing, and improved oversight of enforcement, experts agree that a comprehensive slate of public health activities is needed to stop children from taking up this deadly habit. For example, research-tested school programs have proven to consistently and significantly reduce adolescent smoking. Therefore, the KIDS Act would provide $1.25 billion to states for community and school-based prevention activities. These initiatives would be designed and implemented at the local level to ensure their effectiveness.

Because minority and low-income populations suffer a disproportionate burden of tobacco-related disease, and are among the greatest users of tobacco products, the KIDS Act would allocate a portion of the funding for community-based prevention activities to address their special needs. Funding also would be provided to assist Native American populations in their efforts to prevent and reduce youth smoking.

Counter Advertising. Research findings show that well-designed counter advertising initiatives do help to reduce teen smoking. Thus, an intensive, sustained media campaign at the state and federal level is needed to ''deglamorize'' tobacco use among young people. Accordingly, the KIDS Act would provide $650 million annually to fund a nationwide campaign with national, state, and local components. Preeminent advertising firms with proven expertise in the formulation of messages aimed at children would be charged with the development and implementation of ''deglamorization'' campaigns.

V. HELPING CURRENT SMOKERS KICK THE HABIT

Smoking Cessation. While the primary emphasis of our proposal is to reduce tobacco use among children, the more than 48 million adult Americans who currently smoke deserve and need help in kicking the habit. The KIDS Act would establish a coordinated federal and state-based initiative to increase access to, and awareness of, effective programs. When fully implemented, the legislation would provide $1.5 billion annually for programs designed to enhance existing employer-based initiatives, and those which target uninsured and underserved populations.

VI. EXPANDING RESEARCH

National Fund for Health Research. Tobacco products kill more than 400,000 Americans every year—more death than from AIDS, alcohol and drug abuse, car accidents, murders, suicides, and fires combined. To stop this epidemic, we must strengthen our national commitment to finding preventive measures and cures for diseases—especially those related to tobacco use, including cancer, heart disease, emphysema and stroke. Therefore, the KIDS Act would establish a National Fund for Health Research to allocate resources over and above those provided to the National Institutes of Health (NIH) in the annual appropriations process. The KIDS Act would allot $3.225 billion per year to the Fund.

Prevention and Cessation Research. While we know a great deal about reducing tobacco use, much remains unknown. Therefore, a significant expansion of prevention and cessation research is critical to the success of any comprehensive effort to reduce tobacco use. In particular, more information is needed on why people use tobacco and on what program interventions are most effective. Efforts must also be undertaken to increase our understanding of the health effects of tobacco use and exposure to second-hand

[1] Contained in consent decrees.

smoke. The KIDS Act would provide $600 million per year for a major new research effort.

VII. HELPING THE VICTIMS OF TOBACCO-RELATED DISEASES

The KIDS Act would fully preserve the rights of individuals and groups to utilize the civil justice system to recover tobacco-related damages. Unlike the June 1997 Tobacco Agreement and some of the legislation currently pending in Congress, the KIDS Act would not ban class action lawsuits or punitive damage awards, as the tobacco industry has sought.

Simply put, it would provide no immunity to the tobacco industry. Given the industry's behavior, such liability protections cannot be justified or condoned. Furthermore, our legislation would provide no protections from, or limitations on criminal prosecution of the tobacco industry.

National Victims' Compensation Fund. To ensure that resources are readily available for the victims of tobacco-related diseases, the KIDS Act would provide for the establishment of a prefunded National Victims' Compensation Fund (the ''Fund''), from which court awards and settlements would be paid. Furthermore, given the uncertainty of the legal environment surrounding tobacco litigation, an additional Contingency Reserve Account would be established within the Fund. The Fund and the annual cap would be indexed to medical inflation.

Annual Base Payment: At the beginning of each year, the tobacco industry would make a Base Payment of $4 billion into the Fund; awards and settlements would be paid from this base amount. At the end of every year, any unobligated funds from the Base Payments would be deposited into an interest-bearing Contingency Reserve Account.

Out-of-Pocket Supplement and Annual Cap: If awards and settlements exceed the Base Payment during any year, the industry would be liable for an additional $4 billion in out-of-pocket payments to cover the excess, for a total potential annual liability payment by the tobacco industry of $8 billion. This cap would not include payments made to states in settlement of existing Attorneys General suits, and would apply only to civil claims against past wrongdoing by the industry.

Contingency Reserve Account: As a further protection for claimants, the KIDS Act would establish a Contingency Reserve Account (the ''Account'') within the Victims' Compensation Fund. Any unobligated funds from the $4 billion Base Payment would be placed in the Account. For example, if awards and settlements paid in the first year amounted to $1 billion, the remaining $3 billion would be deposited into the account. Funds in the account would build up substantially in the early years as settlements and awards during this period are expected to be relatively small. For any year in which liability awards and settlements exceed $8 billion, the Account would be drawn down to make the excess payments. In the unlikely event that awards and settlements ever deplete the Account in any year, unpaid claims would be rolled over and paid from the Base Payment at the beginning of the following year.

If the Account accumulates a balance of $20 billion, the Attorney General, in conjunction with the Secretary of Health and Human Services, would determine whether to continue to deposit excess funds therein, or to redirect those funds to anti-smoking and other public health activities authorized under the legislation.

Small Claimant Protection: Under the KIDS Act, individuals and smaller classes of individuals would be given priority in disbursements from the Fund to ensure that large awards or settlements, paid to 3rd parties for example, would not deny smaller claimants timely payment of their claims.

Settlement of State Suits and Castano Class Action: Forty state Attorneys Generals have brought suits against the tobacco industry to recover costs incurred for tobacco-related illnesses and other damages. The KIDS Act would provide states the opportunity to settle their suits in exchange for funding from the National Tobacco Trust Fund established under this Act. In addition, the Castano Class Action lawsuits would be settled in return for the establishment of smoking cessation programs.

VIII. ENDING TOBACCO INDUSTRY SECRECY

For decades, to the severe detriment of the public health, the tobacco industry has concealed evidence of the consequences of tobacco use and deliberately misled the public. Moreover, tobacco manufacturers have broadly misused the doctrine of attorney-client privilege to cloak industry documents and research in a veil of secrecy.

Therefore, the KIDS Act would require tobacco companies to submit key documents relating to the health effects, safety, and marketing of products to children to a Tobacco Document Depository. Trade secret and attorney-client privilege claims would be scrutinized by a professional Tobacco Document Review Board. This reform would assist the victims of tobacco-related diseases in securing judgments against tobacco companies, and out-of-court settlements, without the traditional barriers and costs associated with document discovery. Manufacturers who make claims in bad faith will be subject to fines of up to $5 million per violation. Moreover, failure to comply with this section would result in license revocation and the waiver of the annual liability cap.

FDA to Obtain Needed Documents. Tobacco companies would be required to turn over to the FDA all documents the agency deemed necessary to carry out its regulatory responsibilities—including assessing the health effects of nicotine and other tobacco ingredients, the design and development of ''less hazardous'' or ''safer'' tobacco products, as well as the advertising, marketing and promotion of such products.

IX. TRANSITION ASSISTANCE TO FARMERS

Changes in national policy regarding tobacco products, and the expected decline in their consumption, will have ramifications for farming families, workers and communities in tobacco growing regions. The KIDS Act would provide $13.5 billion for compensation, income support and transitional assistance to tobacco farming families, and for economic development and related assistance in tobacco-dependent communities.

X. ASSURING CLEAN INDOOR AIR

Our knowledge is growing daily on the deleterious effects of exposure to Environmental Tobacco Smoke (ETS) in the home, the workplace and other public facilities. Annually, 3,000 Americans die of lung cancer caused by second-hand smoke, and 15,000 children under 18 months of age are hospitalized with respiratory infections related to ETS exposure.

While the ETS components of the KIDS Act are still a work in progress, our bill would place significant emphasis on reducing ETS exposure in the home—including such measures as pediatric outreach, public service announcements, and comprehensive media campaigns; $100 million from the counter advertising funds would be directed towards this purpose. The bill would also provide $100 million to help reduce exposure to ETS in workplaces and public facilities.

The KIDS Act would also require Congress to comply with the ''no smoking'' policies already in place throughout the Executive Branch. Furthermore, legislation would not preempt states and local governments from establishing even more stringent policies to protect individuals from ETS.

XI. STOPPING SMUGGLING AND SHOWING WORLD LEADERSHIP

In some countries, significant increases in cigarette prices have resulted in large-scale smuggling operations. Contraband cigarette trafficking can occur both at national borders and between states with wide disparities in tobacco excise taxes. Since 1992, this criminal activity has increased by more than 500% in the United States. Each year, interstate cigarette smuggling costs some states more than $100 million in lost excise tax revenue. As the price of cigarettes increases as a result of tobacco settlement legislation, actions must be taken to prevent the wide availability of contraband cigarettes.

Tough Anti-Smuggling Initiative. In addition to licensing all tobacco product sellers in the stream of commerce, the KIDS Act would allocate $100 million per year to implement an aggressive, well-coordinated anti-smuggling program aimed at stopping contraband tobacco products from entering or being sold in the United States. The bill would facilitate substantial coordination of international, federal and state law enforcement activities, as well as providing new resources to expedite the deployment of innovative anti-smuggling technologies.

Harsh New Penalties to Stop Smuggling. To further deter contraband trafficking in tobacco products, the KIDS Act would also establish harsh new criminal and monetary penalties for individuals convicted of such offenses. Violations by manufacturers, importers, exporters, or distributor or retailers could result in permanent revocation of their license or registration.

World Leadership. The World Health Organization (WHO) currently estimates that tobacco use causes three million deaths per year worldwide—a number which is expected to increase exponentially as the U.S.-based tobacco industry intensifies its global marketing and promotional activities. By the year 2023, WHO projects tobacco-related mortalities will jump to ten million, with nearly 70 percent occurring in developing countries. This troubling trend is expected to accelerate with the enactment of strong anti-tobacco policies in the United States.

Unlike the June 1997 Tobacco Agreement, our bill would provide clear leadership on international efforts to curb tobacco use. The KIDS Act would terminate all support for tobacco promotion overseas by the United States Government, provide $100 million per year to fund global education efforts, and encourage America's participation with other nations in efforts to harmonize tobacco policies worldwide.

XII. INDUSTRY CONSENT DECREES

Voluntary, but legally-binding consent decrees—signed by the federal government, state governments and tobacco manufacturers—are critical to the success of any comprehensive tobacco legislation aimed at significantly reducing tobacco use by children. Without these decrees, key provisions of such a law could be delayed by lengthy legal challenges. To help avoid this problem, the KIDS Act would require tobacco companies to sign legally-binding consent decrees in order to receive the benefits of the annual liability cap established under the legislation. Violation of any of the terms of the consent decrees would result in exclusion of that company from the annual liability cap. Among other things, the consent decrees—which would be enforceable by the U.S. Attorney General or State Attorneys General through federal and state courts—would

commit the companies to abide by the following agreements:

Not to directly or indirectly bring or support legal challenges to the implementation of any aspect of the KIDS Act, including existing or future FDA regulatory authority, document disclosure, youth look-back survey methodology and penalties, and advertising and marketing restrictions;

To pay and fully pass through the cost of annual industry payments and industry-wide look-back penalties, assuring that the price of cigarettes would increase by at least $1.50 per pack over 2 years, with comparable increases for other tobacco products;

All reforms related to the labeling, sale, advertising and promotion of tobacco products intended by this Act;

Not to directly, or through contractors, lobby federal, state or local governments against any provision of this Act;

To only do business with those retailers and distributors in full compliance with all provisions of this Act;

To dissolve the Tobacco Institute and other existing trade associations;

Not to advertise over the Internet; and,

To comply also with all of the marketing and advertising restrictions in both the FDA regulation and the proposed June 1997 Tobacco Agreement.

XIII. ANNUAL TOBACCO PAYMENTS AND SPENDING

Industry Payments: The KIDS Act would require a non-deductible industry payment of $10 billion immediately upon enactment. That payment would be used by states and local communities, as well as the federal government, to begin implementation of the strong anti-tobacco measures authorized under the Act.

One year after enactment the industry would make a payment of $20 billion to the National Tobacco Trust Fund. Each year thereafter the industry payment would be $25 billion, indexed to inflation. These payments would be assessed based upon each company's share of the overall tobacco market. Twenty-five percent of the payments would be deemed punitive, and therefore non-deductible.

Payments to States: As under the June 1997 Tobacco Agreement, $193.5 billion over the 25 year period would be reserved for state use. Of those funds, fifty percent would be distributed to the states to use at their discretion. The remaining fifty percent would be allocated to the states in the form of a Health, Human Services and Education block grant to be used to meet each State's particular needs in these areas.

Additionally, $500 million annually would be made available to states meeting or exceeding youth tobacco reduction targets.

Payments for National Programs: Under the KIDS Act, $4 billion of the industry's yearly payment would be directed to the National Victim's Compensation Fund as the Annual Base Payment. Remaining industry payments would be used exclusively for national anti-tobacco and public health purposes. These include funding for smoking cessation, counteradvertising, and community and school-based prevention programs, international education, health research, and other activities outlined in this summary.

March 11, 1998

Hon. TOM HARKIN,
Hon. JOHN CHAFEE,
Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATORS HARKIN, CHAFEE AND GRAHAM: We are sorry we are not able to be with you in person as you introduce your bill, but we wanted to offer our congratulations to you for crafting a very strong, comprehensive package of tobacco reforms.

We have carefully reviewed a detailed summary of your plan and strongly support its major features, with the exception of the concept of liability caps. While we await actual legislative language, it appears to us that if enacted, we believe your proposal includes many measures that would significantly reduce tobacco use and fundamentally alter the way America deals with tobacco. It is tough medicine for a tough problem. It would set national tobacco policy on to a course that would bring down nicotine addiction and the terrible health consequences of using tobacco.

You are to be especially commended for forging a bipartisan consensus on this difficult and complex issue. For a proposal to be successful in Congress, it must have bipartisan support. Yours is the first to meet that crucial test.

Your plan correctly deals with this public health crisis in a comprehensive manner, seeking to come as close as possible at this time to the ideals expressed last July in the report of the Advisory Committee on Tobacco Policy and Public Health. A piecemeal approach clearly won't work. We are especially pleased that you specify an increase in the cost of tobacco products within two years. This is vitally important for reducing tobacco use by young people. Protecting the FDA's authority, protecting a State's ability to develop and enforce stronger public health measures, and other such provisions make this proposal very attractive. We understand that you will address environmental tobacco smoke and we will be pleased to work with you on that. You are also to be commended for recognizing that the United States must play an enhanced role in promoting enlightened policies toward tobacco in other countries. We have a moral imperative to lead in this area as well as protecting the public health within the United States.

We look forward to continuing to work with you as you finalize this very promising proposal. There is much to be done this year, but the announcement of your bipartisan effort is a major step forward in our long battle for a tobacco policy.

Sincerely,

C. EVERETT KOOP, M.D., Sc.D.
DAVID A. KESSLER, M.D.

THE KIDS ACT ALLOCATION OF INDUSTRY PAYMENTS

The following amounts represent the annual maximum spending for each of the activities, assuming a 25% excise tax offset.

[In billions of dollars]

States—no strings	$3.000
States—Human Services Block Grant	3.000
States—bonus pool	0.500
States—total	6.500
Smoking Cessation	1.500
Counteradvertising	0.550
Community-based Prevention	1.000
School-based Prevention	0.300
Youth Database/Evaluation	0.175
Event Sponsorship Replacement	0.075
Tobacco Prevention Research	0.600
International Education	0.100
Native American Programs	0.200
Environmental Tobacco Smoke	0.200
FDA	0.300
Anti-Smuggling Efforts	0.100
Anti-Tobacco Program Total	5.100
NIH Research	3.225
Victim's Compensation Fund	4.000

Additionally, the KIDS Act would provide a total of $13.5 billion for transition assistance to farmers.

STATEMENT OF THE ENACT COALITION REGARDING THE INTRODUCTION OF KIDS DESERVE FREEDOM FROM TOBACCO ACT

(March 12, 1998)—The ENACT coalition of major public health organizations applauds today's introduction of the KIDS Deserve Freedom From Tobacco Act by Senators Harkin, Chafee and Graham. These Senators have exhibited courageous leadership in crafting a strong, comprehensive, bipartisan solution to the urgent problem of tobacco use.

This is the first bipartisan proposal which, based on the summary being released today, encompasses the key public health policies that ENACT has stated must be included in any effective tobacco control legislation. We support the public health features of this proposal because of their potential to save millions of lives and, therefore, welcome it as an important step forward.

The proposal contains strong and effective provisions regarding FDA authority over tobacco sales, manufacturing and advertising; significant price increases to deter use by kids; ''look-back'' penalties if sales to youth do not decrease; a vigorous crackdown on the illegal sale of tobacco to minors; protections from secondhand smoke; disclosure of tobacco industry documents; funding for tobacco-related health and cessation research; assistance to tobacco farmers; and support for efforts to reduce tobacco use internationally.

The KIDS Act also addresses issues relating to the tobacco industry's liability. It would make the internal documents the tobacco industry has been forced to produce available to plaintiffs and the general public. It would also require the tobacco industry to make a minimum annual tort-related payment of $4 billion a year, no matter what happens in the courts. It contains no limitations on class action or the rights of individuals to collect full compensatory or punitive awards from the industry, nor does it protect the industry from being held accountable for future misconduct. However, it does contain an annual cap of $8 billion a year on civil liability payments for the tobacco industry in suits based on past action.

While we await the receipt of the actual legislative language, we believe that this proposal would significantly reduce tobacco use, particularly among children, and would rein in the tobacco industry. We strongly support this proposal's major features with the exception of the liability cap. ENACT believes that only a comprehensive bill that meets our minimum criteria can adequately address the complex problem of tobacco use and reduce the number of kids who start using tobacco, and the number of adults who die each year. ENACT is committed to working with Senators Harkin, Chafee and Graham, as well as all Members of Congress from both parties, to enact a comprehensive, bipartisan, well-funded and sustainable tobacco control policy.

[From USA Today, Mar. 20, 1998]

BILLION-DOLLAR BLINDERS HIDE TOBACCO DEAL'S FLAWS

Big Tobacco has a politically enticing offer for lawmakers. Give us some legal protection against our past sins, and we'll pony up billions of dollars every year to fund your pet programs.

The offer proved too much for state attorneys general.

They signed a loophole-ridden settlement deal last June that gave a slap on the wrist to the industry and threw new roadblocks in front of the regulation of nicotine by the Food and Drug Administration (FDA)

Next week, Senate Commerce Committee Chairman John McCain will try to do better as his panel marks up a settlement plan. He's hoping to put together a tougher deal—one that will win the backing of health groups and members of both parties, and still secure the industry's consent. A delicate balancing act, to be sure, and one that comes amid fierce partisan wrangling, turf wars and general election-year money-grubbing.

Until last week, no proposals fit the bill. Either they were winners for the tobacco industry or they couldn't get support from across the aisle. Sens. Tom Harkin, John Chafee and Bob Graham broke the pattern with a bipartisan bill that has won over key health advocates.

Among their plan's virtues:

It would impose annual industry payments of $25 billion—two-thirds higher than the settlement. That would push up the price of a pack of cigarettes by $1.50, deterring smoking by children—the most important objective of any settlement.

Better yet, the deal would severely punish individual firms if they failed to meet company-specific teen smoking reduction targets—a clear incentive for each to join the effort to cut teen smoking. The industry as a whole could be fined up to $10 billion a year if teen smoking rates aren't cut by 65% within 10 years.

The measure preserves the FDA's ability to regulate tobacco. The industry had snookered the attorneys general by requiring the FDA to meet absurd burdens of proof.

Finally, there's no offer of blanket immunity on class-action suits, as the attorneys general allowed. People harmed by the industry could recover up to $8 billion a year from an industry-financed liability fund.

The offer to industry: Your total costs will be capped at $39 billion a year. Put in perspective, domestic cigarette sales are about $50 billion a year.

The two most prominent tobacco industry foes of recent years—former surgeon general C. Everett Koop and former FDA head David Kessler—both endorsed the Harkin-Chafee bill, calling it ''tough medicine for a tough problem.''

Whatever its merits, this is the minimum acceptable. Yet the risk that Congress will gut it and pass a flimsy substitute is enormously high. The industry is sure to throw its weight behind weaker bills; and with everyone in Washington salivating over the prospect of all that money to spend on pet programs in an election year, priorities easily will be warped.

There are already so many meat hooks in the funds that it would take several deals to appease all interests. President Clinton wants to fund everything from child care to Medicare with the money. Some Republicans want to use the tobacco funds to pay for tax cuts, others to pay for reforming the IRS. Advocacy groups see the chance to fund their cherished programs.

As the prospect of billions of dollars draws closer, even ardent health advocates might be tempted to dispense with sweating the details.

But the point of this exercise isn't to raise lots of money, boost the size of the federal government, or enrich a bunch of trial lawyers. The goal is to cut the horrendous human toll smoking imposes on society. The only effective way to do that is to stop the supply of new addicts.

That for the most part means keeping teens from taking up the habit. More than nine in 10 regular smokers started smoking before celebrating their 19th birthday. The Harkin proposal would give industry a strong push to help curb this trend despite the long-term consequences for the industry.

In the end, however, lawmakers must be willing to chuck a bad deal, even if that means killing the golden tobacco goose.

COMPARING THE SETTLEMENTS

The so-called KIDS Act toughens the June 1997 attorneys general settlement on several key fronts.

Annual payments

Settlement: Maximum of $15 billion a year for a total of $368.5 billion over the next 25 years.

KIDS Act: Maximum of $25 billion a year for a total of $630 billion over next 25 years.

Teen smoking

Settlement: 60% cut in smoking rates within 10 years.

KIDS Act: 65% cut in smoking rates within 10 years.

Failure to reduce teen smoking

Settlement penalty: Maximum of $2 billion a year.

KIDS Act: No; but does put an $8 billion annual cap on total damages.

Class-action lawsuit immuity

Settlement: Yes, but individuals could still sue.

KIDS Act: No; but does put an $8 billion annual cap on total damages.

FDA regulations

Settlement: Imposes new restrictions on FDA tobacco regulations.

KIDS Act: Preserves FDA authority.

Advertising

Settlement: Tough restrictions, including ban on human forms, Internet ads.

KIDS Act: Similar changes.

Source: USA Today research.

[From the Portland Press Herald, Mar. 28, 1998]

SENATE SHOULD PASS A BETTER TOBACCO DEAL

Legislation settling claims against the tobacco industry is now before the Senate Commerce Committee. The committee's chairman, Sen. John McCain, R-Ariz., is trying to forge a compromise among Democrats, Republicans and opponents and supporters of the tobacco lobby.

The starting point in this process is a settlement agreement negotiated last year between the tobacco companies and the attorneys general from 40 states. It is a deeply flawed document that gives up too much to big tobacco.

What that agreement lacks—and what any final agreement should have—is the approval of two men who have fought hard to reduce tobacco's deadly toll on the American people. C. Everett Koop, the former surgeon general, and David Kessler, former head of the Food and Drug Administration, have opposed the tobacco settlement as it is now.

Much of what Koop and Kessler seek is in a bipartisan proposal sponsored by Sens. Tom Harkin, D-Iowa, John Chafee, R-R.I. and Bob Graham, D-Fla. Maine Sens. Susan Collins, who sits on the commerce committee, and Olympia Snowe should back it or legislation that has the same basic elements.

The proposal would raise the price of cigarettes by $1.50 a pack, extracting $25 billion a year from the tobacco companies as payment for the huge costs imposed by these products on the government. Unlike the settlement negotiated with the states, it gives the FDA unfettered control over tobacco. It also has strong proposals for reducing youth smoking and sets up a system for processing claims against the tobacco companies without granting them immunity from future lawsuits.

In return, the tobacco companies would see their liabilities in civil suits capped at $8 billion a year. This is a far better approach than the blanket protection from future lawsuits contained in the agreement negotiated by the attorneys general.

Already, other ideas are surfacing. The committee seems settled on a $1.10-per-pack price increase for cigarettes and is discussing an annual liability cap ranging from $5 billion to $8 billion. FDA authority over tobacco, meanwhile, remains a sticking point.

The principles of the bipartisan bill are central to reaching a fair accord with the big tobacco companies over the immense harm they have caused the American people. As such, the bill should be taken seriously by Collins, Snowe and their Senate colleagues.

Mr. CHAFEE. Mr. President, over the course of the next month or two, the Senate will have the opportunity to debate how best to address the most significant, preventable public health problem confronting this nation today: the scourge of tobacco use by our young people. The Senate will face some difficult choices in this regard. The grim statistics about this epidemic, coupled with almost daily revelations of tobacco industry misdeeds, underscore the need for our earnest action.

We can all agree, where adults are concerned personal responsibility must be the rule; tobacco is a legal product and adults are free to make that choice. However, the same level of independent judgment cannot be said where fourteen year-olds are concerned. Bear in mind, only one in ten smokers takes up smoking after the age of eighteen; the remainder start well before that stage.

All of us—Democrats and Republicans—share a deep and abiding concern about this problem, and a recognition that now is the time for action. However, each of us has different thoughts on how best to attack this problem. The Commerce Committee draft bill offers a good beginning, but it must be strengthened. Senators HARKIN, GRAHAM and I believe that an aggressive, but responsible approach is essential if we are to be successful in reducing teen tobacco use.

This is why the KIDS Act would force the price of cigarettes up by $1.50 over the course of two—not four, five or six—years. The price hike must be significant and rapid in order to affect the purchasing behavior of children; the evidence solidly favors that position. Simply put, a smaller increase of only $1.10 over a longer period of time—in effect 20 cents per year in the Commerce Committee draft—will not achieve the desired result. As a result of our aggressive approach on price, the KIDS Act would halve teen smoking within just three years!

That is also why the KIDS Act contains very stiff so-called look-back'' penalties if the industry fails to meet the annual youth reduction targets specified in our bill. Unlike the Commerce Committee draft, the KIDS Act emphasizes company-specific penalties to ensure that the companies who do the addicting take the hit. Additionally, our annual penalties are capped at $10 billion per year, as opposed to $3.5 billion in the Commerce Committee draft. These look-back penalties are the very heart of our efforts to curb

youth tobacco use; if they miss the mark, the whole program is the weaker for it.

This is also why the KIDS Act provides roughly $5.1 billion per year for anti-tobacco programs, including counteradvertising, school and community-based prevention and education programs, cessation and other initiatives. For those who think this is too much spending, we spend a lot more money on addressing other ills which kill far fewer than 400,000 Americans per year.

Recognizing that the needs of each state are very different, the KIDS Act hands back $6 billion per year to the states in recognition of the costs and damages they have incurred in treating tobacco-related illnesses. Importantly, this funding could be used to meet the particular needs of each state; flexibility is the key with respect to the use of this funding. One pool of $3 billion per year could be used to meet any need; the other pool of $3 billion takes the form of a health, human services and education block grant to meet virtually any human need.

Our bill also includes a State Performance Bonus Pool to help incent and enlist states in the war against teen tobacco use, and we need all the stakeholders we can get! As a consequence of these provisions, the National Governors Association supports the state payment mechanism contained in the KIDS Act.

Some have pointed out that the draft Commerce Committee bill incorporates the cap on annual liability payments included in our bill—although at $6.5 billion, not $8 billion. My response is that the cap cannot be examined in isolation from the other parts of the legislation. If, for example, the youth smoking provisions are not as tough as they should be, than I question the appropriateness of a liability cap.

Now, some people have said our bill is too tough and could bankrupt the tobacco industry. Says who? The tobacco companies? I'm not sure we can rely upon their representations if past history is any judge. What about the securities analysts who understand the financial workings of the tobacco industry? Can we rely upon these individuals and firms when many of these same companies manage pension and mutual fund portfolios with significant investments in tobacco stocks? Frankly, I think the only reliable measure of what the industry can truly afford would be an independent audit—not an illogical request of an industry which seeks a virtually unprecedented deal with the federal government, the several states and the American people.

The KIDS Act would require the industry to pass along in the price of its products an annual payment of $25 billion. Given discussions we have had with a variety of experts, both inside and outside the government, we do not believe the payment requirements in our bill would jeopardize the profitability or future viability of the tobacco industry.

In closing, I urge my colleagues to examine the KIDS Act and to join with us in working to pass a strong, responsible tobacco bill as quickly as possible. We look forward to working with our respective Leaders, Senator MCCAIN, and our colleagues toward that end.

Mr. GRAHAM. Mr. President, I rise today with my colleagues, Senator JOHN CHAFEE and Senator TOM HARKIN, to introduce the Kids Deserve Freedom from Tobacco Act of 1998, legislation which if passed will have a monumental effect on the number one public health problem facing America's youth: underage smoking.

This legislation is the first bipartisan, comprehensive piece of legislation which has the support of the Administration and the public health community. Since the beginning of this school year, more than half a million kids have started smoking. If we don't act soon, another half million children will take up the habit by the start of the next school year. And by its inaction, Congress will have signed their death warrants.

In Florida alone, where minors purchase more than 12 million packs of cigarettes each year, 28% of high school students currently smoke cigarettes. Nationally, the number is closer to 35%. The KIDS Act takes a number of strong actions—all of which would be funded by the industry's annual $25 billion payment—to lower the rate of youth and teenage smoking. These include:

PRICE INCREASE

Because public health experts agree that substantially increasing the cost of cigarettes is the most effective way of keeping adolescents from buying them, the KIDS Act would force the tobacco industry to raise the price-per-pack of cigarettes and other tobacco products by $1.50 over the next two years.

In addition to raising the price of tobacco products, the KIDS Act would establish ambitious goals for the reduction of teenage tobacco use. The bill would mandate that the tobacco industry reduce youth smoking by 65 percent over the next ten years—or face as much as $10 billion in annual penalties. States, on the other hand, would be rewarded for reducing teen tobacco use. The KIDS Act would set aside $500 million of bonus money each year for states that meet or exceed annual smoking reduction targets.

MARKETING REFORMS

For decades, the tobacco industry has pushed its products on young Americans both overtly—on billboards and through the prominent sponsorship of sports like auto racing—and subtly, through characters like Joe Camel. Their efforts have been helped by the shockingly easy access that many minors have to tobacco products. Nationally, more than 62 percent of 12-to-17 year-old smokers report that they buy their own cigarettes. Nearly half of those minors were never asked to show proof of age.

The KIDS Act would dramatically change the rules governing tobacco advertising and sales. It would limit tobacco companies to black-and-white text advertisements—no more human images, cartoon characters, outdoor displays, sports and entertainment sponsorships, or product giveaways. It would also encourage illegal tobacco purchases by banning vending machines sales of cigarettes and requiring state licensing of tobacco retailers. Stores caught selling to minors would face severe financial penalties.

PAYMENTS TO STATES

In addition to the federal money it channels to states through bonus payments, incentives, grants, and federal programs, the KIDS Act would directly distribute almost $200 billion over 25 years—a third of the settlement money—to individual states to spend on a broad array of health and anti-tobacco programs.

As a former Governor, I strongly believe that states deserve to be recognized for their efforts to bring the tobacco industry to the table. Without state's efforts, Congress would not be in the position to introduce this bill today. Any legislation contemplated by this Congress must recognize the State crucial role in this process.

CAP ON ANNUAL INDUSTRY PAYMENTS

Unlike last year's national settlement, the KIDS Act would not safeguard the tobacco industry from future lawsuits. It ensures reliable industry payments, so that the industry cannot use the excuse of financial woes to avoid its annual $25 billion commitment. As such, it would require that tobacco firms deposit $4 billion/year into a ''National Victims Compensation Fund.'' Money from that fund would be used to pay victims who settle claims or win judgments against the industry. The industry would also have to pay up to $4 billion/year in any additional claims—a maximum total of $8 billion/year.

I want to stress that my colleagues, Senators CHAFEE and HARKIN, and I believe that this is our best and possibly our only chance to get this historic legislation passed. We cannot let this opportunity slip away. A half-hearted, piecemeal effort simply won't do.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mrs. BOXER, Mr. DODD, Ms. MIKULSKI, Mrs. FEINSTEIN, Mr. DURBIN, Mr. REED, Mr. INOUYE, Mr. TORRICELLI, Mr. KERRY, Ms. MOSELEY-BRAUN, Mr. WYDEN, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mr. CLELAND, Mr. LEAHY, Mrs. MURRAY, Mr. WELLSTONE, Mr. SARBANES, Mr. AKAKA, and Mr. BINGAMAN):

S. 1891. A bill to amend the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Finance.

THE PATIENTS' BILL OF RIGHTS ACT OF 1998

Mr. DASCHLE. Mr. President, I join my colleagues in introducing the Patients' Bill of Rights Act of 1998. This legislation has been developed cooperatively with Democrats in the House and Senate to address a growing concern of the American public, the quality of care delivered by health plans and insurance companies. Today, three of every four working, insured Americans are in managed care plans, and far too many have experienced serious problems with their coverage. We all know someone with a horror story in that regard.

Today, David Garvey of Illinois told us the tragic story of his wife, who had taken a ''dream'' vacation to Hawaii with a few of her friends. When she arrived in Hawaii, she noticed some bruises on her body. She went to a clinic and was quickly admitted to the hospital. She was diagnosed with aplastic anemia. Her doctor in Hawaii began a course of treatment, and said that she would likely need a bone marrow transplant to save her life.

Several days into the treatment, her HMO called from Chicago and said she had to return to Chicago for the treatment and transplant. They insisted that she return, even over the strong objections of the doctor in Hawaii who said that she was not stable enough to travel and that her immune system could not fight infection. Mr. Garvey tried to talk to the decisionmakers in the plan, but they insisted that she return to Chicago or forego coverage. As the medical bills were adding up, Mrs. Garvey had no choice but to fly back to Chicago. During that flight, Mrs. Garvey had a stroke, and within days of her return, she developed a fungal infection. Ten days later, she died.

Mr. President, I am outraged by what happened to the Garveys and believe we need legislation to protect patients against medically inappropriate decisions by health plans that too often put the financial bottom line before patients' health care needs.

The bill I am introducing today would provide enforceable protections for millions of patients. It would ensure access to medically needed care, including coverage at emergency rooms. It would allow patients with serious conditions to see their specialist without asking permission each time and would allow women direct access to their ob/gyn.

The bill would allow patients denied benefits to appeal decisions both within the plan and to an independent, external reviewer. When a plan says no to a treatment that your doctor says you need, you should be able to appeal to an independent body that has no financial stake in the decision. This bill gives every patient that right and says the decision has to be made in a time frame that will not put the patient at risk.

The Patients' Bill of Rights provides protection for the provider-patient relationship by banning gag clauses and limiting inappropriate financial incentives to deny care. It also would put a stop to arbitrary decisions by plans to limit care, such as decisions to discharge mastectomy patients from the hospital before it is medically appropriate.

Finally, the bill would hold plans legally accountable for decisions to deny or delay care that result in harm to patients. Today, 125 million Americans who get their health care through their employer have little recourse if their plans' decisions harm them, even when the decisions lead to death. Doctors and hospitals are held accountable for their decisions, but health plans are not, and that is something that needs to change.

The Patients' Bill of Rights is an important proposal that has the backing of the American Medical Association, Consumers Union, Families USA, the National Association of Children's Hospitals and numerous other organizations that advocate for quality patient care.

I hope we can engage in productive debate on this issue in the coming months and pass legislation to improve the quality of health care for the American people.

Mr. KENNEDY. Mr. President, the time for action to protect patients and curb insurance company abuse has come. We face a crisis of confidence in health care. A recent survey found that an astonishing 80 percent of Americans now believe that their quality of care is often compromised by their insurance plan to save money. One reason for this concern is the explosive growth in managed care. In 1987, only 13 percent of privately insured Americans were enrolled in HMOs. Today 75 percent are in some form of managed care.

At its best, managed care offers the opportunity to achieve both greater efficiency and higher quality in health care. In too many cases, however, the priority has become higher profits, not better health. Conventional insurance companies, too, have abused the system by denying coverage for treatments that their customers need and that their faithful payment of premiums should have guaranteed.

And the issue is not just confidence. It goes to the heart of the issue of quality care and to the fundamental doctor-patient relationship. In California, a Kaiser Foundation study found that almost half of all consumers reported a problem with their health plan—and substantial proportions reported that the plan's misbehavior caused unnecessary pain and suffering, delayed their recovery, or even resulted in permanent disabilities. Projected to the national level, these results indicate that 30 million Americans actually developed additional health problems because of their plan's treatment of them, and a shocking 11 million developed permanent disabilities.

The list of those victimized by insurance company abuse grows every day.

A baby loses his hands and feet because his parents believe they have to take him to a distant emergency room rather than the one close to their home.

A Senate aide suffers a devastating stroke which might have been far milder if her HMO had not refused to send her to an emergency room—the HMO now refuses to pay for her wheelchair.

A doctor is denied future referrals because he tells a patient about an expensive treatment that could save her life.

A child suffering from a rare cancer is told that life-saving surgery should be performed by an unqualified doctor who happens to be on the plan's list, rather than by the nearby cancer specialty center equipped to provide quality care.

A San Diego paraplegic asks for referral to a rehabilitation specialist. Her HMO refuses, and she develops a severe pressure wound that a rehabilitation specialist would have routinely checked and treated. She is forced to undergo surgery, and has to be hospitalized for a year with round-the-clock nursing care.

A woman is forced to undergo a ''drive-by'' mastectomy and is sent home in pain, with tubes still dangling from her body.

The list goes on and on.

The opponents of action are already waging a calculated and well-financed campaign of disinformation arguing that protecting patient's rights is the same as massive government mandates and vastly increased costs. But the American people know better.

Opponents of the legislation try to create a false dichotomy between relying on competitive market forces and relying on regulatory standards. In fact, this amendment helps competition by establishing a level playing field between those who compete by providing quality care at a reasonable cost and those who try to compete by attracting only healthy enrollees and denying those who fall ill the care they have promised.

This legislation guarantees people the rights that every scrupulous insurance company already provides. These rights are common-sense statement of components of quality care that every family believes they have been promised when they signed up for coverage and faithfully paid their premiums.

Let me cite a few of these common-sense rights specified in our legislation. They include access to an appropriate specialist when your condition requires specialty care. They allow people with chronic illnesses or disabilities to have standing referrals to the specialists they need to see on a regular basis. They assure that patients who need a prescription drug to save their life or their health can have access to it even if it is not included in their plan's formulary.

They assure that a person suffering from serious symptoms can go to the nearest emergency room without worrying that their plan will deny coverage. No patient with the symptoms of a heart attack should be forced to

put their life at risk by driving past the emergency room down the street to the network provider an hour or more away. No patient with symptoms of stroke should be forced to delay the treatment to the point where paralysis and disability is permanent, because a clerk two thousand miles away does not respond promptly and appropriately. And no patient who goes to an emergency room with symptoms of a heart attack that proves to be a false alarm should suffer a real heart attack when a bill for thousands of dollars arrives that the health insurer has refused to pay.

This amendment also says that any reform worthy of the name must guarantee that insurance plans meet the special needs of women and children. Women should have access to gynecologists for needed services. No women with breast cancer should be forced to endure a ''drive-by'' mastectomy against the advice of her doctor.

No child with a rare childhood cancer should be told that the urologist who happens to be in the plan's network will treat him—even if that urologist has no experience or expertise with children or with that rare cancer.

Too many desperate patients—especially cancer patients—know that their only hope for survival is participation in a clinical trial. Such trials not only offer hope to patients, they also advance our knowledge and lead to better treatments for dread diseases. Many insurers have routinely paid for the medical costs associated with clinical trials, because they knew they offered benefits for patients and because the patients would incur medical costs in any event, even if they were not part of the trial. But today, many insurers are backing away from that constructive policy. Managed care plans, in particular, have often denied their patients the ability to participate in such trials.

Our legislation provides patients a right to participate in such trials if stringent conditions are met. There must be no standard treatment that is effective for the patient, and the patient must be suffering from a serious or life-threatening illness. The trial must be funded by the NIH or another government agency meeting NIH standards. And the trial must offer the patient a realistic hope for clinical benefit.

Patients need the right to appeal decisions on their plans to independent third parties. Today, if a health plan breaks its promise, the only recourse for most patients is to go to court—a time-consuming and costly process that may not provide relief in time to save a life or prevent a disability.

Independent review was recommended unanimously by the President's Commission. It has worked successfully in Medicare for four decades. Working families deserve the basic fairness that only an impartial appeal can provide. Without such a mechanism, any ''rights'' guaranteed to patients exist on paper only—and they are scarcely worth the paper on which they are written. When the issues are sickness and health—and often as serious as life and death—no health insurance company should be allowed to be both judge and jury.

When health plan misconduct results in serious injury or death, patients and their families should be able to obtain accountability. Every other industry in America can be held responsible for its actions. Why should health plans, whose decisions truly can mean life or death, enjoy this unique immunity?

Reforms must protect the integrity of the doctor-patient relationship. ''Gag clauses'' and improper incentive arrangements should have no place in American medicine.

And finally, everyone should agree that noncontroversial steps to improve quality and provide greater patient information should be part of reform.

This amendment should not be controversial for any member of the Senate who is serious about protecting patients from insurance company abuse. Its basic provisions were included in legislation introduced by Democrats in the House and Senate. That legislation is supported by the American Medical Association, the Consortium of Citizens with Disabilities, the National Alliance for the Mentally Ill, the National Partnership for Women and Families, the National Association of Children's Hospitals, the AFL–CIO, and many other groups representing physicians and other health care providers, children, women, families, consumers, persons with disabilities, Americans with serious illnesses, and working families.

It is rare for such a broad and diverse coalition to be assembled in support of any legislation. But ending these flagrant abuses will help every American family.

The choice is clear. The Senate should stand with patients, families, and physicians. We must not stand with the well-heeled special interests that put profits ahead of patients.

By Mr. DEWINE (for himself, Mr. HATCH, Mr. LEAHY, and Mr. SPECTER):

S. 1893. A Bill to establish a law enforcement block grant program; to the Committee on the Judiciary.

THE LOCAL LAW ENFORCEMENT BLOCK GRANT ACT OF 1998

Mr. DEWINE. Mr. President, today I rise to introduce the Local Law Enforcement Block Grants Act of 1998, which reauthorizes the very successful Local Law Enforcement Grant Program. This program gives local governments the resources to fight crime, without the ''Washington knows best'' strings attached. I believe it is a mistake for Washington to try to micromanage how local communities spend their law enforcement dollars. Instead Washington should play the role of partner with local law enforcement to improve the tools they use to fight crime.

My views on this issue are based on more than 20 years of experience in the criminal justice system: as a prosecutor in Greene County, Ohio; in the Ohio State Senate; as a United States Congressman on the Judiciary Committee; as Lieutenant Governor overseeing anti-crime and anti-drug efforts; and now, as a member on the Senate Judiciary Committee. I have had an opportunity to work on criminal justice issues from the local, state, and federal levels, and have been fortunate to see firsthand what Congress can do to help local communities be victors in the war on crime.

Because 90 percent of all criminal prosecution is local, the fight against crime will be won or lost by local law enforcement, local prosecutors and courts, and concerned citizens in every community. I believe the best way for the federal government to help local communities fight crime is to return more money to those communities, because in the final analysis, it is they who will get the job done. For too long the Federal Government has had all the money—and local communities all the crime. Local communities know what works—and they should have the resources.

From 1999–2003, this Act authorizes $750 million each year for direct grants to local law enforcement to reduce crime and improve public safety. Distributions are made by the Bureau of Justice Assistance on a formula basis, directly to local governments. Grants may include, but are not limited to, equipment and law enforcement personnel, enhancing school security measures, violent offender adjudication, drug courts, crime prevention programs and youth intervention programs.

One of the most frequent uses of this grant money in Ohio, and by local law enforcement across the country, has been for crime fighting technology. I believe there is a critical need to modernize the crime fighting tools used by local law enforcement, who have been fighting increasingly sophisticated criminals with outmoded tools. That's why I am expressly providing that funds may also be used for information and identification technology, such as criminal history information, fingerprint dissemination, and DNA and ballistics tests.

Let me underscore here that this Act leaves to local governments the decision regarding what their funding priorities should be, while at the same time requiring accountability as to how funds are ultimately used. Local advisory boards also have an opportunity to recommend how monies are spent as well. These funds will help local law enforcement meet the critical local needs, by letting them put the resources where they are needed most.

ADDITIONAL COSPONSORS

S. 71

At the request of Mr. DASCHLE, the names of the Senator from Connecticut

(Mr. DODD) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 71, a bill to amend the Fair Labor Standards Act of 1938 and the Civil Rights Act of 1964 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 885

At the request of Mr. D'AMATO, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 885, a bill to amend the Electronic Fund Transfer Act to limit fees charged by financial institutions for the use of automatic teller machines, and for other purposes.

S. 1141

At the request of Mr. JOHNSON, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1141, a bill to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and for other purposes.

S. 1473

At the request of Mr. GRAHAM, the names of the Senator from Mississippi (Mr. LOTT) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 1473, a bill to encourage the development of a commercial space industry in the United States, and for other purposes.

S. 1580

At the request of Mr. SHELBY, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1580, a bill to amend the Balanced Budget Act of 1997 to place an 18-month moratorium on the prohibition of payment under the medicare program for home health services consisting of venipuncture solely for the purpose of obtaining a blood sample, and to require the Secretary of Health and Human Services to study potential fraud and abuse under such program with respect to such services.

S. 1677

At the request of Mr. CHAFEE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1677, a bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act.

S. 1710

At the request of Mr. COCHRAN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1710, a bill to provide for the correction of retirement coverage errors under chapters 83 and 84 of title 5, United States Code.

S. 1873

At the request of Mr. COCHRAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1873, a bill to state the policy of the United States regarding the deployment of a missile defense system capable of defending the territory of the United States against limited ballistic missile attack.

SENATE CONCURRENT RESOLUTION 30

At the request of Mr. LIEBERMAN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of Senate Concurrent Resolution 30, a concurrent resolution expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development.

SENATE CONCURRENT RESOLUTION 75

At the request of Mr. FEINGOLD, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Georgia (Mr. COVERDELL), the Senator from Indiana (Mr. LUGAR), and the Senator from Connecticut (Mr. DODD) were added as cosponsors of Senate Concurrent Resolution 75, a concurrent resolution honoring the sesquicentennial of Wisconsin statehood.

SENATE RESOLUTION 170

At the request of Mr. SPECTER, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of Senate Resolution 170, a resolution expressing the sense of the Senate that the Federal investment in biomedical research should be increased by $2,000,000,000 in fiscal year 1999.

AMENDMENT NO. 1422

At the request of Mr. MCCAIN the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of amendment No. 1422 intended to be proposed to S. 1173, a bill to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

AMENDMENT NO. 1618

At the request of Mr. MCCAIN the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of amendment No. 1618 intended to be proposed to S. 1488, a bill to ratify an agreement between the Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes.

AMENDMENT NO. 1619

At the request of Mr. MCCAIN the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of amendment No. 1619 intended to be proposed to S. 1269, an original bill to establish objectives for negotiating and procedures for implementing certain trade agreements.

AMENDMENT NO. 2165

At the request of Mr. DASCHLE his name was added as a cosponsor of amendment No. 2165 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

At the request of Mrs. MURRAY the names of the Senator from Connecticut (Mr. DODD) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of amendment No. 2165 proposed to S.Con.Res. 86, supra.

AMENDMENT NO. 2166

At the request of Mr. REID his name was added as a cosponsor of amendment No. 2166 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

At the request of Mr. GRAHAM his name was added as a cosponsor of amendment No. 2166 proposed to S.Con.Res. 86, supra.

AMENDMENT NO. 2173

At the request of Mr. DASCHLE his name was added as a cosponsor of amendment No. 2173 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

At the request of Ms. MOSELEY-BRAUN her name was added as a cosponsor of amendment No. 2173 proposed to S.Con.Res. 86, supra.

AMENDMENT NO. 2174

At the request of Mr. DASCHLE his name was added as a cosponsor of amendment No. 2174 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 2175

At the request of Mr. DASCHLE his name was added as a cosponsor of amendment No. 2175 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 2176

At the request of Mr. DASCHLE his name was added as a cosponsor of amendment No. 2176 proposed to S.Con.Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

SENATE RESOLUTION 203—RECOGNIZING THE UNIVERSITY OF TENNESSEE LADY VOLUNTEERS BASKETBALL TEAM

Mr. FRIST (for himself and Mr. THOMPSON) submitted the following

resolution; which was considered and agreed to:

S. RES. 203

Whereas the Lady Volunteers (referred to in this resolution as the ''Lady Vols'') won its third straight National Championship in the National Collegiate Athletic Association women's basketball tournament on March 29, 1998;

Whereas the Lady Vols finished the 1997–1998 basketball season with a perfect record of 39 wins and zero losses; and

Whereas the Lady Vols have won 6 National Championships in the last 12 years; Now, therefore, be it

Resolved, That it is the sense of the Senate that the University of Tennessee Lady Volunteers basketball team should be recognized as the new dynasty in collegiate women's basketball.

SENATE RESOLUTION 204—TO COMMEND AND CONGRATULATE THE UNIVERSITY OF KENTUCKY MEN'S BASKETBALL TEAM

Mr. FORD (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 204.

Whereas the University of Kentucky Wildcats men's basketball team defeated the University of Utah's team on March 30, 1998, in San Antonio, Texas, to win its seventh National Collegiate Athletic Association (NCAA) championship;

Whereas, the Wildcats overcame the largest halftime deficit in a championship game, earning for themselves the nickname ''The Comeback Cats'';

Whereas, Coach Tubby Smith, his staff, and his players displayed outstanding dedication, teamwork, unselfishness, and sportsmanship throughout the course of the season in achieving collegiate basketball's highest honor; and

Whereas Coach Smith and the Wildcats have brought pride and honor to the Commonwealth of Kentucky, which is rightly known as the basketball capital of the world: Now, therefore, be it

Resolved, That the Senate commends and congratulates the University of Kentucky on its outstanding accomplishment.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the president of the University of Kentucky.

SENATE RESOLUTION 205—CELEBRATING ''NATIONAL PUBLIC HEALTH WEEK''

Mr. FAIRCLOTH (for himself, Mr. JEFFORDS, Mr. BOND, Mr. FRIST, Mr. CHAFEE, and Mr. INOUYE) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 205

Whereas over the past 50 years, the United States has achieved significant increases in life expectancy and reductions in the incidence of injury, disability, and disease;

Whereas the public health approach is credited with the majority of improvements in our Nation's health status and expanded life expectancy of 30 additional years since the turn of the century;

Whereas public health services are successful in identifying and addressing patterns of disease, illness, and injury in populations and ensuring healthy living and working environments;

Whereas the 3,000 public health departments of the Nation provide the critical frontline of defense against the dangers posed by infectious disease outbreaks, natural disasters, terrorist acts, and other serious threats to the health of Americans; and

Whereas ''National Public Health Week'' provides an opportunity to highlight and commend the efforts of public health professionals to protect, promote, and enhance the health of all citizens in communities across this country: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the outstanding dedication of community, State, and Federal public health professionals and services and commends the professionals for their role in safeguarding communities and workplaces, and improving health and well-being of Americans; and

(2) calls upon Americans to celebrate ''National Public Health Week'' during the week of April 6 through April 12, 1998, with appropriate activities and ceremonies.

Mr. FAIRCLOTH. Mr. President, I rise today to ask my colleagues to join me in celebrating National Public Health Week during the week of April 6 through April 12. I believe that this years theme, ''healthy people in healthy communities'' says it all. It should be the goal of every single one of us of help focus public attention on major health issues in our communities, and the contributions our public health professionals play in addressing our health and safety needs.

Established by Congress in 1995, public health week affords us an opportunity to learn and to teach others about public health success stories like the elimination of small pox and polio and improvements in childhood immunization. Few people know that it was public health that successfully waged the war to reduce lead from paint, fluoridate drinking water and protect people from gasoline vapor, thus giving our children a brighter future and gaining a 30-year increase in life expectancy in the 20th century.

Incidence of heart disease and stroke have dramatically declined through public health community-wide education initiatives. As someone who represents people who live in the buckle of the stroke belt in the United States, I was pleased to learn that 2 million American deaths from heart disease and stroke have been prevented in the past thirty years through public health prevention programs.

I urge my colleagues to take a moment during spring recess to participate in public health activities in their states. In years past, North Carolinians have organized health fairs in churches and community centers, and sponsored ''healthy eating'' cooking contests to commemorate the week. I urge all Americans to take the time to evaluate their own personal health consciousness.

As we approach the millennium, threats of biological and viral epidemics plague our communities like never before. Our public health departments and professionals serve as our first line of defense against the growing threat of infectious disease and bioterrorism. With less than 40 percent of our health departments able to communicate by computer with CDC, it is our obligation to provide public health with the manpower, training, and equipment needed to fight these growing threats.

Our U.S. Public Health Service will celebrate their 200th anniversary this summer, and the 50th anniversary of the World Health Organization. Let us be the Congress that is known for making the health of our citizens our No. 1 priority.

Mr. President, it is my honor and privilege to submit to you today a Senate resolution to recognize the contributions of public health and prevention services to our nation in an effort to celebrate National Public Health Week.

AMENDMENTS SUBMITTED

CONCURRENT RESOLUTION ON THE CONGRESSIONAL BUDGET

SMITH AMENDMENTS NOS. 2179–2181

Mr. SMITH (of Oregon) proposed three amendments to the concurrent resolution (S. Con. Res. 86) setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998; as follows:

AMENDMENT NO. 2179

At the appropriate place in the bill, insert the following new section, and renumber the remaining sections accordingly:

SEC. . SENSE OF THE SENATE ON SOCIAL SECURITY TAXES.

(A) FINDINGS.—The Senate finds that—

(1) financing for Social Security Old Age, Survivors, and Disability Insurance (OASDI) is provided primarily by taxes levied on wages and net self-employment income. The level of these tax rates is set permanently in the law at the rate payable today;

(2) more than ninety-five percent of the work force—an estimated 148.2 million workers in 1998—is required to pay Social Security taxes;

(3) Social Security taxes are paid both by employees and employers and the self-employed on earnings up to a maximum amount of $68,400 in 1998, the amount increasing at the same rate as average earnings in the economy;

(4) the Social Security tax was first levied in 1937 at a rate of 1% on earnings up to $3,000 per year;

(5) the rate in 1998 has risen to 6.2 perecent—an increase of 620 percent, and a majority of American families pay more in Social Security taxes than income taxes;

(6) in his State of the Union message on January 27, 1998, President Clinton called on Congress to ''save Social Security first'' and to ''reserve one hundred percent of the surplus, that is any penny of the surplus, until we have taken all the necessary measures to strengthen the Social Security system for the twenty-first century.''

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the provisions of this resolution assume that when the Congress moves to work in a bipartisan way on specific legislation to reform the Social Security system, it will not consider increasing

Social Security tax rates on American workers, beyond the permanent levels set in current law nor increase the maximum earnings subject to Social Security taxation beyond those prescribed by the wage indexing rules of current law.

AMENDMENT NO. 2180

At the end of title III, add the following:

SEC. . GENERAL PROHIBITION ON THE USE OF MARIJUANA FOR MEDICINAL PURPOSES.

It is the sense of the Senate that the provisions of this resolution assume that no funds appropriated by Congress should be used to provide, procure, furnish, fund or support, or to compel any individual, institution or government entity to provide, procure, furnish, fund or support, any item, good, benefit, program or service, for the purpose of the use of marijuana for medicinal purposes.

AMENDMENT NO. 2181

On page 53, strike lines 1 through 22 and insert the following:

SEC. 316. SENSE OF THE SENATE ON PRICE INCREASE ON TOBACCO PRODUCTS.

(a) FINDINGS.—The Senate finds that—

(1) the use of tobacco products by children and teenagers has become a public health epidemic and according to the Centers for Disease Control and Prevention, more than 16,000,000 of our Nation's children today will become regular smokers;

(2) of the 16,000,000 children who become regular smokers, approximately one-third or 5,000,000 children will die of tobacco-related illness;

(3) the Centers for Disease Control and Prevention reports that tobacco use costs medicare approximately $10,000,000,000 per year, and the total economic cost of tobacco in health-related costs is more than 100,000,000,000 per year; and

(4) the public health community recognizes that by increasing the cost of tobacco products by $1.50 per pack, the rate of tobacco us among children and teenagers will be reduced.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the provisions of this resolution assume that, if comprehensive tobacco legislation requires an increase in the price of cigarettes, any such revenue should be used to restore solvency to the medicare program under title XVIII of the Social Security Act.

HOLLINGS AMENDMENT NO. 2182

(Ordered to lie on the table.)

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

At the end of title II, add the following:

SEC. ___. PROTECTING THE OFF-BUDGET STATUS OF SOCIAL SECURITY.

(a) POINT OF ORDER.—It shall not be in order in the Senate to consider any bill, resolution, or amendment or motion thereto or conference report thereon, including legislation reported by the Committee on the Budget of either House pursuant to section 306 of the Congressional Budget Act of 1974, that changes section 301(i), 302(f), 310(g), or 311 of the Congressional Budget Act of 1974, or section 13301 of the Budget Enforcement Act of 1990, section 202 of H. Con. Res. 67 (104 Congress), or this section, or would otherwise change budget procedures regarding Social Security.

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

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the 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.

KENNEDY (AND BOXER) AMENDMENT NO. 3183

Mr. KENNEDY (for himself and Mrs. BOXER) proposed an amendment to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the end of title III, add the following:

SEC. ___. SENSE OF THE SENATE CONCERNING A PATIENT'S BILL OF RIGHTS.

(a) FINDINGS.—Congress finds that—

(1) patients lack reliable information about health plans and the quality of care that health plans provide;

(2) experts agree that the quality of health care can be substantially improved, resulting in less illness and less premature death;

(3) some managed care plans have created obstacles for patients who need to see specialists on an ongoing basis and have required that women get permission from their primary care physician before seeing a gynecologist;

(4) a majority of consumers believe that health plans compromise their quality of care to save money;

(5) Federal preemption under the Employee Retirement Income Security Act of 1974 prevents States from enforcing protections for the 125,000,000 workers and their families receiving health insurance through employment-based group health plans; and

(6) the Advisory Commission on Consumer Protection and Quality in the Health Care Industry has unanimously recommended a patient bill of rights to protect patients against abuses by health plan and health insurance issuers.

(b) SENSE OF THE SENATE.—It is the sense Senate that the assumptions underlying this resolution provide for the enactment of legislation to establish a patient's bill of rights for participants in health plans, and that legislation should include—

(1) a guarantee of access to covered services, including needed emergency care, specialty care, obstetrical and gynecological care for women, and prescription drugs;

(2) provisions to ensure that the special needs of women are met, including protecting women against ''drive-through mastectomies'';

(3) provisions to ensure that the special needs of children are met, including access to pediatric specialists and centers of pediatric excellence;

(4) provisions to ensure that the special needs of individuals with disabilities and the chronically ill are met, including the possibility of standing referrals to specialists or the ability to have a specialist act as a primary care provider;

(5) a procedure to hold health plans accountable for their decisions and to provide for the appeal of a decision of a health plan to deny care to an independent, impartial reviewer;

(6) measures to protect the integrity of the physician-patient relationship, including a ban on ''gag clauses'' and a ban on improper incentive arrangements; and

(7) measures to provide greater information about health plans to patients and to improve the quality of care.

KENNEDY AMENDMENT NO. 2184

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

On page 16, line 9, increase the amount by $200,000,000.

On page 16, line 10, increase the amount by $10,000,000.

On page 16, line 13, increase the amount by $318,000,000.

On page 16, line 14, increase the amount by $146,000,000.

On page 16, line 17, increase the amount by $386,000,000.

On page 16, line 18, increase the amount by $276,000,000.

On page 16, line 21, increase the amount by $359,000,000.

On page 16, line 22, increase the amount by $358,000,000.

On page 16, line 25, increase the amount by $272,000,000.

On page 17, line 1, increase the amount by $359,000,000.

On page 25, line 8, strike ''−$300,000,000'' and insert ''−$500,000,000''.

On page 25, line 9, strike ''−$1,900,000,000'' and insert ''−$1,910,000,000''.

On page 25, line 12, strike ''−$1,200,000,000'' and insert ''−$1,518,000,000''.

On page 25, line 13, strike ''−$4,600,000,000'' and insert ''−$4,746,000,000''.

On page 25, line 16, strike ''−$2,700,000,000'' and insert ''−$3,086,000,000''.

On page 25, line 17, strike ''−$3,000,000,000'' and insert ''−$3,276,000,000''.

On page 25, line 20, strike ''−$3,800,000,000'' and insert ''−$4,159,000,000''.

On page 25, line 21, strike ''−$7,000,000,000'' and insert ''−$7,358,000,000''.

On page 25, line 24, strike ''−$5,400,000,000'' and insert ''−$5,672,000,000''.

On page 25, line 25, strike ''−$5,000,000,000'' and insert ''−$5,359,000,000''.

KENNEDY (AND ROBB) AMENDMENT NO. 2185

Mr. KENNEDY (for himself and Mr. ROBB) proposed an amendment to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF CONGRESS REGARDING EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

It is the sense of Congress that the functional totals in this concurrent resolution on the budget assume that the Equal Employment Opportunity Commission should receive $279,000,000 in budget authority for fiscal year 1999.

WELLSTONE AMENDMENT NO. 2186

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

At the appropriate place insert the following:

''It is the sense of the Senate that the assumptions underlying the functional levels in this concurrent budget resolution on the budget assume that corporate tax loopholes and corporate welfare should be reduced in order to produce the funds necessary to increase the maximum Pell Grant award to $4,000.''

WELLSTONE (AND MOYNIHAN) AMENDMENT NO. 2187

Mr. WELLSTONE (for himself and Mr. MOYNIHAN) proposed an amendment to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the end of title III, insert the following:

SEC. . SENSE OF THE SENATE REGARDING AN EVALUATION OF THE OUTCOME OF WELFARE REFORM.

It is the sense of the Senate that the budgetary levels in this resolution assume that—

(1) the Secretary of Health and Human Services will, as part of the annual report to Congress under section 411 of the Social Security Act (42 U.S.C. 611), include data regarding the rate of employment, job retention, and earnings characteristics of former recipients of assistance under the State programs funded under part A of title IV of the Social Security Act (42 U.S.C. 401 et seq.) for each such State program; and

(2) for purposes of the annual report for fiscal year 1997, the information described in paragraph (1) will be transmitted to Congress not later than September 1, 1998.

WELLSTONE AMENDMENT NO. 2188

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

On page 21, strike lines 7 through 10 and insert the following:

Fiscal Year 1999:

(A) New Budget Authority, $42,840,274,000.

(B) Outlays, $43,340,274.000.

On page 53, after line 22, add the following:

SEC. 317. SENSE OF THE SENATE ON FUNDING FOR MEDICAL CARE FOR VETERANS.

It is the sense of the Senate that the assumptions underlying the functional levels in this concurrent resolution on the budget assume that any additional amounts made available for the Department of Veterans Affairs in fiscal year 1999 as a result of the declarations of additional budget authority and outlays for fiscal year 1999 for Veterans Benefits and Services (budget function 700) by reason of the adoption by the Senate of this amendment be available for medical care for veterans.

FIRST AMENDMENT NO. 2189

(Ordered to lie on the table.)

Mr. FRIST submitted an amendment intended to be proposed by him to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the end of title III, add the following:

SEC. ___. SENSE OF THE SENATE REGARDING FUNDING FOR THE AIRPORT IMPROVEMENT PROGRAM.

It is the sense of the Senate that the congressional budget for the United States Government as provided for in this resolution should assure that—

(1) the contract authority level for the Airport Improvement Program (provided for in part B of subtitle VII of title 49, United States Code) not be reduced below the current level of $2,347,000,000; and

(2) the critical infrastructure development, maintenance, and repair of airports not be jeopardized.

BURNS (AND BAUCUS) AMENDMENT NO. 2190

(Ordered to lie on the table.)

Mr. BURNS (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by them to the concurrent resolution, supra; as follows:

At the end of title III, add the following:

SEC. ___. SENSE OF CONGRESS REGARDING PERMANENT EXTENSION OF INCOME AVERAGING FOR FARMERS.

It is the sense of Congress that the provisions of this resolution assume that if the revenue levels are reduced pursuant to section 201 of this resolution for tax legislation, such amount as is necessary shall be used to permanently extend income averaging for farmers for purposes of the Internal Revenue Code of 1986.

THURMOND AMENDMENTS NOS. 2191–2192

Mr. THURMOND proposed two amendments to the concurrent resolution, S. Con. Res. 86, supra; as follows:

AMENDMENT NO. 2191

On page 26, after line 25, insert the following:

SEC. 104. OUTLAY LEVELS FOR MAJOR FUNCTIONAL CATEGORIES.

(a) DETERMINATIONS FOR FISCAL YEAR 1999.—Notwithstanding the provisions of section 103, outlay levels for the major functional categories for fiscal year 1999 shall be determined in the following manner:

(1) Prior year outlays shall be determined using historical rates as employed by the Office of Management and Budget.

(2) Current and future year outlays shall be determined using rates calculated by the Congressional Budget Office.

(b) DETERMINATIONS FOR FISCAL YEARS 2000 AND THEREAFTER.—Notwithstanding the provisions of section 103, outlay levels for the major functional categories for fiscal years 2000 and thereafter shall be determined in the following manner:

(1) The Office of Management and Budget and the Congressional Budget Office shall annually attempt to reconcile their technical assumptions with respect to preparing estimates for all accounts in those categories, and shall report the outcome of these attempts to the Committees on the Budget not later than December 15 of each year.

(2) If the Office of Management and Budget and the Congressional Budget Office are able to reconcile their technical assumptions by the date of that report, the technical assumptions used to determine outlay levels shall be those agreed to by those agencies.

(3) If the Office of Management and Budget and the Congressional Budget Office are unable in any year to reconcile their technical assumptions, the outlay levels for that fiscal year shall be determined by the Committee on the Budget of each House, prior to the receipt by the committee of the estimate of the Congressional Budget Office.

AMENDMENT NO. 2192

On page 26, after line 25, insert the following:

SEC. 104. OUTLAY LEVELS FOR NATIONAL DEFENSE.

(a) DETERMINATIONS FOR FISCAL YEAR 1999.—Notwithstanding the provisions of section 103, outlay levels for major functional category 050 (national defense) for fiscal year 1999 shall be determined in the following manner:

(1) Prior year outlays shall be determined using historical rates as employed by the Office of Management and Budget.

(2) Current and future year outlays shall be determined using rates calculated by the Congressional Budget Office.

(b) DETERMINATIONS FOR FISCAL YEARS 2000 AND THEREAFTER.—Notwithstanding the provisions of section 103, outlay levels for major functional category 050 (national defense) for fiscal years 2000 and thereafter shall be determined in the following manner:

(1) The Office of Management and Budget and the Congressional Budget Office shall annually attempt to reconcile their technical assumptions with respect to preparing estimates for all accounts in those categories, and shall report the outcome of these attempts in the report required by section 226 of title 10, United States Code.

(2) If the Office of Management and Budget and the Congressional Budget Office are able to reconcile their technical assumptions by the date of that report, the technical assumptions used to determine outlay levels shall be those agreed to by those agencies.

(3) If the Office of Management and Budget and the Congressional Budget Office are unable in any year to reconcile their technical assumptions, the outlay levels for that fiscal year shall be determined by the Committee on the Budget of each House, prior to its receipt of the estimate of the Congressional Budget Office.

HOLLINGS AMENDMENT NO. 2193

Mr. LAUTENBERG (for himself and Mr. HOLLINGS) proposed an amendment to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the end of title II, add the following:

SEC. ___. PROTECTING THE OFF-BUDGET STATUS OF SOCIAL SECURITY.

(a) POINT OF ORDER.—It shall not be in order in the Senate to consider any bill, resolution, or amendment or motion thereto or conference report thereon, including legislation reported by the Committee on the Budget of either House pursuant to section 306 of the Congressional Budget Act of 1974, that changes section 301(i), 302(f), 310(g), or 311 of the Congressional Budget Act of 1974, or section 13301 of the Budget Enforcement Act of 1990, section 202 of H. Con. Res. 67 (104 Congress), or this section, or would otherwise change budget procedures regarding Social Security.

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

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the 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.

LAUTENBERG (AND OTHERS) AMENDMENT NO. 2194

Mr. LAUTENBERG (for himself, Mr. CONRAD, and Mr. KENNEDY) proposed an amendment to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the end of title III, insert the following:

SEC. . SENSE OF THE SENATE ON PRICE INCREASE ON TOBACCO PRODUCTS OF $1.50 PER PACK.

(a) FINDINGS.—The Senate finds that—

(1) smoking rates among children and teenagers have reached epidemic proportions;

(2) of the 3,000 children and teenagers who begin smoking every day, 1000 will eventually die of smoking-related disease; and

(3) public health experts and economists agree that the most effective and efficient way to achieve major reduction in youth smoking rates is to raise the price of tobacco products by at least $1.50 per pack.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the levels in this resolution assume that comprehensive tobacco legislation should increase the price of each pack of cigarettes sold by at least $1.50 through a per-pack free or other mechanism

that will guarantee a price increase of $1.50 per pack within three years not including existing scheduled Federal, State, and local tax increases, with equivalent price increases on other tobacco products, and should index these price increases by an appropriate measure of inflation.

LAUTENBERG (AND DASCHLE) AMENDMENT NO. 2195

Mr. LAUTENBERG (for himself and Mr. DASCHLE) proposed an amendment to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the appropriate place, insert the following:

SEC. . DEFICIT-NEUTRAL RESERVE FUND FOR ENVIRONMENTAL AND NATURAL RESOURCES.

(a) IN GENERAL.—In the Senate, revenue and spending aggregates and other appropriate budgetary levels and limits may be adjusted and allocations may be revised for legislation to improve the quality of our nation's air, water, land, and natural resources, provided that, to the extent that this concurrent resolution on the budget does not include the costs of that legislation, the enactment of that legislation will not increase (by virtue of either contemporaneous or previously-passed reinstatement or modification of expired excise or environmental taxes) the deficit in this resolution for—

(1) fiscal year 1999;

(2) the period of fiscal years 1999 through 2003; or

(3) the period of fiscal years 2004 through 2009.

(b) REVISED ALLOCATIONS.—

(1) ADJUSTMENTS FOR LEGISLATION.—Upon the consideration of legislation pursuant to subsection (a), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately-revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this resolution.

(2) ADJUSTMENTS FOR AMENDMENTS.—If the Chairman of the Committee on the Budget of the Senate submits an adjustment under this section for legislation in furtherance of the purpose described in subsection (a), upon the offering of an amendment to that legislation that would necessitate such submission, the Chairman shall submit to the Senate appropriately-revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this resolution.

(c) REPORTING REVISED ALLOCATIONS.—The appropriate committees shall report appropriately-revised allocations pursuant to section 302(b) of the Congressional Budget Act of 1974 to carry out this section.

MCCAIN (AND MACK) AMENDMENT NO. 2196

(Ordered to lie on the table.)

Mr. MCCAIN (for himself and Mr. MACK) submitted an amendment intended to be proposed by them to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the end of title III, add the following:

SEC. 3___. SENSE OF THE SENATE ON DEMONSTRATION PROJECTS FUNDED FROM HIGHWAY TRUST FUND.

(a) FINDINGS.—The Senate finds that—

(1) 10 demonstration projects totaling $362,000,000 were listed for special line-item funding in the Surface Transportation Assistance Act of 1982 (96 Stat. 2097);

(2) 152 demonstration projects totaling $1,400,000,000 were included in the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 132);

(3) 538 location-specific projects totaling $6,230,000,000 were included in the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914);

(4) more than $1,600,000,000 of the funds authorized for the 538 location-specific projects remained unobligated as of March 18, 1998;

(5) more than 1,000 location-specific projects totaling an estimated $18,000,000,000 have been added in the House of Representatives to legislation that would reauthorize the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914);

(6) the General Accounting Office determined that 31 States, the District of Columbia, and Puerto Rico would have received more funding if the funds for location-specific projects made available under the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914) were redistributed as Federal-aid highway program apportionments;

(7) this type of project funding diverts Highway Trust Fund money away from State transportation priorities established under the formula allocation process;

(8) on June 20, 1995, by a vote of 75 yeas to 21 nays, the Senate voted to prohibit the use of Highway Trust Fund money for new location-specific projects; and

(9) on March 12, 1998, by a vote of 78 yeas to 22 nays, the Senate voted to require that any new location-specific projects be funded within a State's Highway Trust Fund allocation.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the budget levels in this resolution assume that—

(1) notwithstanding different views on the Highway Trust Fund distribution formulas, funding for demonstration, high priority, or other similarly titled projects diverts Highway Trust Fund money away from State priorities and deprives States of the ability to adequately address their transportation needs;

(2) States, through their transportation departments and metropolitan planning organizations, are best able to determine the priorities for allocating Highway Trust Fund money within their jurisdiction;

(3) Congress will not divert Highway Trust Fund money away from the transportation priorities of States and metropolitan planning organizations by authorizing new demonstration, high priority, or other similarly titled projects; and

(4) Congress will not authorize any new demonstration, high priority, or other similarly titled projects as part of legislation to reauthorize the Intermodal Surface Transportation and Efficiency Act of 1991 (105 Stat. 1914).

SMITH AMENDMENT NO. 2197

(Ordered to lie on the table.)

Mr. SMITH of Oregon submitted an amendment intended to be proposed by him to amendment No. 2180 proposed by him to the concurrent resolution, S. Con. Res. 86, supra; as follows:

On page 2 of the amendment, line 2, insert before the period the following: '', except that this section shall not apply to Federally sponsored research''.

MCCAIN AMENDMENT NO. 2198

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the appropriate place, insert the following:

SEC. . REPEAL OF TELEPHONE EXCISE TAX.

(a) IN GENERAL.—Effective with respect to amounts paid pursuant to bills first rendered on or after January 1, 1999, subchapter B of chapter 33 of the Internal Revenue Code of 1986 (26 U.S.C. 4251 et seq.) is repealed. For purposes of the preceding sentence, in the case of communications services rendered before December 1, 1998, for which a bill has not been rendered before January 1, 1999, a bill shall be treated as having been first rendered on December 31, 1998.

(b) CONFORMING AMENDMENT.—Effective January 1, 1999, the table of subchapters for such chapter is amended by striking out the item relating to subchapter B.

Mr. MCCAIN. Mr. President, I submit an amendment to repeal the three percent federal excise tax that all Americans pay every time they use a telephone.

Under current law, the federal government taxes you three percent of your monthly phone bill for the so-called ''privilege'' of using your phone lines. This tax was first imposed one hundred years ago. To help finance the Spanish-American War, the federal government taxed telephone service, which in 1898 was a luxury service enjoyed by relatively few. The tax reappeared as a means of raising revenue for World War I, and continued as a revenue-raiser during the Great Depression, World War II, the Korean and Vietnam Wars, and the chronic federal budget deficits of the last twenty years.

Earlier this month, however, we received some long-overdue good news: thanks to the Balanced Budget Act enacted by the Congress in 1997, the Congressional Budget Office projected an $8 billion federal budget surplus for 1998. Mr. President, that announcement should mean the end of the federal phone excise tax.

Here is why. First of all, the telephone is a modern-day necessity, not like alcohol, or furs, or jewelry, or other items of the sort that the government taxes this way. The Congress specifically recognized the need for all Americans to have affordable telephone service when it enacted the 1996 Telecommunications Act. The universal service provisions of the Act are intended to assure that all Americans, regardless of where they live or how much money they make, have access to affordable telephone service. The telephone excise tax, which bears no relationship to any government service received by the consumer, is flatly inconsistent with the goal of universal telephone service.

It is also a highly regressive and unfair tax that hurts low-income and rural Americans even more than other Americans. Low-income families spend a higher percentage of their income

than medium- or high-income families on telephone service, and that means the telephone tax hits low-income families much harder. For that reason the Congressional Budget Office has concluded that increases in the telephone tax would have a greater impact on low-income families than tax increases on alcohol or tobacco products. And a study by the American Agriculture Movement concluded that excise taxes like the telephone tax impose a disproportionately large tax burden on rural customers, too, who rely on telephone service in isolated areas.

But, in addition to being unfair and unnecessary, there is another reason why we should eliminate the telephone excise tax. Implementation of the Telecom Act of 1996 requires all telecommunications carriers—local, long-distance, and wireless—to incur new costs in order to produce a new, more competitive market for telecommunications services of all kinds.

Unfortunately, the cost increases are arriving far more quickly than the new, more competitive market. The Telecom Act created a new subsidy program for wiring schools and libraries to the Internet, and the cost of funding that subsidy has already increased bills for business users of long-distance telephone service and for consumers of wireless services. Because of more universal service subsidy requirements and other new Telecom Act mandates, more rate increases for all users will occur later this year and next year.

Mr. President, the fact that the Telecom Act is imposing new charges on consumers' bills makes it absolutely incumbent upon us to strip away any unnecessary old charges. And that means the telephone excise tax.

Mr. President, the telephone excise tax is not a harmless artifact from bygone days. It collects money for wars that are already over, and for budget deficits that no longer exist, from people who can least afford to spend it now and from people who will have new bills to foot as the 1996 Telecom Act gets implemented. That is unfair, that's wrong, and that must be stopped.

San Juan Hill and Pork Chop Hill have now gone down in history, and so should this tax.

COVERDELL (AND OTHERS) AMENDMENT NO. 2199

(Ordered to lie on the table.)

Mr. COVERDELL (for himself, Mr. MCCAIN, Mr. CRAIG, Mr. NICKLES, Mr. HELMS, Mr. KEMPTHORNE, Mr. GRAMM, and Mr. KYL) submitted an amendment intended to be proposed by them to the concurrent resolution, S. Con. Res. 86, supra; as follows:

On page 27, strike beginning with line 3 through page 33, line 2, and insert the following:

SEC. 201. DEDICATION OF OFFSETS TO MIDDLE CLASS TAX RELIEF.

(a) IN GENERAL.—In the Senate, for the purposes of section 302(a) of the Congressional Budget Act of 1974, the Chairman of the Committee on the Budget may reserve not to exceed $101,500,000,000 for fiscal years 1999 through 2003 of the reductions in new budget authority and outlays resulting from reductions in nondefense discretionary spending (as compared to the levels contained in this resolution) affecting the programs in functions specified in subsection (c) for middle class tax relief as specified in subsection (b).

(b) TAX RELIEF.—The savings from reductions in discretionary spending are reserved to offset legislation that reduces revenues by providing middle class tax relief that—

(1) raises the threshold for the 15 per cent individual income tax bracket; and

(2) begins taxing income at 28 per cent in the case of—

(A) individuals who are married filing jointly at a taxable income in excess of $70,000;

(B) individuals who are single heads of households at a taxable income in excess of $52,600;

(C) individuals who are single at a taxable income in excess of $35,000; and

(D) individuals who are married filing separately at taxable incomes in excess of $35,000.

(c) PROGRAMS.— The following reductions in discretionary spending are reserved in function 920, Allowances, for purposes of subsection (a):

NATIONAL DEFENSE

(1) (050): For fiscal year 1999, $0 in budget authority and $0 in outlays; For fiscal years 1999–2003, $0 in budget authority and $0 in outlays.

INTERNATIONAL AFFAIRS

(2) (150): For fiscal year 1999, $1,002,000,000 in budget authority and $986,000,000 in outlays; For fiscal years 1999–2003, $7,061,000,000 in budget authority and $6,445,000,000 in outlays.

GENERAL SCIENCE, SPACE AND TECHNOLOGY

(3) (250): For fiscal year 1999, $965,000,000 in budget authority and $949,000,000 in outlays; For fiscal years 1999–2003, $6,741,000,000 in budget authority and $6,108,000,000 in outlays.

ENERGY

(4) (270): For fiscal year 1999, $149,000,000 in budget authority and $175,000,000 in outlays; For fiscal years 1999–2003, $1,025,000,000 in budget authority and $986,000,000 in outlays.

NATURAL RESOURCES AND ENVIRONMENT

(5) (300): For fiscal year 1999, $1,199,000,000 in budget authority and $1,193,000,000 in outlays; For fiscal years 1999–2003, $8,693,000,000 in budget authority and $7,908,000,000 in outlays.

AGRICULTURE

(6) (350): For fiscal year 1999, $217,000,000 in budget authority and $223,000,000 in outlays; For fiscal years 1999–2003, $1,526,000,000 in budget authority and $1,376,000,000 in outlays.

COMMERCE AND HOUSING CREDIT

(7) (370): For fiscal year 1999, $159,000,000 in budget authority and $154,000,000 in outlays; For fiscal years 1999–2003, $1,145,000,000 in budget authority and $1,045,000,000 in outlays.

TRANSPORTATION

(8) (400): For fiscal year 1999, $737,000,000 in budget authority and $2,100,000,000 in outlays; For fiscal years 1999–2003, $5,183,000,000 in budget authority and $15,170,000,000 in outlays.

COMMUNITY AND REGIONAL DEVELOPMENT

(9) (450): For fiscal year 1999, $435,000,000 in budget authority and $583,000,000 in outlays; For fiscal years 1999–2003, $2,909,000,000 in budget authority and $3,167,000,000 in outlays.

EDUCATION, TRAINING, EMPLOYMENT, AND SOCIAL SERVICES

(10) (500): For fiscal year 1999, $2,493,000,000 in budget authority and $2,445,000,000 in outlays; For fiscal years 1999–2003, $18,680,000,000 in budget authority and $16,810,000,000 in outlays.

HEALTH

(11) (550): For fiscal year 1999, $1,490,000,000 in budget authority and $1,432,000,000 in outlays; For fiscal years 1999–2003, $11,171,000,000 in budget authority and $9,946,000,000 in outlays.

MEDICARE

(12) (570): For fiscal year 1999, $0 in budget authority and $0 in outlays; For fiscal years 1999–2003, $0 in budget authority and $0 in outlays.

INCOME SECURITY

(13) (600): For fiscal year 1999, $1,740,000,000 in budget authority and $2,233,000,000 in outlays; For fiscal years 1999–2003, $14,258,000,000 in budget authority and $13,485,000,000 in outlays.

SOCIAL SECURITY

(14) (650): For fiscal year 1999, $0 in budget authority and $0 in outlays; For fiscal years 1999–2003, $0 in budget authority and $0 in outlays.

VETERANS BENEFITS AND SERVICES

(15) (700): For fiscal year 1999, $1,013,000,000 in budget authority and $1,039,000,000 in outlays; For fiscal years 1999–2003, $7,165,000,000 in budget authority and $6,559,000,000 in outlays.

ADMINISTRATION OF JUSTICE

(16) (750): For fiscal year 1999, $1,336,000,000 in budget authority and $1,289,000,000 in outlays; For fiscal years 1999–2003, $9,423,000,000 in budget authority and $8,513,000,000 in outlays.

GENERAL GOVERNMENT

(17) (800): For fiscal year 1999, $636,000,000 in budget authority and $589,000,000 in outlays; For fiscal years 1999–2003, $4,411,000,000 in budget authority and $3,936,000,000 in outlays.

(d) DISCRETIONARY CAPS.—In the Senate, for purposes of budget enforcement, the nondefense discretionary cap for fiscal year 1999 and the discretionary caps for fiscal years 2000 through 2003 shall be reduced by the amounts of reductions referred to in subsection (a) after the enactment of legislation reducing nondefense discretionary spending as provided in this section.

SEC. 202. TAX CUT RESERVE FUND.

(a) IN GENERAL.—In the Senate, revenue and spending aggregates may be reduced and allocations may be reduced for legislation that reduces revenues by providing middle class and family tax relief (including relief from the ''marriage penalty'' and support for child care expenses incurred by all parents), and incentives to stimulate savings, investment, job creation, and economic growth (including community renewal initiatives) if such legislation will not increase the deficit or reduce the surplus for—

(1) fiscal year 1999;

(2) the period of fiscal years 1999–2003; or

(3) the period of fiscal years 2004–2008.

(b) REVISED ALLOCATIONS.—Upon the consideration of legislation pursuant to subsection (a), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised aggregates to carry out this section. These revised allocations and aggregates shall be considered for

the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

SEC. 203. TOBACCO RESERVE FUND.

(a) IN GENERAL.—In the Senate, revenue aggregates may be increased for legislation which reserves the Federal share of receipts from tobacco legislation only for the Medicare Hospital Insurance Trust Fund.

(b) REVISED AGGREGATES.—Upon the consideration of legislation pursuant to subsection (a), the Chairman of the Committee on the Budget of the Senate may file increased aggregates to carry out this section. These aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as the aggregates contained in this resolution.

(c) APPLICATION OF SECTION 202 OF H. CON. RES. 67.—For the purposes of enforcement of section 202 of H. Con. Res. 67 (104th Congress) with respect to this resolution, the increase in receipts resulting from tobacco legislation shall not be taken into account.

SEC. 204. SEPARATE ENVIRONMENTAL ALLOCATION.

(a) IN GENERAL.—In the Senate, revenue and spending aggregates may be increased and allocations may be increased only for legislation that reauthorizes and reforms the Superfund program to facilitate the cleanup of hazardous waste sites if such legislation will not increase the deficit or reduce the surplus for—

(1) fiscal year 1999;

(2) the period of fiscal years 1999–2003; or

(3) the period of fiscal years 2004–2008.

(b) REVISED AGGREGATES.—In the Senate, after the Committee on Environment and Public Works reports a bill (or after the submission of a conference report thereon) to reform the Superfund program to facilitate the cleanup of hazardous waste sites that does not exceed—

(1) $200,000,000 in budget authority and outlays for fiscal year 1999; and

(2) $1,000,000,000 in budget authority and outlays for the period of fiscal years 1999 through 2003;

the chairman of the Committee on the Budget of the Senate may increase the appropriate aggregates and the appropriate allocations of budget authority in this resolution by the amounts provided in that bill for that purpose and the outlays flowing in all years from such budget authority. These revised allocations and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as the allocations and aggregates contained in this resolution.

SEC. 205. DEDICATION OF OFFSETS TO TRANSPORTATION.

(a) SPENDING RESERVE.—In accordance with section 312(a) of the Congressional Budget Act of 1974 and for the purposes of title III of that Act, the Chairman of the Committee on the Budget may reserve the estimated reductions in new budget authority and outlays resulting from changes in legislation affecting the programs specified in subsection (b), if contained in the Department of Transportation and Related Agencies Appropriations Act, for the purpose of offsetting—

(1) additional outlays not to exceed $1,300,000,000 in fiscal year 1999 and $18,500,000,000 for fiscal years 1999 through 2003 for discretionary highway programs as called for in the Intermodal Surface Transportation Efficiency Act of 1998; and

(2) additional budget authority not to exceed $1,000,000,000 in fiscal year 1999 and $5,000,000,000 for fiscal years 1999 through 2003 for discretionary transit programs as called for in the Intermodal Surface Transportation Efficiency Act of 1998.

(b) OFFSETS.— The following reductions in mandatory spending are reserved in function 920, Allowances, for purposes of subsection (a):

(1) For reductions in programs in function 350, Agriculture: For fiscal year 1999, $107,000,000 in budget authority and $107,000,000 in outlays; For fiscal years 1999–2003, $603,000,000 in budget authority and $598,000,000 in outlays.

(2) For reductions in programs in function 370, Commerce and Housing Credit: For fiscal year 1999, $242,000,000 in budget authority and $242,000,000 in outlays; For fiscal years 1999–2003, $1,195,000,000 in budget authority and $1,195,000,000 in outlays.

(3) For reductions in programs in function 500, Education, Training, Employment, and Social Services: For fiscal year 1999, $471,000,000 in budget authority and $424,000,000 in outlays; For fiscal years 1999–2003, $3,182,000,000 in budget authority and $3,079,000,000 in outlays.

(4) For reductions in programs in function 550, Health: For fiscal year 1999, $250,000,000 in budget authority and $250,000,000 in outlays; For fiscal years 1999–2003, $1,900,000,000 in budget authority and $1,900,000,000 in outlays.

(5) For reductions in programs in function 600, Income Security: For fiscal year 1999, $260,000,000 in budget authority and $260,000,000 in outlays; For fiscal years 1999–2003, $1,700,000,000 in budget authority and $1,700,000,000 in outlays.

(6) For reductions in programs in function 700, Veterans Benefits and Services: For fiscal year 1999, $500,000,000 in budget authority and $500,000,000 in outlays; For fiscal years 1999–2003, $10,500,000,000 in budget authority and $10,500,000,000 in outlays.

SEC. 206. ADJUSTMENTS FOR LINE ITEM VETO LITIGATION.

If the Supreme Court rules that the Line Item Veto Act is unconstitutional, the Chairman of the Committee on the Budget may make appropriate adjustments to the allocations and aggregates in this resolution to reflect the effects of the President's cancellations becoming null and void.

SEC. 207. EXERCISE OF RULEMAKING POWERS.

Congress adopts the provisions of this title—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change those rules (so far as they relate to that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

TITLE III—SENSE OF CONGRESS AND THE SENATE

SEC. 301. SENSE OF THE SENATE REGARDING FEDERAL DOMESTIC DISCRETIONARY SPENDING RESTRAINTS.

(a) FINDINGS.—The Senate finds that—

(1) Social Security and Medicare are deeply rooted contracts, that must be honored, between the Federal Government and the American people; and

(2) Federal spending for fiscal year 1999 is—

(A) more than twice the size of Federal spending for fiscal year 1969, the last budget resulting in a surplus, in real dollars; and

(B) requires revenue equal to 20.1 percent of gross domestic product, the highest since fiscal year 1945.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the provisions of this resolution assume that—

(1) the first priority of Congress will be to use any unified budget surplus in order to reform Social Security and preserve it for current and future generations;

(2) Congress will ensure that Federal funds will be available to strengthen and further preserve Medicare until such time as legislation is enacted making Medicare actuarially sound;

(3) in making the spending reductions provided in section 201, programs that should be protected are those that—

(A) address the needs of elementary and secondary education;

(B) enhance nutrition, particularly among children;

(C) reduce illegal drug use, particularly among juveniles;

(D) support medical priorities;

(E) are targeted for low-income families; and

(F) reduce illegal immigration; and

(4) Congress will limit itself to only administrative reductions when determining mandatory spending offsets for middle class tax relief as described in section 201.

McCAIN AMENDMENT NO. 2200

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the end of title III, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING THE EXPENDITURE OF $500,000,000 FOR THE CONSTRUCTION OF NEW COURT HOUSES.

(a) FINDINGS.—The Senate makes the following findings:

(1) Illegal drugs cost our society approximately $67,000,000,000 each year.

(2) Drug abuse and trafficking hurt families, businesses, and neighborhoods, impede education, and choke criminal justice, health, and social-service systems.

(3) The war on drugs started in America during the Reagan years and was eagerly joined by most of the western world.

(4) Teenage drug use declined dramatically since the early 1980's, but that trend reversed in 1992, when teenage drug use began to increase.

(5) Statistics indicate that 1996 drug-use rates among youth, were 9 percent, well below the 1979 peak of 16.3 percent, but substantially higher than the 1992 low of 5.3 percent.

(6) The most recent National Drug Strategy figures show a massive 66 percent increase in teenage drug use since the 1980's.

(7) By 1996, 50.8 percent of high school seniors reported having used illicit drugs.

(8) The use of illicit drugs among eighth graders alone has increased 150 percent over the past 5 years.

(9) When juveniles engage in drug abuse, they, their families, and their communities suffer.

(10) Drug abuse is associated with violent crime and income-generating crime by youth, which increases the demand for juvenile and criminal justice services.

(11) One study found that, of the 113 delinquent youth in a State detention facility, 82 percent reported being heavy (i.e., daily) users of alcohol and other drugs just prior to admission.

(12) A direct effect of juvenile drug use is an increasing burden on the juvenile and criminal justice systems.

(13) Reducing juvenile drug use would reduce the drain on the criminal justice system and obviate the need to construct additional courthouses.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the provisions of this resolution assume that—

(1) $500,000,000 for courthouse construction should not be spent until the United States has reduced drug use among 12- to 17- year olds to not more than 4 percent; and

(2) Congress' first priority should be to use the $500,000,000 allocated for courthouse construction for juvenile drug use prevention programs.

COVERDELL AMENDMENTS NOS. 2201–2202

(Ordered to lie on the table.)

Mr. COVERDELL submitted two amendments intended to be proposed by him to the concurrent resolution, supra; as follows:

AMENDMENT NO. 2201

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE ON FOOD SAFETY RESEARCH, CONSUMER EDUCATION, AND PREVENTION EFFORTS.

It is the sense of the Senate that the provisions of this resolution assume that food safety research, consumer education, and prevention efforts should be a high priority at the Department of Agriculture, the National Institutes of Health, the Food and Drug Administration, the Centers for Disease Control and Prevention, and our nation's colleges and universities. The Senate applauds the efforts of institutions whose work on E. coli 0157:H7, Cyclospora, and other food borne pathogens has helped us gain a better understanding of these new and emerging threats. The Senate considers this matter of extreme importance and encourages the Department of Agriculture, in cooperation with other agencies and institutions, to utilize funds for food safety research and consumer education partnerships.

AMENDMENT NO. 2202

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE REGARDING MILITARY HEALTH CARE FOR VETERANS AND MILITARY RETIREES.

(a) FINDINGS.—The Senate finds that—

(1) In the National Defense Authorization Act for Fiscal Year 1998 the Congress recognized—

(A) the moral obligation the United States has to provide health care to members and former members of the Armed Forces who are entitled to retired or retainer pay (or its equivalent);

(B) the necessity to provide quality, affordable health care to these retirees; and

(C) Congress and the President should take steps to address the problems associated with the availability of health care for such retirees within two years after the date of the enactment of the 1998 National Defense Authorization Act;

(2) several proposals lie before the Congress which address military retiree health care.

(3) the Congress has yet to take significant steps forward on any of these proposals.

(4) a shrinking Department of Defense health care infrastructure and an increasing military retiree pool are putting strains on our country's ability to provide military retirees adequate health care.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the provisions of this resolution assume that it is morally incumbent upon the Senate to take steps to ensure adequate health care for Veterans and military retirees in its FY99 budget and all subsequent budgets, and it should determine ways to provide funding adequate to cover the health care needs of U.S. Veterans and military retirees.

WYDEN AMENDMENT NO. 2203

(Ordered to lie on the table.)

Mr. WYDEN submitted an amendment intended to be proposed by him to the concurrent resolution, supra; as follows:

At the end of title II, add the following:

SEC. ___. CALCULATING INFLATION SAVINGS OR SHORTFALLS.

For each fiscal year, the Congressional Budget Office shall calculate the inflation savings or shortfall that occurs when inflation is less or more than anticipated for each function of the Government and report its findings to Congress in March and August of each year. If inflation is less than anticipated the report shall also include a detailed explanation of how surplus funds are allocated.

KOHL (AND REID) AMENDMENT NO. 2204

Mr. KOHL (for himself and Mr. REID) proposed an amendment to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the end of title III add the following:

SEC. ___. SENSE OF THE SENATE REGARDING THE ESTABLISHMENT OF A NATIONAL BACKGROUND CHECK SYSTEM FOR LONG-TERM CARE WORKERS.

(a) FINDINGS.—The Senate makes the following findings:

(1) Over 43 percent of Americans over the age of 65 are likely to spend time in a nursing home.

(2) Home health care is the fastest growing portion of the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), with an average annual growth rate of 32 percent since 1989.

(3) A 1997 report from State Long-Term Care Ombudsmen assisted under the Older Americans Act of 1965 indicated that in 29 States surveyed, 7,043 cases of abuse, gross neglect, or exploitation occurred in nursing homes and board and care facilities.

(4) A random sample survey of nursing home staff found that 10 percent of the staff admitted committing at least 1 act of physical abuse in the preceding year.

(5) Although the majority of long-term care facilities do an excellent job in caring for elderly and disabled patients, incidents of abuse and neglect do occur at an unacceptable rate and are not limited to nursing homes alone.

(6) Most long-term care facilities do not conduct both Federal and State criminal background checks on prospective employees.

(7) Most State nurse aide abuse registries are limited to nursing home aides, thereby failing to cover home health and hospice aides.

(8) Current State nurse aide abuse registries are inadequate to screen out abusive long-term care workers because no national system is in place to track abusers from State to State and facility to facility.

(9) Currently, 29 States have enacted varying forms of criminal background check requirements for prospective long-term care employees. However current Federal and State safeguards are inadequate because there is little or no information sharing between States about known abusers.

(10) Many facilities would choose to conduct background checks on prospective employees if an efficient, accurate, and cost-effective national system existed.

(11) The impending retirement of the baby boom generation will greatly increase the demand and need for quality long-term care.

(12) It is incumbent on Congress and the President to ensure that patients receiving care under the medicare and medicaid programs (42 U.S.C. 1395 et seq.; 1396 et seq.) are protected from abuse, neglect, and mistreatment.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the assumptions underlying the functional totals in this concurrent resolution on the budget assume that—

(1) funds should be directed toward the establishment of a national background check system for long-term care workers who participate in the medicare and medicaid programs (42 U.S.C. 1395 et seq.; 1396 et seq.);

(2) such a system would include both a national registry of abusive long-term care workers and a requirement for a Federal criminal background check before such workers are employed to provide long-term care; and

(3) such a system would be created with ample input and comment from representatives of the Department of Health and Human Services, State government, law enforcement, the nursing home and home health industries, patient and consumer advocates, and advocates for long-term care workers.

DURBIN (AND CHAFEE) AMENDMENT NO. 2205

Mr. DURBIN (for himself and Mr. CHAFEE) proposed an amendment to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the end of title III, insert the following:

SEC. ___. FINDINGS AND SENSE OF CONGRESS REGARDING AFFORDABLE, HIGH-QUALITY HEALTH CARE FOR SENIORS.

(a) FINDINGS.—Congress finds the following:

(1) Seniors deserve affordable, high quality health care.

(2) The medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) has made health care affordable for millions of seniors.

(3) Beneficiaries under the medicare program deserve to know that such program will cover the benefits that they are currently entitled to.

(4) Beneficiaries under the medicare program can pay out-of-pocket for health care services whenever they—

(A) do not want a claim for reimbursement for such services submitted to such program; or

(B) want or need to obtain health care services that such program does not cover.

(5) Beneficiaries under the medicare program can use doctors who do not receive any reimbursement under such program.

(6) Close to 75 percent of seniors have annual incomes below $25,000, including 4 percent who have annual incomes below $5,000, making any additional out-of-pocket costs for health care services extremely burdensome.

(7) Very few beneficiaries under the medicare program report having difficulty obtaining access to a physician who accepts reimbursement under such program.

(8) Allowing private contracting on a claim-by-claim basis under the medicare program would impose significant out-of-pocket costs on beneficiaries under such program.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the assumptions underlying the functional totals in this resolution assume that seniors have the right to affordable, high-quality health care and that they have the right to choose their doctors, and that no change should be made to the medicare program that could—

(1) impose unreasonable and unpredictable out-of-pocket costs for seniors or erode the benefits that the 38,000,000 beneficiaries under the medicare program are entitled to;

(2) compromise the efforts of the Secretary of Health and Human Services to screen inappropriate or fraudulent claims for reimbursement under such program; and

(3) allow unscrupulous providers under such program to bill twice for the same services.

REID (AND BRYAN) AMENDMENT NO. 2206

Mr. REID (for himself and Mr. BRYAN) proposed an amendment to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE ON OBJECTION TO THE USE OF THE SALE OF PUBLIC LANDS TO FUND CERTAIN PROGRAMS.

(a) FINDINGS.—The Senate finds that the Budget Committee Report accompanying this resolution assumes that the landowner incentive program of the Endangered Species Recovery Act would be funded ''from the gross receipts realized in the sales of excess BLM land, provided that BLM has sufficient administrative funds to conduct such sales.''

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that the functional totals underlying this resolution assume that:

(1) the landowner incentive program included in the Endangered Species Recovery Act should be financed from a dedicated source of funding; and

(2) public lands should not be sold to fund the landowner incentive program of the Endangered Species Recovery Act.

FAIRCLOTH (AND HUTCHISON) AMENDMENT NO. 2207

(Ordered to lie on the table.)

Mr. FAIRCLOTH (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by them to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the appropriate place in the resolution, insert the following new section:

SEC. . SENSE OF THE SENATE REGARDING ELIMINATION OF THE MARRIAGE PENALTY TAX.

(a) FINDINGS.—The Senate finds that—

(1) Twenty-one million American couples in 1996 paid an average of $1,400 more income tax, simply because they were married, resulting in a marriage penalty tax.

(2) The tax code discriminates against many married couples in a way that undermines the institution of marriage, and erodes our society's strength and stability.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that the elimination of the marriage penalty tax should be one of congress's highest priorities when enacting any tax relief pursuant to the Budget Resolution for Fiscal Years 1999, 2000, 2001, 2002 and 2003.

HUTCHISON AMENDMENT NO. 2208

(Ordered to lie on the table.)

Mrs. HUTCHINSON submitted an amendment intended to be proposed by her to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the end of title III, add the following:

SEC. . SENSE OF THE SENATE ON THE USE OF BUDGET SURPLUS FOR TAX RELIEF OR DEBT REDUCTION.

It is the sense of the Senate that this resolution assumes that any budget surplus should be dedicated to debt reduction or direct tax relief for hard-working American families.

ROTH (AND OTHERS) AMENDMENT NO. 2209

Mr. DOMENICI (for Mr. ROTH for himself, Mr. BREAUX, Mr. GREGG, Mr. ROBB, Mr. HATCH, Mr. NICKLES, Mr. GRAMM, Mr. SMITH of Oregon, and Mr. SANTORUM) proposed an amendment to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the end of title III add the following:

SEC. . SENSE OF THE SENATE ON SOCIAL SECURITY PERSONAL RETIREMENT ACCOUNTS AND THE BUDGET SURPLUS.

(a) FINDINGS.—The Senate makes the following findings:

(1) The social security program is the foundation of retirement income for most Americans, and solving the financial problems of the social security program is a vital national priority and essential for the retirement security of today's working Americans and their families.

(2) There is a growing bipartisan consensus that personal retirement accounts should be an important feature of social security reform.

(3) Personal retirement accounts can provide a substantial retirement nest egg and real personal wealth. For an individual 28 years old on the date of the adoption of this resolution, earning an average wage, and retiring at age 65 in 2035, just 1 percent of that individual's wages deposited each year in a personal retirement account and invested in securities consisting of the Standard & Poors 500 would grow to $132,000, and be worth approximately 20 percent of the benefits that would be provided to the individual under the current provisions of the social security program.

(4) Personal retirement accounts would give the majority of Americans who do not own any investment assets a new stake in the economic growth of America.

(5) Personal retirement accounts would demonstrate the value of savings and the magic of compound interest to all Americans. Today, Americans save less than people in almost every other country.

(6) Personal retirement accounts would help Americans to better prepare for retirement generally. According to the Congressional Research Service, 60 percent of Americans are not actively participating in a retirement plan other than social security, although social security was never intended to be the sole source of retirement income.

(7) Personal retirement accounts would allow partial prefunding of retirement benefits, thereby providing for social security's future financial stability.

(8) The Federal budget will register a surplus of $671,000,000,000 over the next 10 years, offering a unique opportunity to begin a permanent solution to social security's financing.

(9) Using the Federal budget surplus to fund personal retirement accounts would be an important first step in comprehensive social security reform and ensuring the delivery of promised retirement benefits.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that this resolution assumes that the Committee on Finance shall consider and report a legislative proposal this year that would dedicate the Federal budget surplus to the establishment of a program of personal retirement accounts for working Americans and reduce the unfunded liabilities of the social security program.

JOHNSON (AND OTHERS) AMENDMENT NO. 2210

Mr. LAUTENBERG (for Mr. JOHNSON, for himself, Mr. DOMENICI, Mr. DORGAN, Mr. DASCHLE, Mr. BINGAMAN, Mr. WELLSTONE, and Mr. MCCAIN) proposed an amendment to the concurrent resolution, S. Con. Res. 86, supra; as follows:

At the end of Title III, insert the following:

SEC. . SENSE OF THE SENATE REGARDING REPAIR AND CONSTRUCTION NEEDS OF INDIAN SCHOOLS.

(a) FINDINGS.—The Senate finds that—

(1) many of our Nation's tribal schools are in a state of serious disrepair. The Bureau of Indian Affairs (BIA) operates 187 school facilities nationwide. Enrollment in these schools, which presently numbers 47,214 students, has been growing rapidly. A recent General Accounting Office report indicates that the repair backlog in these schools totals $754 million, and that the BIA schools are in generally worse condition than all schools nationally;

(2) approximately 60 of these schools are in need of complete replacement or serious renovation. Many of the renovations include basic structural repair for the safety of children, new heating components to keep students warm, and roofing replacement to keep the snow and rain out of the classroom. In addition to failing to provide adequate learning environments for Indian children, these repair and replacement needs pose a serious liability issue for the Federal Government;

(3) 63 percent of the BIA schools are over 30 years old, 26 percent are over 50 years old. Approximately forty percent of all students in BIA schools are in portable classrooms. Originally intended as temporary facilities while tribes awaited new construction funds, these ''portables'' have a maximum 10 year life-span. Because of the construction backlog, children have been shuffling between classrooms in the harsh climates of the Northern plains and Western States for ten to fifteen years;

(4) annual appropriations for BIA education facilities replacement and repair combined have averaged $20–30 million annually, meeting only 4 percent of total need. At the present rate, one deteriorating BIA school can be replaced each year, with estimates of completion of nine schools in the next seven years. Since the new construction and repair backlog is so great and growing, the current focus at BIA construction must remain on emergency and safety needs only, without prioritizing program needs such as increasing enrollment or technology in the classroom; and

(5) unlike most schools, the BIA schools are a responsibility of the Federal Government. Unfortunately, the failure of the Federal Government to live up to this responsibility has come at the expense of quality education for some of this Nation's poorest children with the fewest existing opportunities to better themselves.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the assumptions underlying the functional totals in this budget resolution assume that the repair and construction backlog affecting Bureau of Indian Affairs school facilities should be eliminated over a period of no more than five years beginning with Fiscal Year 1999.

CRAIG (AND OTHERS) AMENDMENT NO. 2211

Mr. CRAIG (for himself, Mr. ALLARD, Mr. GRAMS, Mr. HELMS, Mr. INHOFE, Mrs. HUTCHISON, Mr. THOMAS, Mr. SESSIONS, and Mr. COVERDELL) proposed an

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

and is not the case. I am sorry that I may have given anyone such an impression by uncritically referring to the proposed initiative in the way that I did.''

I do not think these responses are sufficient. The concerns that have been raised about these matters are not esoteric. They are the kind of thing that I think we reasonably expect judges to think about before they give public remarks. Nor was Judge Paez brand new to the bench when he made these remarks: he gave the speech in April 1995, some nine months after his appointment. Finally, Judge Paez indicated in response to written questions from Senator ASHCROFT (1) that since his comments only went to the divisive nature of the initiative, he ''hope[d]'' it would have been clear to the people of California that he had not prejudged the matter but that (2) in any event he would not have recused himself from hearing a challenge to Proposition 209 because he believes he could have been impartial in the matter since judges often have personal opinions on policy questions but are expected to put them aside. It seems to me, however, that given that Judge Paez went out of his way as a judge to say what he did, it would be perfectly reasonable for the people of California not to trust his impartiality and that a recusal pledge with respect to cases involving these initiatives was a bare minimum indicator of the sincerity of his expressions of regret.

Despite the central role that the initiative process has played in California in correcting judicial excesses, I have supported two prior nominees. One was a nominee to a California district court seat who had written a piece criticizing the initiative process itself. The other was a nominee to the Circuit Court whose pro bono work challenging a Washington initiative even before it had been placed on the ballot I alluded to earlier. These activities raised some questions about whether either of these nominees should be confirmed for judicial positions where they would of necessity be passing on the validity of initiatives. In each instance, the nominee's explanations persuaded me that they should be given the benefit of the doubt. Unfortunately, in Judge Paez's case, I find myself unable to do so, and accordingly I have serious objections to his elevation to the Ninth Circuit.

CREDIT UNION MEMBERSHIP

• Mrs. BOXER. Mr. President, on February 25, the Supreme Court issued an opinion invalidating the National Credit Union Administration's (NCUA) multiple group policy. I am concerned that the Court's ruling may require some current credit union members to divest their credit union membership. Let me explain.

Section 109 of the Federal Credit Union Act of 1934 provides that ''federal credit union membership shall be limited to groups having a common bond of occupation or to groups within a well-defined neighborhood, community or rural district.'' Accordingly, prior to 1982, federal credit unions were chartered to serve a single group affiliated by either occupation, association, or residency in a well-defined community.

In 1982, however, the NCUA altered its interpretation of section 109 to allow federal credit unions to comprise not just one, but multiple occupational groups. For example, a credit union formed by and serving the employees of a clothing store, could also, pursuant to the NCUA's 1982 interpretation, serve the employees of a grocery store or a pharmaceutical company. In 1990, a group of North Carolina Banks, as well as the American Bankers Association filed suit against the NCUA arguing that the NCUA interpretation was contrary to the Federal Credit Union Act. The Supreme Court recently issued an opinion in which they found on behalf of the five North Carolina banks and the American Bankers Association.

I think it is important to ensure, however, that no current credit union member be forced to give up their membership if they are multiple-group credit union members. I know that my friend and colleague Senator KERRY is also concerned about this issue.

Mr. KERRY. Mr. President, I thank Senator BOXER and I share her concern that the Supreme Court ruling could require some credit unions to remove some individuals from credit union membership. The credit unions operated in good faith when they extended membership to members of unrelated groups. However, the Supreme Court found that such actions have gone beyond the bounds of the Federal Credit Union Act.

The U.S. District Court, to which the Supreme Court returned the case, can choose from a number of alternatives to provide the required relief in *National Credit Union Administration* v. *First National Bank & Trust et al.* The Court could choose to expel current credit union members who are not affiliated with the original occupational group, grandfather all current members of credit unions but prevent credit unions from adding any new members who are not affiliated with the original group or allow credit unions to add new members from any employer groups represented by current credit union members but preclude adding members from other unrelated occupation groups.

I believe the members of all current multiple-group credit unions should be allowed to continue in the credit unions they have chosen. Dislocating approximately 10 million credit union members not affiliated with their credit union's original occupation group could potentially have serious effects on the safety and soundness of the credit unions in Massachusetts and across the nation. It would also limit the credit and financial services options for millions of working families who have come to depend on their credit unions.

I am not prejudging precisely how the Congress should legislate a final resolution of this matter. It deserves careful consideration by Senators and Representatives. But, I believe strongly that until that resolution is determined and enacted into law, it would be a grave mistake for the Court to force existing credit union members out of the affiliation with their credit unions. Such a step would be counter to the public interest.

Mrs. BOXER. I would add that the American Bankers Association, to its credit, has said that, despite the Court's ruling, it has no intention of trying to force credit union members who currently belong to multiple-employer group credit unions to divest their membership. I am hopeful, therefore, that Judge Jackson will allow all current credit union members to remain with their respective credit unions.

Mr. KERRY. I agree with my good friend and also applaud the American Bankers Association decision not to seek action to force dropping credit union members from credit union rolls. All working families in the United States, whether they live in urban or rural areas, deserve access to fairly priced credit and other financial services. Credit unions serve as a way for people of average means, without easy access to affordable credit, to pool their savings in order to make credit available to themselves and their fellow credit union members at competitive interest rates. In the Commonwealth of Massachusetts, for example, there are more than 300 credit unions serving approximately 1.7 million people. These credit unions have helped launch and sustain small businesses. Some of them have played a key role in the development and revitalization of economically distressed communities. In dozens of ways, credit unions have proven themselves to be a vital component of our financial services industry. We must not take precipitous action that could result in grave damage to this portion of the industry. That is especially important until the Congress can pass legislation.

Mrs. BOXER. I could not agree more. In my home state of California, there are 500 federal credit unions and more than 5 million credit union members. So credit unions have been an extremely valuable resource to millions of residents of my state as well.

Finally, Mr. President, I think it is important to put into some context the multiple-group charters that the NCUA began approving in 1982. Beginning in 1982, as a result of the economic conditions of the time—the downsizing of companies, the closing of plants, and slumping U.S. industries—the stability and viability of a number of individual credit unions was threatened. Simultaneously, we started seeing the beginnings of an upsurge in the number of

small businesses. Those small businesses wanted access to credit union services, even though many did not meet the 500 employee threshold for a charter.

Thus, multiple group charters became a means of ensuring that those small businesses, as well as low-income consumers lacking access to more traditional financial services, were able to access the services of credit unions. I believe that these groups should to continue to have access to credit union services, whether through individual or multiple group charters.●

TRANSFORMATION IN THE HEALTHCARE MARKET

● Mrs. HUTCHISON. Mr. President, Medical schools and teaching hospitals, the training ground for our nations' healthcare personnel and the centers for world class cutting-edge medical innovation, are facing significant challenges as new efforts of cost containment force radical transformation in the healthcare market. There has been a steady decrease in the pharmaceutical R&D performed at medical schools and teaching hospitals. A study by three pharmaceuticals companies revealed that while pharmaceutical R&D is larger dollarwise than NIH, the university-based portion of clinical trials fell from 82% in 1989 to 68% in 1993.

Given this fact, I am pleased to be an original co-sponsor of The Medical Innovation Tax Credit introduced by Senator D'AMATO. This bill would give a tax credit of up to 20% on qualified research expenses to firms that conduct and expand their biopharmaceutical research activities at medical schools and teaching hospitals.

In my home state of Texas, medical technology is poised to become a high-tech boom industry. Texas is currently home to more than 500 medical technology companies with $5 billion in annual sales, according to a new report released by the Austin-based Texas Healthcare and Bioscience Institute. Medical technology companies currently employ about 38,000 people, making it a medium-sized manufacturing industry comparable to the state's paper, lumber and aircraft industries.

Texas' growing presence in medical technology is firmly rooted in the state's universities and health-related research institutes. Academic health centers such as The University of Texas Southwestern Medical Center at Dallas, Baylor College of Medicine and MD Anderson Cancer Center in Houston, and the University of North Texas Health Science Center in Fort Worth position Texas as a world leader in biomedical research.

By stimulating more private-sector research at these institutions, the Medical Innovation tax Credit will help ensure America's continued preeminence in bio pharmaceutical research; provide needed resources for medical schools and teaching hospitals; and encourage more clinical trials to be conducted in the United States.

Mr. President, I look forward to working with Senator D'AMATO and members of the Finance Committee to create an environment that will enable medical technology to grow and create jobs.●

TRIBUTE TO EAGLE SCOUT JOHN BADEEN

● Mr. ABRAHAM. Mr. President, I rise today to honor a fine young man, John Badeen, for reaching the esteemed rank of Eagle Scout. Earning this coveted award is testament to the fact that he possesses a strong character and exceptional citizenship. Having reached Scouting's highest rank, John undoubtedly possesses the solid skills and values necessary to be a valuable asset to his community and to the nation.

John, as well as his family and friends should be very proud of his accomplishment. Scouting is a wonderful asset to our country that aids in shaping our young people into fine citizens. Boy Scouts in this country have grown to become prominent and respectable citizens within their communities.

I want to extend my warmest congratulations to John. I am confident that he will continue working for the good of his community and serving as an example to all young people. I wish him the best in all of his future endeavors. I would also like to add that it gives me great pleasure to give this award in the company of my good friends, Father George Shalhoub and Father John Badeen. ●

TRIBUTE TO MR. EDWARD J. PISZEK

● Mr. SANTORUM. Mr. President, I rise today to recognize a constituent who has distinguished himself at home and abroad. This week, Edward J. Piszek will be honored in Philadelphia for receiving one of the Republic of Poland's highest civilian honors.

On March 16, 1998, President Aleksander Kwasniewski bestowed the ''Polonia Restituta,'' or the ''Commander's Cross with a White Star'' upon Mr. Piszek. This medal is presented for extraordinary service to the nation of Poland. Recipients of the Polonia Restituta are celebrated for their achievements in government and public activities, for contributions to promote Poland's independence, or for advancing Polish culture in the areas of education, literature and the arts.

The son of Polish immigrants, Ed exemplified his parents' strong work ethic. It was a lesson well learned. In 1946, with $350 and the help of a close friend, Ed founded Mrs. Paul's Kitchens, Inc. Under his direction, the company became one of America's largest producers of prepared frozen seafood and vegetables.

Ed began his philanthropic work in Poland during the 1960s. After witnessing the tremendous suffering caused by the high incidence of tuberculosis, he donated an ambulance to the hospital in Tarnow in memory of his parents. Later, he would provide 11 mobile x-ray units and 42 support vehicles to transport technicians.

Mr. Piszek's commitment to the Polish people did not end with those initial acts of kindness. When the country suffered from food shortages in the early 1980s, he donated 10 million pounds of fishcakes. After the nuclear disaster in Chernobyl, Ed participated in an airlift of powdered milk and food to those who were affected in Poland. Mr. Piszek has also worked to help the Polish people elevate their culture. He and author James A. Michener established a Young Polish Writer's workshop. Similarly, Ed supported the ''United States Peace Corps Partners in Teaching English'' which has already trained 25,000 new English teachers in Poland.

On the home front, Ed has worked to elevate the image of Polish Americans. He purchased the home of General Thaddeus Kosciuszko—a Polish engineer who came to fight in the American Revolution and then later designed West Point—and donated the property to the National Park Service. In 1972, he founded the Copernicus Society of America. This private nonprofit foundation strives to promote and encourage artistic, scientific, and historical activities throughout the world.

In countless many ways, Ed Piszek has helped build a cultural bridge between the U.S. and Poland. For instance, he hosted a visit from Lech Walesa at the Copernicus Society's headquarters in Fort Washington, PA. He was instrumental in making arrangements for ABC News to go ''behind the walls'' of the Vatican and film John Paul II in his work day and private moments. The end result was The Pope and His Vatican, an ABC News Special which aired Easter Night, 1983. Another of Ed's noteworthy achievements was coordinating with the Copernicus Society and Penn State University to hold Agricultural Economic Development Summits in the Pzeszow Province of Poland. These one-week seminars allow agricultural experts from Poland and Penn State to share their knowledge and their expertise with neighboring countries. Finally, Mr. Piszek is working to promote the national pastime in Poland. A board member of the Little League Baseball Foundation in Williamsport, PA, Ed is deeply involved in developing the Little League Baseball European Training Center in Kutno, Poland. He hopes that baseball will teach children of all nations the concepts of teamwork, leadership, and character. All things considered, Edward Piszek was an obvious choice to accompany President Clinton to Warsaw in support of NATO membership for Poland.

Mr. President, one man can truly make a difference. Mr. Piszek's work has touched thousands of lives. As he is

honored at the Kosciuszko House on April 2, I ask my colleagues to join me in extending the Senate's best wishes for continued success to Edward J. Piszek and his family. ●

THE MINNESOTA TORNADOS

● Mr. GRAMS. Mr. President, I rise today to speak for a few minutes about the violent storms of this past weekend in south-central Minnesota and to express my concern for the many, many victims of this tragedy. Tornados and severe thunderstorms ripped through Minnesota Sunday evening, tearing through St. Peter, Hanska, and Lonsdale and forcing the evacuation of the small town of Comfrey.

In the wake of the devastation, my thoughts and prayers go out to the people of south-central Minnesota. I would especially like to express my condolences to the families of Dustin Schneider, the young boy whose life was taken by the storm near St. Peter, and Louis Mosenden of Hanska, who died Monday as a result of injuries he suffered when a tornado hit his home. Our thoughts and prayers are with their loves ones.

Mr. President, along a 60-mile path, hundreds of houses, factories, barns, silos, churches, and schools have been reduced to rubble. Most of the buildings in St. Peter were either destroyed or severely damaged. The smaller community of Comfrey was almost completely destroyed. Power is still out in both towns.

In all, more than 700 houses and apartments were destroyed or damaged to the point that they are now uninhabitable. Another 1,800 have sustained severe damage. Thousands of residents have been forced to go seek public shelters or the homes of friends or relatives. More than 100 businesses have been damaged in the area.

Even with the massive damage, the initial response to this disaster by the State of Minnesota, the Minnesota National Guard, Minnesota relief agencies, and local law enforcement has been swift and efficient. Because of this quick response, and the cooperation we are seeing between state, local, and federal officials, I am confident south-central Minnesota will recover from this natural disaster. I intend to survey the area this weekend, after state and local officials have completed their damage assessments. My staff is already on the scene, and is meeting today with representatives of the Federal Emergency Management Agency in St. Peter as they inspect the damage.

Since first receiving word of the storms, I have been working closely with state and local officials to bring federal assistance to the region and begin the recovery efforts. I want to assure my constituents that the federal government will do whatever is needed to help the people of our state cope with the devastation. Minnesota Governor Arne Carlson today forwarded to President Clinton his formal request for a disaster declaration, and I have written to the President as well to reiterate the urgency of Governor Carlson's request.

Mr. President, the people of Minnesota have faced disaster before. It was almost one year ago when the terrible spring floods swept through western Minnesota and devastated so many lives. We learned a lot about each other during the difficult months that followed, when it seemed the clean-up would never end and life would never be the same again. We were reminded what it means to be a community, and how communities come together during troubled times.

With that experience fresh in mind, I know that Minnesotans will once step forward and help one another rebuild from this weekend's tornados. And I want the victims of this latest disaster to know that they will not be forgotten. ●

TRIBUTE TO ANTHONY HIGDON—41 YEARS OF GOVERNMENT SERVICE

● Mr. MCCONNELL. Mr. President, I rise today to recognize the extraordinary career of Mr. Anthony Higdon, who retired last month after 41 years of service to his country and the people of the Commonwealth of Kentucky as a member of the U.S. Air Force and as an employee of the Social Security Administration .

After four years in the Air Force, Mr. Higdon spent the last 37 years working for the Social Security Administration, serving the needs of Kentucky's senior citizens. His career included 20 years as manager of the 3 Social Security offices in Louisville. Before that, he served in other capacities in the Louisville offices, as well as at the Social Security branches in Elizabethtown, Hazard and Hopkinsville, Kentucky.

One of Mr. Higdon's most important legacy will be his tireless work with national and community leaders in Kentucky to impress upon them an understanding of the dramatic importance of Social Security programs to all people throughout their lives.

Mr. President, Anthony Higdon will be sorely missed by all his friends and colleagues at the Social Security Administration offices across the Commonwealth of Kentucky. As he retires to the community which he has spent most of his life serving, we wish him best of luck and thank him for his service.●

BRIDGEPORT CHARTER TOWNSHIP SESQUICENTENNIAL

● Mr. ABRAHAM. Mr. President, I rise today to honor a place of great significance in the history of the state of Michigan. Bridgeport Charter Township, located in the heart of Michigan, will celebrate its Sesquicentennial on April 4, 1998. It was founded April 4, 1848, making it the oldest charter township in Michigan.

Bridgeport Charter Township will begin the celebration of its 150th year on April 4, 1998 with a town hall meeting. The celebration will continue throughout the year with a series of events. They are currently trying to locate ancestors of the original township board to take part in the celebration.

I want to congratulate Bridgeport Charter Township on its Sesquicentennial and extend my best wishes for a successful and enjoyable celebration.●

THE 116TH ANNIVERSARY OF THE FOUNDING OF THE KNIGHTS OF COLUMBUS

● Mr. GRAMS. Mr. President, I rise today to honor the Knights of Columbus and join them in the celebration of 116 years of carrying out their mission of ''Unity, Service, and Patriotism.'' In the fall of 1881, a group of men, under the direction of Father Michael J. McGivney, met at St. Mary's Church in New Haven, Connecticut, for the purpose of establishing a fraternal benefit society within the Catholic Church. That small meeting was the genesis for a movement which now claims nearly 1.6 million members (4.5 million including family members) in countries throughout the Western Hemisphere and the Pacific.

After being granted legal corporation on March 29, 1882, the Knights of Columbus began spreading their message of pride in faith and nation. Indeed, the very name Knights of Columbus was chosen to reflect this premise, as it signifies the importance of Christopher Columbus' discovery of America to the Catholic Church.

In times of national crisis, the Knights of Columbus have consistently heeded the call for service and sacrifice. This was perhaps best exemplified during two of the most pivotal events in our Nation's history which occurred this century: World War I and World War II. During these trying times, the Knights of Columbus offered an array of support programs for the men and women of our armed forces, including bond drives and blood donor programs.

In addition, at the conclusion of World War II and the onset of the Cold War, the Knights of Columbus aided in the crusade against Communist expansion by sponsoring 1,300 educational discussion groups, as well as speakers' bureaus, advertisements and radio addresses. The Knights of Columbus' efforts during the Cold War were acknowledged by President Harry S. Truman.

While those accomplishments are indeed admirable, equally impressive are the often unsung works undertaken by individual Knights of Columbus Councils each day. In 1996, Knights of Columbus members reported 48,966,132 hours of volunteer service and donated $105,976,102 to charity.

Currently, 229 Knights of Columbus Councils serve parishes and communities throughout my home state of Minnesota. The services undertaken by each Council cover many areas and aid

a number of different charities and causes, ranging from providing loans for college students to assisting the sick and the elderly in getting to Sunday Mass.

Other examples of service activities in Minnesota include: a fund drive in support of the construction of Catholic schools conducted by Council 7604 in Eagan, Minnesota; the bowling team from Council 961 in St. Cloud, Minnesota, which raised over $6,000 for Big Brothers-Big Sisters; and the sponsoring of youth hockey by Council 3166 in Detroit Lakes, Minnesota.

Mr. President, I am pleased to report that the ''World's Largest Catholic Family Fraternal Organization'' has a commanding presence in Minnesota and will continue to provide communities with an excellent example of how to live a fulfilling life of maximum service to God and country. I am honored to have this opportunity to acknowledge and thank the Knights of Columbus for all their work, and offer my sincerest congratulations on the 116th anniversary of their founding. ●

TRIBUTE TO THE KENTUCKY WILDCATS: 1998 NCAA NATIONAL BASKETBALL CHAMPIONS

● Mr. MCCONNELL. Mr. President, 50 years ago this month, the University of Kentucky accomplished a feat still unmatched in college basketball history. As every backyard all-star in the Commonwealth can tell you, that was the year of the original Fabulous Five.

You see in Kentucky, we have a habit of naming our most special Wildcat teams, and 1948 may have been the most special of the bunch. That group, led by Alex Groza, Ralph Beard and Wah Wah Jones not only earned Kentucky's first NCAA men's college basketball championship trophy but went on to bring home a gold medal from the 1948 Olympics.

Flash forward Fifty years into the future, to see another edition of the Wildcats, and equally high expectations. Led by seniors Jeff Sheppard, Allen Edwards, and Cameron Mills, the 1998 Cats came into the season facing an uncertain future. While expectations are always high at Kentucky, this year's squad exceeded even the most optimistic fan's hopes.

Under the expert leadership of first-year head coach, Tubby Smith, these Wildcats will be raising the school's 7th NCAA championship banner to the rafters of Rupp Arena. But Mr. President, there is so much more to this story than wins and losses.

While the '48 team was appropriately known as the Fab Five, this year's national champions will go down in Wildcat history as maybe the most perfect embodiment of the word ''team'' in Kentucky's legacy of excellence. Time after time when the odds seemed insurmountable this team willed itself to victory.

A quick review of the final three games of this year's tournament reveals the heart of a lion. Down 17 points with less than 10 minutes to play against a Duke squad that had been ranked #1 for most of the year, the Comeback Cats put together a frenzied charge, outscoring the Blue Devils 17 - 1 during a crucial stretch. What made the feat all the more impressive was that every player contributed.

In the Final Four, the Cats squared off against the Stanford Cardinal, the West Coast power that spent the majority of the season undefeated. Down by 5 at half, the Cats did what was natural for them, they put together a rally, eventually winning the contest in overtime. This victory was fueled by one of the most gritty performances in Final Four history, as senior Jeff Sheppard poured in 27 of the Cats 74 points.

What could top this effort in the finals? How about the greatest come-from-behind victory in the history of the NCAA championship. Down 10 at the half, and 12 early in the second half, this selfless group of young men redoubled their efforts and chipped away at the Utah lead. Steadily the tide began to shift behind three point baskets from Heshimu Evans, and Kentucky natives Cameron Mills and Scott Padgett. Refusing to wilt under the pressure of facing the hottest team in the nation, Kentucky hammered away defensively and converted on the offensive end. In the end, Utah's game effort was not enough and the Cats posted a 78 - 69 victory in seizing their second national title in three years.

In what has become habit for the Comeback Cats, the team drew on its strengths and refused to panic. Under the masterful eye of Coach Smith and the intelligent play of a host of stars, the team accomplished its dream of bringing home the title.

So, Mr. President, while we look back fondly on the Fabulous Five of 1948, I am content to take senior Jeff Sheppard's advice to ''appreciate the precious present,'' and embrace these Comeback Cats as the greatest ''team'' to ever put on the Kentucky uniform. It is impossible to appreciate the intensity and effort these young men put forth as they met and exceeded every challenge in their path during the 1997–98 season.

Mr. President, I ask each of my colleagues to join me in honoring the University of Kentucky, history-making coach Tubby Smith, athletic director C. M. Newton, and most importantly each and every talented player on the 1998 Championship Wildcat team.●

HONORING MORTANA MCCORMICK

● Mr. ROCKEFELLER. Mr. President, I rise today to speak to you on behalf of the citizens of West Virginia. The West Virginia Department of Culture and History has named 1998 ''The Year of the Quilt.'' In the Appalachian Mountain region, and particularly in the great state of West Virginia, the tradition of native crafting, including quilting, has thrived uninterrupted for over two hundred years.

In 1968, my wife, Sharon, along with a group of community-minded West Virginians assisted a talented group of quilters to form *Mountain Artisans*, a nonprofit group comprised of gifted quilt makers, to help in the preservation and exposure of this artful tradition of design and talent. Many West Virginians considered quilting a part of the mountain state's heritage. My wife and I are particularly fond of the *Mountain Artisans*. When we were expecting our first child, in the late 1960's, the group graciously decided to create a quilt for our first-born. With the assistance of the Sod Sewing Group from Sod, West Virginia, the quilt was completed in mid-September of 1970. The beautiful quilt, which is known as ''*The Rockefeller Quilt*'' was displayed at the Rockefeller home and today, adorns the wall just outside my office in the Hart Senate Office Building in Washington, D.C.

One master quilter I especially admire is Mortana McCormick of Sod, West Virginia, who contributed to the creation of *The Rockefeller Quilt*. Ms. McCormick, a distinguished quilter, has represented the State well and helped put our state on the ''interior design and fashion'' map. She has contributed to fashion patchwork designs for Barbra Streisand and museum collections displayed in West Virginia and internationally. Mortana McCormick is just one of the talented artisan-quilters that call West Virginia home. I ask my distinguished colleagues to join me in recognizing this long standing tradition and art, and its many talented artists, including Ms. Mortana McCormick.●

TRIBUTE TO LINCOLN UNIVERSITY

● Mr. BOND. Mr. President, I stand before you today to pay tribute to a truly outstanding University in my home State of Missouri, Lincoln University. Lincoln has played a large role in African American education in my home State of Missouri, as well as across the nation.

Lincoln was founded in 1866 by the Caucasian officers and the African American enlisted men of the 62nd and 65th United States Colored Infantries who fought for the Union during the Civil War. These men wanted to establish a school that would devote itself to educating freed African Americans. By soliciting funds and donating their own salaries, they raised $6,000 within a few days. With these funds, the soldiers were able to open the doors of Lincoln Institute on September 17, 1866. In 1869, Lincoln began to receive $5,000 in aid from the State of Missouri for teacher training. By 1940, Lincoln Institute had become Lincoln University and had evolved from a teacher training school to a full University offering Graduate instruction. In each of the decades Lincoln has continually added programs, expanded its facilities and opened its

doors to all applicants that meet its entrance criteria.

This past year the University has come under the new leadership of Dr. David Henson. Dr. Henson became the seventeenth President of Lincoln on July 2, 1997. I am excited about continuing my close relationship with this outstanding University by working with Dr. Henson. He has held many leadership positions during his 25 years of higher education and I know he will continue to strengthen the University's already impeccable reputation.

It is an honor for the entire State of Missouri to have a University like Lincoln, whose service and character-building programs, along with the new guidance of Dr. Henson, will continue down the road of success. I commend Lincoln's President, Dr. David Henson, for his commitment to excellence and hope for continued prosperity in the future.●

1998 DETROIT TIGERS OPENING DAY

● Mr. ABRAHAM. Mr. President, I rise today to send my best wishes to the Detroit Tigers for a successful 1998 season. This afternoon, on opening day, the Tigers will take the field for their 97th year of play. Their opponents, the Tampa Bay Devil Rays, will be taking the field for their first regular season game ever.

I'm sure my colleagues from Florida are confident the Devil Rays are a fine team who will fare well in today's contest. However, I would like to remind them the Devil Rays are facing one of the most storied and successful franchises in major league baseball history. The Tigers will be playing for their 7,623rd American League win while the Devil Rays will be going for number one.

The history of Tigers' baseball in Detroit is replete with the names of current and future Hall of Famers like Ty Cobb, Charlie Gehringer, Hank Greenberg, Hal Newhouser, George Kell, Al Kaline, Alan Trammell, Lou Whitaker, Kirk Gibson, Sparky Anderson, and so forth. The Tigers have won sport's most cherished prize, the World Series, four times, having savored victory in the Fall Classic in 1935, 1945, 1968 and 1984.

I am hopeful the 1998 season will see the Tigers among the ranks of the major league's elite teams where they belong. I, for one, will certainly be watching the next 162 games with interest, hoping to see the Detroit Tigers finish the season as champions of their new division, the American League Central, and from there go on to capture the pennant and the World Series as well.●

ORDER FOR STAR PRINT—S. 71

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senate bill 71 be star printed with the changes that are at the desk.

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

MEASURE READ THE FIRST TIME—S. 1889

Mr. DOMENICI. Under rule 14, I understand that Senate bill 1889 introduced earlier today by Senator HARKIN is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 1889) to reduce tobacco use by children and others through an increase in the cost of tobacco products, the imposition of advertising and marketing limitations, assuring appropriate tobacco industry oversight, expanding the availability of tobacco use cessation programs, and implementing a strong public health prevention and education strategy that involves the private sector, schools, States, and local communities.

Mr. DOMENICI. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. The bill will remain at the desk and have its next reading on the next legislative day.

UNANIMOUS CONSENT REQUEST—CONFERENCE REPORT ON H.R. 1757

Mr. DOMENICI. I ask unanimous consent that it be in order for the majority leader, after the notification of the Democratic leader, but not before April 20 of 1998, to turn to the conference report to accompany H.R. 1757, the State Department reorganization, and it be considered under the following terms: The conference report be considered as having been read and there be 6 hours for debate to be equally divided in the usual form, and following the conclusion or yielding back of time the Senate proceed to vote on adoption of the conference report without any intervening action or debate.

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

ORDERS FOR WEDNESDAY, APRIL 1, 1998

Mr. DOMENICI. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 a.m. on Wednesday, April 1, and immediately following the prayer, the routine requests through the morning hour be granted and the Senate resume consideration of Senate Concurrent Resolution 86, the budget resolution.

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

PROGRAM

Mr. DOMENICI. Tomorrow, the Senate will resume consideration of the budget resolution and, as under a previous unanimous consent agreement, at 12 noon the Senate will vote on or in relation to the Kyl amendment. A further vote will occur on or in relation to the Conrad amendment, as previously stated, at 2 p.m. Several additional votes will hopefully be stacked to occur in sequence at 2 p.m. following the Conrad vote.

In addition, Members can anticipate rollcall votes on a number of pending amendments to the resolution and other amendments which are expected to be offered. Therefore, Members can anticipate a very busy day on floor action. Also, the Senate may consider any executive or legislative business cleared for Senate action.

As a reminder to all Senators, the first vote will occur at 12 noon tomorrow.

Mr. LAUTENBERG. Before adjourning, I want to apologize to the pages for having kept them past 10 o'clock because it deprives them from going to school tomorrow and I feel very badly about that. Please accept my apologies.

Mr. DOMENICI. And we might add, they feel badly also.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. DOMENICI. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:02 p.m., adjourned until Wednesday, April 1, 1998, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 31, 1998:

THE JUDICIARY

NORA M. MANELLA, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA VICE MARIANA R. PFAELZER, RETIRED.