Reid	Smith (NH)	Thomas
Santorum	Snowe	Wellstone
Sessions	Specter	

NOT VOTING—6

Bumpers	Helms	Inouye
Glenn	Hollings	Murkowski

The conference report was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

HOUSE CONCURRENT RESOLUTION 353—ADJOURNMENT OF THE TWO HOUSES OF CONGRESS

Mr. LOTT. Mr. President, I ask the Chair to lay before the Senate House Concurrent Resolution 353, the adjournment resolution.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 353) providing for the sine die adjournment of the Second Session of the One Hundred Fifth Congress.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution, which is nondebatable.

The concurrent resolution (H. Con. Res. 353) was agreed to as follows:

H. CON. RES. 353

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Wednesday, October 21, 1998, or Thursday, October 22, 1998, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, or until a time designated pursuant to section 3 of this resolution; and that when the Senate adjourns on Wednesday, October 21, 1998, or Thursday, October 22, 1998, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

SEC. 3. During any adjournment of the House pursuant to this concurrent resolution, the Speaker, acting after consultation with the Minority Leader, may notify the Members of the House to reassemble whenever, in his opinion, the public interest shall warrant it. After reassembling pursuant to this section, when the House adjourns on any day on a motion offered pursuant to this section by its Majority Leader or his designee, the House shall again stand adjourned pursuant to the first section of this concurrent resolution.

Several Senators addressed the Chair.

Mr. LOTT. Mr. President, will the Senator withhold one second, for one more unanimous consent request?

HOUSE JOINT RESOLUTION 138—PROVIDING FOR THE CONVENING OF THE FIRST SESSION OF THE 106TH CONGRESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to House Joint Resolution 138 received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 138) appointing the day for the convening of the First Session of the One Hundred Sixth Congress.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The joint resolution (H.J. Res. 138) was considered read the third time and passed, as follows:

H.J. RES. 138

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first regular session of the One Hundred Sixth Congress shall begin at noon on Wednesday, January 6, 1999.

Mr. LOTT. Mr. President, I can announce now that there will be no further votes in the 105th Congress. This resolution just adopted provides for the convening of the 106th Congress at 12 noon on January 6, 1999.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

COMMENDATION OF THE MAJORITY LEADER

Mr. THURMOND. Mr. President, we have accomplished a lot this year. I am very proud of what has been done here in the Senate. No one is due more credit for this than our able leader, Senator LOTT. I just want to commend him for his outstanding accomplishments and the fine cooperation he has given to all of us and for everything he has done for this country.

THANKING SENATOR THURMOND

Mr. LOTT. Mr. President, just briefly, I thank the distinguished President pro tempore for the job he has done and for his friendship and help. Truly, one of the most important accomplishments of this Congress was our armed services authorization bill, the Strom Thurmond authorization bill. It was a tough process, a long process, but we got it done largely because of his tenacity and the respect and reverence we all have for Senator Thurmond. And that led, of course, to the appropriations bill and its defense and military construction portions, and it contributed to the additional funds that were added in this omnibus appropriations bill for defense and intelligence for the future of our country.

Thank you, Senator THURMOND, for all you did.

Mr. THURMOND. I thank the able leader.

MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of morning business.

Mr. SPECTER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Pennsylvania is recognized for 15 minutes.

Mr. SPECTER. I thank the Chair.

OMNIBUS APPROPRIATIONS CONFERENCE REPORT

Mr. SPECTER. Mr. President, I had hoped to make this floor statement in advance of the vote, but I could not be here yesterday. So, I have asked for time this morning to state my reasons for voting against the omnibus appropriations bill. And I do so with a conflict of my own views because I think this bill provides very substantial funding for very many important projects. However, I decided to vote against the bill because of the change from regular order and existing procedures in the appropriations process. The Constitution gives the authority to 100 Members of the Senate and 435 Members of the House, but as the appropriations process went forward the final decisions were made by only four Members.

Mr. ASHCROFT. Mr. President, the Senate is not in order. I would like to hear the Senator, if we could have order in the Senate.

The PRESIDING OFFICER. The Senate will come to order.

Mr. SPECTER. I thank my colleague, Senator ASHCROFT, for asking for order. I would like to hear myself and am having some difficulty.

As I was saying, Mr. President, notwithstanding the fact that this bill contains funding for many, many vital programs for America, I decided on balance to vote against it because it made such drastic changes in existing procedure where the Constitution gives to the Congress the authority to appropriate, 435 Members in the House and 100 Members in the Senate, and as the arrangements were finally worked out, critical decisions were made excluding the chairman of the Appropriations Committee, excluding the chairmen of the relevant subcommittees such as myself, with only the Speaker, the leader of the Democrats in the House, our distinguished majority leader, and the minority leader in the Senate. I think that is very, very problemsome.

During the time allotted to me this morning I intend to summarize my views.

Starting first with the accomplishments, it does provide for $83.3 billion

in discretionary spending for the subcommittee which I chair which has jurisdiction over three major departments—the Department of Education, the Department of Health and Human Services, and the Department of Labor. There were some very important appropriations items included, such as a $2 billion increase for the National Institutes of Health. My distinguished colleague, Senator HARKIN, the ranking member, and I worked very closely on this bill with our staffs, and I learned a long time ago that if you want to get something done in the Congress and the Senate, you have to cross party lines to do it.

We added $2 billion to $13.6 billion in the National Institutes of Health budget, with a vision for the 21st century of conquering cancer, which takes the lives of 44,000 women a year from breast cancer, and the lives of many men from prostate cancer, conquering Alzheimer's, arthritis and Parkinson's. We appropriated $1.1 billion for LIHEAP, which is home energy assistance going principally to the poor, significantly to elderly people who only have the option of either heating or eating. We have $2.5 billion for substance abuse. We have appropriated $156 million to protect women from violence, an increase of $21 million over last year.

For education programs, the total budget is $32.9 billion, an increase of $3.5 billion over last year. For student aid, so vital for American competitiveness worldwide and to improve quality of life for individuals, we have $9.3 billion, an increase of $369 million over last year, and for Head Start a total of $4.6 billion, an increase of $313 million. We have increased special education program funding to $5.1 billion, and we have put up some $1.2 billion for classroom size reduction, an objective I agree with, although we didn't get there the right way procedurally.

The bill further provides for $1.7 billion for job training, very important; $1.3 billion for the Job Corps, $1.4 billion for dislocated workers, $564 million for mine safety, $871 million for summer youth jobs, a program which the House of Representatives had tried to totally eliminate.

And why in the face of these important expenditures did I vote against the bill? Because this bill never came to the Senate floor from the subcommittee on Labor, Health, Human Services and Education Appropriations. My staff and I worked on an expedited basis in August so that on our second day back, September 1, the subcommittee could vote it out. The full committee voted it out on September 3, but it never came up on the Senate floor. And similarly, the House of Representatives took only a small portion of the Labor, Health and Human Services and Education bill up.

As a result, when we did not follow the regular order and the customary process, we did not follow the constitutional direction and the direction which the Senate has adhered to for so many years. This was, I think, to the detriment of the bill, although so many important items have been funded, there could have been, I think, a better allocation had the people really responsible been involved throughout.

When the chairman of the subcommittee is excluded from the final negotiations and the chairman of the full appropriations committee is excluded, you lose the impact and the experience of the people who have worked most closely on the bill.

I would illustrate this point by noting what happened on October 9. The President had a press conference in the Rose Garden severely criticizing the Republican Congress on education, and I was asked to provide part of the response in a subsequent press conference. I did so by pointing out that the House-Senate conference had provided more money on education than the President had requested in his February budget. We had $31.8 billion, contrasted with the President's request for $31.2 billion, meaning that we put up $600 million more than the President asked for. Not unexpectedly, with the President's bully pulpit, his message carried the day and the congressional response was lost in the shuffle.

Then we had the issue of reducing average classroom size by hiring teachers, where the President had requested $1.2 billion. What was not ever understood publicly was that those funds were to be provided by moneys from the tobacco settlement. However, there never was a tobacco settlement. The President and his administration never provided any alternative source of funding. Senator HARKIN, my distinguished ranking member, and I and the rest of our subcommittee understood that, so we found $300 million for title I, which could have been used for reducing classroom size for next year. This was substantially more than that which could have been expended, and that, too, was lost in the shuffle.

What I think is especially disconcerting is the fact that when we Republicans control both the Senate and the House, we should have been able to come to terms in September before the fiscal year ended and submitted bills to the White House, to the President, in regular order where the President would either have to sign them or veto them. Had we done this in regular order, I think, with the public debate focusing on the education issue, for example, the chances were excellent the President would not veto it when it would be understood the Congress had provided more than he had requested and that we had complied with much of his initiative classroom size reduction.

But, when those bills were not presented until October and the only other option is closing up the Government, then the leverage is all with the President, and the Congress cannot really perform its appropriation and legislative function.

The bills were not presented in September because of very strong disagreements on so many substantive matters which should have been handled by the authorizing committees. There was endless debate on whether there would be student testing, endless debate on organ transplants, endless debate on ergonomics—and we Republicans should have concluded those matters. We should have excluded the legislation, by and large, although realistically you can never exclude it all. And while we should not legislate on appropriations bills, some of that is necessarily done, but should not be done in a quantity to defeat our process of presenting these bills.

In the conference we had on October 9, with representatives from the Office of Management and Budget, I raised the question about a disagreement in priorities of some $330 million out of the $32 billion bill—a relatively small part, about one percent. Was the President going to veto our bill over that amount of money, because of those differences in priorities? The Office of Management and Budget representatives said they did not know. I replied if they did not know, they ought not to be in the process, that we ought to be legislating.

It would have been a very different outcome had we presented these bills to the President in September and had we focused on precisely what the Congress had done and where the areas of disagreement were, and on the fact that at that stage we had provided more money than the President had requested by $600 million, and that we had taken care of the issue on reduction of classroom size.

We live in a society with many, many different views. What has been the strength of the institutions of the American Government has been the procedures which we have established for more than 200 years. Those procedures are for the subcommittee to report, the full committee to report, the matter to come to the floor of the Senate, for 100 Senators to be able to debate and offer amendments—and that was not done. And that was not done in the House. We did not have an actual House-Senate conference on our bill, although we met informally. The product is not what should have been done. We do not live in an oligarchy under the constitutional doctrine which governs our society.

But, where you have these decisions made on $500 billion in expenditures and many, many substantive issues at the very last minute, it is an oligarchy. Mr. President, 535 of us have surrendered our power and our authority to a group of 4, and that is not the way the American Government is supposed to run. That has given disproportionate power, enormously disproportionate power, to the President because of the experience we had at the end of 1995 and the beginning of 1996 when the Government was closed and the Congress got the blame.

What I have seen in the time I have been here is when there is blame, you

can usually divide it 50/50, right down the middle, half to the Congress and half to the administration. If there is partisan blame, you can divide it right down the middle, half to the Republicans and half to the Democrats. I think the failure to follow regular order and our established procedures, the constitutional mandate and what we have developed as a matter of congressional practice, is very, very, very serious. I think it warrants a very, very strong protest vote, which I have cast.

I was interested to hear the comments of the distinguished senior Senator from West Virginia, Senator BYRD, who yesterday made a speech and, in more graphic terms than mine, called this a Frankenstein bill—it did not have a mother and a father—and said he was going to vote for it. A few minutes ago Senator BYRD approached me on the floor and said he decided to vote against it. I asked him why. He said he had persuaded himself. He went home last night, thought about his speech, decided he was right. He decided he was right on the Frankenstein part; he was wrong on the part to vote for the bill.

I said I was delighted to hear that because of the high regard I have for Senator BYRD, also the high regard I have for Senator SANTORUM, who is presiding at the moment, my colleague from Pennsylvania, who also voted against this bill. We discussed it and he did not quite have the oligarchy in mind, but he agreed with the principle that the 535 of us ought not to cede our power to 4.

It is not easy to get to the U.S. Senate. It is not easy to stay here. There is a lot of hard work that goes into what we have done. For example, Senator SANTORUM and I represent 12 million people and, in chairing the subcommittee on this $83 billion bill, I have given very, very serious consideration to all of these issues and I join him in thinking they should have been legislated in regular order.

I, again, compliment my distinguished colleague, Senator HARKIN, for his diligence and his work and his outstanding staff, Marsha Simon and Ellen Murray. My staff is second to none, with Mark Laisch, Jennifer Stiefel, Jack Chow, Mary Dietrich, Jim Sourwine. Most of all, ''Senator'' Bettilou Taylor—she is technically the clerk—who commented to me that she did not like my negative vote. Here she comes back on the floor. She heard her name mentioned. She thought it might have been interpreted that I was not for education and health care. I think my record is strong enough that my negative vote as a protest to the procedure will be understood in light of all the work we did on these education allocations and health care allocations. And Dan Renberg, who is my deputy chief of staff and legislative director, who is extraordinary in working with Bettilou in handling some 1,300 requests which come to our office, and about five times that many phone calls, and David Urban, my distinguished chief of staff, who also helps in making these legislative arrangements.

So, it is with mixed emotions that I vote no because procedures and format are still the most important; that we follow regular order because we don t know about the quality of the next oligarchy of four which may seek control of the appropriations process.

I now ask unanimous consent that my full statements on the Omnibus Appropriations bill be printed in the RECORD.

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

OMNIBUS APPROPRIATIONS BILL: PROBLEMS WITH THE PROCESS

Mr. SPECTER. Mr. President, I want to express my strong objections to the procedures which were followed on the omnibus appropriations bill, which contains the text of eight individual appropriations and authorizing provisions totaling nearly $500 billion in spending.

The importance of this legislation stems from our Constitution, which provides in Article I, section 9 that, ''no money shall be drawn from the Treasury, but in consequence of appropriations made by law.''

The regular order is for the 435 House members and the 100 Senators to consider the appropriations bills in sequence with floor action, conference reconciliation and then final action by each body before presentation to the President. This process, too, stems from the Constitutional directive in Article I, section 7 that a bill which has passed the House and Senate shall be presented to the President, who may sign it into law, or veto the bill and return it accordingly to the Congress for their reconsideration.

This year, the final stages and key negotiations were carried on by only 4 elected members: the Majority Leader and Minority Leader in the Senate and the Speaker and Minority Leader of the Democrats in the House, with the participation of White House representatives.

I chair the Appropriations Subcommittee which has jurisdiction for the bill funding the Department of Labor, Department of Health and Human Services and the Department of Education. Our bill did not reach the Senate floor for consideration by the full Senate. And, except for a small portion, our bill did not receive consideration by the full House of Representatives. Thus, the Senate could never formally convene a full-fledged conference with the House on the Labor, HHS, Education bill. Recognizing that our bill would be wrapped into an omnibus spending bill, we held informal conferences involving the House and Senate Chairmen and ranking minority members, but we were not present when the final, key decisions were made.

In an early conference session on our bill, representatives of the Office of Management and Budget raised questions about approximately $330 million of the $32 billion designated for education programs in our bill. I asked these Administration officials whether that differnce, slightly more than 1 percent of the total, would produce a veto. The OMB representatives responded that they did not know the answer to my question. I then said if the difference would not produce a veto, then the matter really ought to be left to the House and Senate negotiators, who would reach their own conclusions as to the appropriate figures to be presented in the bill to the President.

With the Republicans in control of both the House and Senate, it is my strongly held view that we had a responsibility to conclude the appropriations bills in September before the end of the fiscal year for presentation to the President. That agreement was not reached because of many pending military ancillary issues such as school testing, organ transplants, ergonomics, etc. Had we finished Congressional action on the appropriations bill on Labor, Health and Human Services and Education, in September, for example, we could have then presented it to the President for his signature or veto with the issues crystallized. It is entirely possible that the President would not have vetoed the bill.

However, when the bills were not ready for final consideration until October, the White House emerged with the most leverage because a failure to agree meant the government would shut down.

On Friday, October 9, the President held an afternoon news conference in the Rose Garden criticizing the Republican Congress on education funding. I was asked to give a part of the Republican reply in a Capitol press conference, which I did, pointing out that the House-Senate subcommittee conferees had approved $31.8 billion for Fiscal Year 1999 discretionary education spending, which was $600 million over the President's budget request of $31.2 billion.

As expected with the force of the bully pulpit, the President carried the day in the media arena with no Congressional reply receiving any significant attention.

On the subject of adding teachers to reduce classroom size, earlier this year the President proposed paying for that $1.2 billion with proceeds from the tobacco settlement. Of course, there was no tobacco settlement legislation enacted and the Administration had no fallback proposal to cover the attendant shortfall in funding.

Notwithstanding the absence of a tobacco settlement, my ranking member, Senator HARKIN, and I had worked through the figures and allocated $300 million in additional federal funds for title one which could be used for school districts to hire new teachers and reduce the average number of children assigned to each classroom teacher. We were advised the budgetary outlays

would be $50 million in the first year, which was more than enough for the first year's funding and could be afforded within the existing Subcommittee allocation.

Again, all of that was lost in the last minute shuffle with the President criticizing the Congress without a factual foundation.

Had these issues on education, for example, been handled in a timely fashion in September with presentment of a Labor, Health and Human Services, and Education appropriations bill to the President, he would have had to articulate his views in a public forum to justify a veto. The result likely would have been entirely different.

It is my hope that we will not repeat this year's process. I firmly believe that if the people of America are given the opportunity to understand precisely what is happening, they will demand that we follow regular order in the appropriations process as set forth in the Constitution and the long-established practices of congressional legislative action.

FISCAL YEAR 1999 LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION APPROPRIATIONS ACT

Mr. President, this has been an unusual year for the Labor, Health and Human Services and Education Appropriations Subcommittee. While both the House and Senate subcommittees reported bills out of the full committee, neither House ever had the opportunity to fully debate its merits. I believe that a bill which constitutes the single largest investment in improving the health, educational standing and economic well-being of our nation, and in one way or another, affects the lives of every man, woman and child in this country should have had the opportunity to be fully debated by all 100 Senators.

The subcommittee received over 1,300 requests from colleagues seeking more funding, report language and special earmarks. We weighed each of those requests very carefully, and wherever possible we accommodated our colleagues.

I want to extend my sincerest appreciation to Senator HARKIN and his staff, Marsha Simon and Ellen Murray for their role in this effort. I also want to extend my thanks to each of the members of the subcommittee for their cooperation.

OVERVIEW

The Labor-HHS-Education appropriations bill totals $291.9 billion of which $83.3 billion is for discretionary spending for FY'99 and an additional $6.1 billion has been provided for education programs for FY'2000. The discretionary spending represents an increase of $8.9 billion over the FY'98 approriations level.

HIGHLIGHTS

This bill provides $10.8 billion for the Department of Labor. It contains $871 million for summer youth, $1.7 billion to provide much-needed job training and work experience for youth, including $871 million for summer employment and training programs that offer work experience and academic enrichment to economically disadvantaged youth.

The bill also contains $1.3 billion for Job Corps training; $1.4 billion to assist dislocated workers; and $564 million for the Mine Safety and Occupational Safety and Health Administrations to help safeguard the health and safety of workers.

COMMUNITY HEALTH CENTERS

There is perhaps no better example of the direct effect this bill has on the needy than the community health centers program. This bill contains $925 million for this program, an increase of $117 million over the fiscal 1998 level. Funds are used to provide comprehensive primary care services to the medically indigent in underserved rural and urban areas, including the homeless, migrants and those living in public housing.

CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC)

This bill includes $2.5 billion to maintain critical disease control and prevention activities carried out by the CDC. While we have made great strides in eradicating disease and illnesses that once plagued society, we cannot overlook some of the serious public health threats that remain, including hepatitis, tuberculosis, HIV infection, and lead poisoning.

NATIONAL INSTITUTES OF HEALTH

I thank all of my colleagues agree that few federal activities affect the lives of as many Americans as our investment in medical research. And few investments have such far-reaching effects on this nation's academic and economic standing throughout the world.

In my view, the National Institutes of Health represents the crown jewel of the Federal Government. For millions of cancer and heart disease survivors, it is the tap root of new drugs and surgical techniques that have added new years to life. It is in the frontline of new vaccines that save the lives of children who would have been considered hopeless cases only a few decades ago. And for the millions of baby boomers who are shouldering their way into old age, it offers the only source of hope against the devastating effects of Alzheimer's disease, arthritis, and Parkinson's.

Last year, many of my colleagues voted in favor of doubling research funding over the next 5 years. Earlier this year, I made a commitment to do all that I could to achieve that goal. The bill before the Senate includes $15.6 billion for NIH, an increase of $2 billion over last year's appropriation. That puts us squarely on the path to doubling NIH. More importantly, it signals a recognition that the progress we achieved in the past is not self-sustaining. Science is not an overnight proposition. What we do today will determine the life-saving breakthroughs of tomorrow.

This bill supports research across a wide array of diseases and afflictions, from breast and prostate cancer to diabetes and stroke.

HIV/AIDS

I want to note the fact that this legislation also includes nearly $3.8 billion for AIDS research, prevention and services. This includes $1.4 billion for Ryan White Programs that provide comprehensive care, early intervention and emergency services to those afflicted with AIDS. The bill also includes $657 million for AIDS prevention activities supported by CDC.

WOMEN'S HEALTH

Women's health continues to be a high priority under this bill. In addition to supporting expanded research on cancers affecting women, this bill contains another $159 million for breast and cervical cancer screening, as well as $15.5 million to advance the women's health initiative, including $3 million for a campaign to educate young adults about how to prevent osteoporosis.

BIOTERRORISM INITIATIVE

The 1995 nerve gas attack on the city of Tokyo killed 12 people and hospitalized thousands. This incident added a new and frightening word:—bioterrorism.

Earlier this year, the administration submitted an amended budget request for activities intended to counter bioterrorism. Should the President deem this an emergency, the bill would provide $154.7 million to combat this growing threat.

SUBSTANCE ABUSE

One of the most serious threats to the fabric of our society is substance abuse. The problem is no longer confined to inner cities, but has spread to every community in our country. To combat this threat, the bill contains $2.5 billion for substance abuse prevention and treatment, an increase of $213 million over the administration's budget request.

FAMILY PLANNING

For family planning activities, the bill recommends $215 million to support primary health care services at more than 4,000 clinics nationwide. This amount represents an increase of $12.1 million over the 1998 appropriation. Over 85 percent of family planning clients are women at or below 150 percent of the poverty level and these additional funds will help to ensure that these low-income women have access to quality health services.

ADOLESCENT FAMILY LIFE

The bill recommends $17.7 million, an increase of $13 million more than the amount recommended by the President for the only federal program focused directly on the issue of adolescent sexuality, pregnancy and parenting.

HEAD START

To enable all children to develop and function at their highest potential, the bill includes $4.6 billion for the Head Start Program, an increase of $313 million over last year's appropriation.

This brings us closer to the goal of enrolling one million children in Head Start by the year 2002.

VIOLENCE AGAINST WOMEN

The bill includes $156 million to support the programs authorized by the Violence Against Women Act. This is an increase of $21 million for programs to provide assistance to women who have been victims of abuse and to initiate and expand prevention programs to begin to reduce the number of women who are forced to confront the horrors of abuse. Included is: $88.8 million for battered women's shelters; $45 million for rape prevention; $15 million for runaway youth prevention; $6 million for domestic violence community demonstrations; and $1.2 million for the domestic violence hotline.

LIHEAP

The bill maintains the $1.1 billion appropriated for the upcoming winter's Low Income Home Energy Assistance Program (LIHEAP). In addition, the recommendation provides an advance appropriation of $1.1 billion for the 1999/2000 LIHEAP Winter Program. The bill also provides additional emergency appropriations of $300 million. LIHEAP is a key program for low income families in Pennsylvania and other cold weather States in the northeast. This funding supports grants to States to deliver critical assistance to low income households to help families meet higher energy costs.

AGING PROGRAMS

For programs serving the elderly, the bill before the Senate recommends $2.1 billion, an increase of $105 million over the fiscal year 1998 appropriation. Included is: $440.2 million for the Community Service Employment Program which will provide more part-time employment opportunities for the low-income elderly; $300.3 million more for supportive services and senior centers; $486.4 million more for congregate and home-delivered nutrition services; and $173.9 million more for the National Senior Volunteer Corps.

EDUCATION

To enhance this nation's investment in education, the bill before the Senate contains $32.9 billion in discretionary education funds for the 1999/2000 school year, an increase of $3.5 billion over last year's funding level. Specifically, the Goals 2000 Programs is funded at $491 million to promote education reform initiatives and $698.1 million for the technology programs.

EDUCATION REFORM

For programs to educate disadvantaged children, the bill recommends nearly $8.4 billion, $345 million more than the amount appropriated in fiscal year 1998. These funds will provide services to approximately 7 million school children. The bill also includes $135 million for the Even Start Program, an increase of $20 million over the administration's request to provide educational services to low-income children and their families.

IMPACT AID

For impact aid programs, the bill includes $864 million, an increase of $168 million over the budget request. Included in the recommendations is: $50 million for payments for children with disabilities; $704 million for basic support payments; and $28 million for payments for federal property.

BILINGUAL EDUCATION

The bill provides $380 million to assist in the education of immigrant and limited-english proficient students. This recommendation is an increase of $26 million over the 1998 appropriation and will provide instructional services to approximately 60,000 children. Within the funds provided, $50 million has been included for professional development to improve teacher training programs.

SPECIAL EDUCATION

One of the largest increases recommended in this bill is the $5.1 billion for the special education programs to help local education agencies meet the requirement that all children with disabilities have access to a free, appropriate public education, and all infants and toddlers with disabilities have access to early intervention services. The amount recommended will serve an estimated 4.95 million children at a cost of $662 per child.

CLASS SIZE INITIATIVE

The bill contains $1.2 billion to reduce class size in order to improve academic achievement and reduce discipline problems. These funds will be distributed among local educational agencies based on a formula that reflects both their relative number of children in low-income families and school enrollments. These funds would provide local school districts with the flexibility to hire more teachers and improve professional development for existing teachers.

STUDENT AID

For student aid programs, the bill provides $9.3 billion, an increase of $369 million over the 1998 appropriation. Pell Grants, the cornerstone of student financial aid, have been increased by $125 for a maximum grant of $3,125. The Supplemental Educational Opportunity Grants Program has also been increased to $619 million, the Work Study Program is funded at $870 million and the Perkins Loans Program is funded at $130 million.

READING EXCELLENCE

The bill also provides $260 million for a child literacy initiative. The committee has provided these funds on an advanced funded basis. This will give the authorizing committees adequate time to work out the specifics of this new program.

SCHOOL VIOLENCE

The bill provides $165 million for a new initiative to address the violent behavior of students. Included is $40 million to assist schools in identifying and addressing the mental health needs of children and preventing aggressive behaviors, $90 million to support activities that promote safe learning environments, and $35 million for competitive grants to recruit, train and employ school safety coordinators.

Finally, the bill provides $184 million for the National Labor Relations Board, $9.8 million over the FY '98 appropriation.

CONCLUSION

Again, I want to thank Senator HARKIN and all of the other members of the subcommittee for their help in crafting this bill.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 30 minutes.

Mr. GRAMS. Will the Senator from Missouri yield for an unanimous consent request?

Mr. ASHCROFT. I will be happy to yield to my colleague from Minnesota.

Mr. GRAMS. I ask unanimous consent that following the remarks of the Senator from Missouri I be recognized to speak for up to 15 minutes as in morning business.

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

Mr. GRAMS. I thank the Senator from Missouri.

Mr. ASHCROFT. Mr. President, We are very fortunate, Will Rogers once observed, that we've never gotten all the Government we've paid for. For most of this century, Mr. Rogers' words have stood the test of time. Unfortunately, I fear that with this omnibus appropriations bill, this 3,000-page, 40-pound, 2 foot high, $500 billion monster, we will be getting all the Government we have paid for and then some.

This omnibus legislation reflects the Federal budget process at its worst. This package was not the result of democratic votes, open discussion, and legislators reflecting the will of the people. With little debate and lots of backroom deals, 8 of the 13 annual appropriations bills have been tossed into one enormous heap of spending. This is wrong.

Who has read this pile of programs and pork? Not a single Senator has.

We didn't get a peek at a summary of this Government colossus until Monday afternoon, just 2 days ago. We won't see it in the CONGRESSIONAL RECORD until after the vote.

The truth of the matter is, no one knows what is in this colossal creation, and no one claims to be its father. It is said that victory has a thousand fathers, but defeat is an orphan. This forsaken monstrosity, which no one claims, nor has anyone read, deserved defeat today. We don't know much, but here is some of what we do know about this measure.

The Social Security trust fund has been raided for spending more on the programs and pork in this bill. Billions of dollars will be added to the national debt that our children will one day have to pay.

This legislation also breaks the much-heralded Balanced Budget Agreement.

And finally, we know that taxes, which are at record high levels, will

not be cut. Washington thinks it needs the people s money more than the people need it.

When I came to the Senate in 1995, at the same time that the new Republican majority assumed control of Congress, I hoped that Congress would downsize the Federal Government and return money and power to the American people. After 40 years of Democratic control of one or both Houses, it was finally time for Congress to uphold its responsibility, to minimize the Federal Government's intrusion into our citizens' lives and pocketbooks, to lower taxes and to reduce the size of Government.

Unfortunately, President Clinton remains the chief obstacle to lower taxes and smaller Government, despite his claim in the 1996 State of the Union Address that ''the era of big Government is over.'' That famous line from President Clinton is about as accurate as his pronouncement in January of 1998 that he wanted to save ''every penny of any surplus'' to preserve the Social Security system. Both are intentionally misleading and factually wrong.

But Congress also shares the blame. The 105th Congress has been either unable or unwilling to cut spending, has been, at best, reluctant to fight for tax cuts, and has now cut a budget deal that guarantees that Bill Clinton's vision of a costly and intrusive Federal Government survives for at least one more year.

The cost of the Federal Government is so staggering that numbers alone do not convey its enormity. We are spending more money today than our Founding Fathers ever thought possible. As Stephen Moore of the Cato Institute has indicated:

> Adjusted for inflation, the . . . [Federal] spending total of $7.5 trillion for 1998–2002 is more money than America spent to fight both world wars, the Civil War and the Revolutionary War [combined]. In fact, in today's dollars, it is more money than the U.S. Government spent on everything from 1787 to 1960.

In the fiscal year 1999 alone, the Federal Government will spend more than the entire Federal Government spent from our founding until 1920.

Without taking into account the $21 billion in new emergency spending contained in this omnibus legislation, the Congressional Budget Office estimates that Federal spending has increased $205 billion over the last 4 years. By comparison, in the previous 4 years, Federal spending increased only $192 billion.

Last year, the Congress passed, and the President signed, the Balanced Budget Act of 1997. There was much rejoicing, celebration and self-congratulations surrounding the passage of the bill, congratulations from the Halls of Congress and down Pennsylvania Avenue to the White House. The backers of the bill proclaimed fiscal discipline was being imposed on Washington.

Mr. President, I did not join in that celebration, nor share in Washington's enthusiasm. The 1997 budget deal spent too much, provided too little tax relief and was unenforceable. The bill contained no meaningful enforcement provisions, nothing to guarantee that future Congresses and administrations would limit spending or require the budget caps to be strictly enforced.

As a matter of fact, I proposed an amendment to impose the spending controls on the balanced budget agreement, and that amendment to that agreement was defeated. As a result, we have seen just today that the balanced budget agreement has been broken. Now promises made one year are ignored the next. Promises made last year for a balanced budget are ignored this year. This omnibus bill we have voted on today confirms my worst fears: It breaks the budget limits set just 1 year ago, spends the budget surpluses instead of saving it for Social Security, and keeps more money in Washington without returning it to the rightful owners—the families that work day and night to earn it.

Mr. President, Americans are working longer than ever before to pay their taxes. According to the nonpartisan Tax Foundation, the average American now works until May 10 to pay Federal, State and local taxes. In a typical workweek, the average American works until late Tuesday afternoon just to pay taxes. And the tax burden is getting worse, not better.

For the past 5 consecutive years, the growth in personal tax payments has outstripped that of wages and salaries. Americans deserve better than this tax burden and better than a spending bill for which no one is accountable.

America needs a real tax cut. The Federal Government has collected more taxes than the year before every year since 1983. We have been on an ascending, accelerating juggernaut of tax collections, and that means that the American people have not had a true tax cut in 15 years, while Washington has increased taxes twice in this decade, in 1990 and 1993. Those two tax hikes will take a combined $600 billion extra from the American people over the next 5 years.

It reminds me a bit of President Reagan's telling definition of a taxpayer. Reagan defined the taxpayer as ''someone who works for the Federal Government but doesn't have to take a Civil Service exam.''

During the debate on the Senate budget resolution last April, a number of fiscally conservative Senators and I announced that we were prepared to vote against the resolution because it planned to spend too much and cut taxes too little—only $30 billion over 5 years, or a whopping $1.83 per month in tax relief for every person in the country. We asked instead for a meaningful tax cut and the elimination of the marriage penalty which unfairly burdens 21 million couples simply because they are married.

In response to our concerns, the Senate leadership pledged to support the larger of the tax cuts contained in either the House- or Senate-passed budget resolution. The leadership also agreed to make repeal of the marriage penalty the Senate's top tax priority.

After the House adopted its budget resolution last May, the budget resolution process screeched to a halt. Why? The House budget resolution recommended cutting taxes $101 billion over 5 years. Given the agreement we had with the leadership, the Senate was to have pushed the House proposal. Unfortunately, many Senators would have rather seen the budget resolution die than have Congress pass even modest tax relief, equal about 1 percent of the revenue the Federal Government is projected to collect over the next 5 years.

For the first time since the process was established in 1974, Congress failed to produce a budget resolution and killed any chance for meaningful tax or spending cuts this year.

This unwillingness to cut taxes comes during a period in which we anticipate over $500 billion in surpluses over the next 5 years.

This unwillingness comes from President Clinton's misleading political promise to ''protect'' the surplus for Social Security. In his 1998 State of the Union Address, President Clinton proposed reserving, in his words, ''100 percent of the surplus—that's every penny of any surplus—for Social Security.''

Well, promises made, promises broken. The mantra here in Washington lives on: ''You send it, we spend it.''

Despite President Clinton's promise not to use the Social Security for anything but Social Security, the Administration has raided Social Security to fund a series of new spending initiatives—paid for by the same surplus he is purporting to save for Social Security.

While the 1997 balanced budget agreement limits discretionary spending through fiscal year 2002, this new spending has overridden these discretionary spending caps, shrinking the budget surplus and consuming money that could be used to ''save'' Social Security.

It took Congress and the White House only 1 year to breach the budget caps—1 year to break the promises made to the American people.

The Washington Post reported on Tuesday, October 20, that congressional aides have confessed that the omnibus bill not only contains $20.9 billion in ''emergency'' spending, but also busts the caps by another $7 billion in nonemergency discretionary spending. That is $7 billion in broken promises—$7 billion in spending that under the Balanced Budget Act of 1997 should not be allowed to occur.

It is not surprising that the President found a way around the spending limits so quickly. As I have said on many occasions, taxes and spending are the only things in Washington more addictive than nicotine. In fact, this

bad habit of resorting to bogus ''emergency'' spending to circumvent the discretionary caps resembles the behavior of an addict trying to rationalize his inability to stay sober.

Since 1991, Congress has passed $53.7 billion in emergency spending; that is excluding Desert Shield and Desert Storm. Unfortunately, the President's ''emergency'' spending requests do not meet any emergency other than his inability to get all he wants to spend. There are no eleventh hour developments that have made Social Security solvency a secondary concern.

The President is proposing that the equivalent of at least 24 percent of this year's surplus be spent on a Bosnia deployment that is now 4 years old, Government computer repairs—we have known about these needs—increased embassy security, and a variety of other initiatives.

Now, many of these requests constitute real and important funding issues. But emergencies? Mr. President, the well-being of our elderly is too important for half-truths and doublespeak. Nothing but the President's unwillingness has prevented the Administration from offering $21 billion in emergency spending reductions out of the Federal Government's $1.7 trillion budget.

In other words, the President could have offered to reduce spending elsewhere to accommodate his emergencies. But apparently the President would rather see our seniors' Social Security checks shipped overseas in the form of foreign aid or squandered on more Washington bureaucrats than find savings amounting to less than 1 percent of the Federal budget.

Mr. President, as I am sure you know, the Congressional Budget Office projects the Federal Government will run a $137 billion on-budget deficit over the next 5 years—fiscal years 1999 to 2003. In other words, 21 percent of the $657 billion Social Security surplus over that period will be used to finance non-Social Security spending. Yet, the administration is strangely silent about this matter.

If the administration sincerely opposes using the surplus for anything but Social Security, it should call upon Congress—as I have—to reduce projected spending by $137 billion over the next 5 years in order to eliminate the on budget deficit. Of course, the President will not do this. He prefers to block tax cuts by scaremongering vulnerable older Americans on Social Security, while spending all the money he can through budget loopholes—like the designation of his needs or desires as ''emergencies.''

Mr. President, we are here today almost 3 weeks into the 1999 fiscal year. We voted on the omnibus appropriations package, one which I voted against, that will fund the Federal Government for the next 11 months. This omnibus bill contains eight complete appropriations bills; but it also contains increased funding for the other five appropriations bills that have either been signed by the President or await his signature. Every single one of the 13 appropriations bills was affected by the bill we passed today. It even increases spending in the bills already signed into law by the President. Several of the appropriations bills included in this humongous monstrosity were never even considered by the Senate—not at all, not even for 1 day.

Again, this massive pile of programs and pork, weighing 40 pounds, standing 2 feet high, over 3,000 pages long, was not available until mid-day yesterday. Then there was just one copy in the Cloakroom for all offices to share. This bill is so huge that the CONGRESSIONAL RECORD could not even print the bill until this morning, to be available after the Senate vote.

Although the President and congressional leaders announced they had reached an agreement last Thursday, a rough summary was not even available until Monday. We do not know everything that is in this bill. I do not know half of what is in this bill, and not a single Senator does, including the leadership and the appropriators.

There is something wrong when Congress passes one bill, one huge bill, that spends so much—all 13 appropriations bills are affected, even those already signed by the President—and there is only one copy to be shared. We should be held responsible for the decisions that we make—decisions to spend the people's money, to spend the Social Security surplus, to increase the debt that will be owed by our children and grandchildren.

Who is responsible here? Who can be accountable when they do not know for what they are accountable? Today, it feels like I was asked to be nothing more than a rubber stamp for a deal made by a handful of individuals who assume they had the power to speak for all of us.

I know what the press reports say, and what the Appropriations Committee says, and what the President has said, but the bottom line is this: This legislation has not been scored by CBO, the Congressional Budget Office. Nor has the Office of Management and Budget determined that all of the emergency spending requests will be categorized as budgetary ''emergencies.'' Of course, with no office getting a copy of the bill before it was voted on, and with some 3,000 pages to review, weighing about 40 pounds, such an analysis was impossible.

So where does this leave the country? Congress has rejected calls for tax relief and has just passed a $500 billion omnibus spending bill that will cut the surplus and boost the size and the intrusiveness of Government.

The President says he wants to save Social Security, yet his every action has been designed to save a catchy campaign slogan —''Save Social Security First''—while he spends the Social Security surplus on new initiatives. The Government continues to grow, and a tax cut is nowhere in sight. Yes, I fear we may soon get all the Government we have paid for—and then some. But then Congress does not even know what we have just paid for. And we do not know what we have just passed.

We can do better, and we must do better. Our resolve must stiffen. The people of this country deserve better service from us, and we must provide it. It is with that in mind that I object to the passage of this measure today.

Mr. President, I thank the Chair and I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Minnesota.

Mr. GRAMS. Thank you very much.

Mr. President, I also rise this morning to discuss my opposition to the omnibus appropriations legislation that was before us this morning.

While I realize many of my colleagues would have preferred not to return for this vote, there are a number of us who believed that a vote was essential on a bill that appropriates a third of our spending priorities for fiscal year 1999. To shirk our responsibility to the taxpayers, to hide behind an unrecorded vote, was unconceivable.

I feel strongly that we are elected to represent the American people and to take care of the Nation's business. The people expect us to be responsible. They expect us to be accountable. They expect us to be here and do our job. In other words, when it is time to cast a vote of this magnitude, they expect us to be here, to stand up and to be counted.

The omnibus appropriation legislation includes $500 billion in funding for many essential Government programs and functions. It represents 8 out of 13 appropriations bills, or two-thirds of this year's entire appropriations work, one-third of our entire annual Federal spending. It is by far the most important piece of legislation we have before us this year.

This monster bill consists of more than 4,000 pages. We can hardly lift it, much less take time to review it before the vote. I venture to say that most Members of the Senate still have no idea what is in it. Even Evelyn Wood herself could not have made it through this volume in the few short hours we had to digest it. It would take days to get through it, but we are only allowed to review it in the Chamber, with no copies available for the individual review that is necessary. I don't believe they are available yet.

Just to approve it, we were told, and everyone would be free to go home and campaign. One Democratic House Member was quoted as saying, ''We would be better off not knowing what is in the bill.'' He said, ''Ignorance is bliss.'' Even the House appropriations chairman called this an ''ominous'' spending bill.

Shame on Congress. If that is truly what my colleagues really believe, and if they really do think so little of the

taxpayers whose dollars fund every program, every agency, and every piece of pork tucked so carefully into this bill, I say to them, perhaps you have been in Washington too long. This is not how I look upon my own responsibilities to my Minnesota constituents and my constitutional duty to the Nation. The people of Minnesota didn't send me here to rubber stamp anything, and certainly not this bill.

What disgusts me most is the process that produced this omnibus appropriations legislation. The entire negotiations were secretive, arbitrary, conducted behind closed doors by only a handful of congressional leaders and White House staff. The special interests were well represented at that table, but the taxpayers clearly were not. Again, the special interests were well represented at the table, but the taxpayers clearly were not.

Is this the best deal we could get with this President? I guess it is. President Clinton was intent on spending more money, money from the surplus, money that he said, in fact, should be saved for Social Security. But President Clinton's thoughts on spending Social Security money must have been more important than evidently saving Social Security.

As soon as the bill emerged from that protective cloak, it was thrown at us and we were told to agree to it. No process of floor consideration, no debate, no amendments, no votes. I have to wonder whether this is truly a democracy. This isn't the way we do business in this great democracy. It is true Congress has behaved this way before and the secretive goings-on are nothing new. But this does not make it right.

As early at 1988, President Reagan stood up and asked Congress to change this practice. It is wrong because it destroys our democracy. It undermines our political institution of government through representation. It is wrong because it allows just a few to make policy without careful deliberation and to spend hundreds of billions of taxpayers' hard-earned money without the taxpayers being duly represented. We must stop this practice now.

Early in March, I reluctantly voted for the fiscal year 1999 budget resolution in the Budget Committee. I did so to help facilitate the process and offer a chance to improve the budget plan as it moved to the Senate floor. I later again voted for the budget resolution based on a breakthrough agreement reached with the Senate leadership.

Under this agreement, our leadership would pursue the larger tax relief number of either the Senate or House, and it would make the repeal of the marriage penalty our top priority. They committed to a tax bill this year protected by reconciliation legislation.

Unfortunately, these commitments were never honored. What did we end up with instead? Tax increases, not tax relief. More spending, not leaner, more efficient Government. And again we faced a President who threatened to veto a Government shutdown if we even dared to send him tax relief for the American people. President Clinton called Americans ''selfish'' if they want some of their surplus money back, their extra tax dollars.

Republicans have joined Democrats and the President to raise the higher spending levels added in the negotiations. It is beyond belief that, facing the first budget surplus in a quarter of a century, that this Congress could have joined with the President to produce this bill in this election year.

I have argued repeatedly before this Chamber that the surplus is generated directly by increased individual income tax payments and it has little—little—to do with Government policy. In other words, the credit for the surplus does not go to the President, to the Senate, or to the House, but the surplus goes to the productivity of the American business and the American worker.

Outside the money earmarked for Social Security, we owe it to the taxpayers to return at least some of that surplus to them. That would have been the moral and it would have been the fair thing to do.

I also warned repeatedly that if we don't return at least a portion of the surplus to the taxpayers, and soon, that Washington will spend it all, leaving nothing for tax relief or the vitally important task of preserving Social Security.

The omnibus appropriations legislation proves my point dramatically. This bill is nothing but a continuation of President Clinton's tax-and-spend policies. Again, the President's own words, ''Save Social Security first,'' and I guess what he really meant was, ''Let me spend the Social Security surplus first,'' and make sure that the taxpayer does not get their hands on the surplus.

Despite the rhetoric about fiscal discipline, Washington has broken the spending caps by using the budget surplus. The spending bill exceeds the caps by at least $20 billion, and the only reason there is any surplus still on the table is that Washington evidently ran out of time to spend it.

To mask its budget maneuvering, Washington has covered its tracks with budget gimmicks, including $4 billion in Social Security ''forward funding'' into the year 2000. How are we going to adapt this to lower spending next year? Will we keep on forward funding into the future, shrinking and shirking our budget responsibilities?

Another dishonest accounting measure was to label this additional spending as ''emergency spending'' in order to justify the breaking of the spending caps. Instead of fencing off the budget surplus to save Social Security first, as it claims it is doing, Washington has spent an additional $22 billion of the budget surplus—a third of the surplus—to fund non-Social Security programs—again, nearly one-third of the 1998 budget surplus. This is Washington hypocrisy of the highest degree.

In the past few months, I heard so much demagoguery in the Chamber about saving Social Security, and we have heard the President pledge repeatedly to the public that he wanted to use every penny of the surplus for Social Security. But to date, the administration is still denying they have, in fact, used the budget surplus. It appears this administration has a very unique way of interpreting the truth or admitting the obvious.

Few of the ''emergency spending'' items in this bill are truly emergency related. Many of these dollars could have been added early on in the appropriations process. But the maneuvering allowed the President to spend more, and I know President Clinton's biggest disappointment in this budget is he wasn't able to spend even more. The Y2K problem is not new. The need for Bosnia troops funds and the readiness funds is also not new. These should have been funded earlier. They should have been funded through the normal budget and appropriations process. But that allowed them to spend more of the regular budget so they could come back and dig deeper into the surplus to spend more money.

I only wish this Congress and the President could be as creative in finding ways to reduce taxes, cut spending and make the Government more efficient as they are in finding new and creative ways of spending money, especially the surplus, and making this Government even bigger.

It is ironic that my Republican colleagues are scared to death of using the budget surplus for tax relief, despite the fact that it is the taxpayers' money in the first place, but don't mind at all in helping the Democrats to spend it.

This bill is a Christmas tree that is loaded not with ornaments but with plenty of pork projects and backdoor spending. Here is one example: The bill includes $1 billion for global warming, a 26-percent increase from last year's funding level. The Senate and the House had previously rejected this level of funding—rejected it—but somehow somebody managed to just sneak it back into the bill. Yet the President hasn't even sent us the global warming treaty. So this funding basically just mocks the Hagel-Byrd resolution that we passed last year.

There are some good provisions that I support and worked hard to have included in this bill. There are many good things in here, such as the desperately needed relief for farmers, IMF funding, and 100 percent healthcare cost deductions.

Frankly, some of the provisions and funding will help my own state of Minnesota. But the reckless process and irresponsible spending overshadows these good provisions. It was against my conscience to vote for this legislation.

Mr. President, I am deeply disappointed by the inability of our own Republican leadership to keep its promise to working Americans. I am

also deeply troubled that the Republican Party seems to have lost its courage to stand up to our principles. I expect compromises have to be made, but not compromises so heavily weighted in one direction, allowing heavy handed arm twisting, black mailing tactics of this White House to succeed.

When I first ran for Congress six years ago, I was very proud to be a Republican because we believed in our vision of a government that works for the people, and we believed government should be limited to only that amount needed for necessary services. The Democratic Party, on the other hand, has long believed that people should work for the government—or, at the very least, that the government has a right to spend every penny it can take from working Americans. Basically, Washington doesn't believe Americans are smart enough to take care of themselves. I don't know many Americans who believe they need Washington to hold their hand in spending their money or taking care of their families.

That is exactly why the American taxpayers ushered in an era of Republican congressional leadership in 1994—a new majority that pledged to provide fiscal discipline, individual freedom, personal responsibility, and prosperity for all people.

What changes have this new majority made four years after the 1994 Republican revolution? Well, the distinctions between the two political parties have all but disappeared; the taxes on working Americans are at an all-time high; the government is getting bigger, not smaller; federal spending has increased from $1.5 trillion in 1994 to $1.76 trillion today; and the national debt has grown from $4.9 trillion to $5.7 trillion, an $810 billion increase.

Mr. President, these are the differences for which this Republican-led Congress can take its share of the credit, or more honestly the blame!

Republicans failed not because our efforts have lost the support of the people, but because our party has lost its backbone. It has lost the courage to make a stand on principle and not abandon its moral compass at the first sign of resistance.

Mr. President, each time Congress makes a promise to the taxpayers—as it did in promising significant tax relief this year—and then deserts them, Congress comforts itself by saying it will come back next year and enact an even larger tax cut. I view this as an insult that flies in the face of Reality! This is self-deceiving at best. If we do not take a stand today, what is going to happen to make us more courageous a year from now? Besides, each year we wait, the government takes an ever-greater bite of the earnings of working Americans and the government gets bigger and becomes harder to trim in the future.

Mr. President, another big mistake we made that helped create the mess we find ourselves in today is that we failed to pass the ''good government'' legislation I proposed in 1997. I have repeatedly asked our leaders to honor the commitment they made during consideration of last year's disaster relief legislation to bring up legislation that provides an automatic CR at last year's funding level for remaining appropriations pending at end of the session. This would keep pressure on appropriators to complete their business and keep all of us in the process—not just a select few. It would also keep us free from political blackmail: ''If you do not give me this, then I will shut down the government and blame you for being heartless and ineffective.'' It happened before, and Republicans were afraid it could happen again, and the recklessness of this White House for political purposes is a reality. Had we such a process in effect this year that would not allow the government to shut down, we would have completed the business of the nation on September 30, and not been forced back here to vote on October 20. This path, not the path we are currently on, would have been the responsible path to take.

Mr. President, I therefore was forced to cast a ''no'' vote on this legislation because I am deeply disappointed in this business-as-usual attitude, and deeply disgusted with the process the pork-laden, backdoor spending, and the budget gimmicks. Americans deserve better. And let us put Congress and this President on notice, we will use every Senate rule available not to let this happen again next year.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, unless less than 48 hours ago, only a few in this body had actually seen this nearly 4,000-page, 40-pound, non-amendable, budget-busting legislation that provides over half-a-trillion dollars to fund 10 Cabinet-level federal departments for the fiscal year that started 21 days ago. The bill exceeds the budget ceiling by $20 billion for what is euphemistically called emergency spending, much of which is really everyday, garden-variety, pork-barrel appropriations. The bill is loaded with locality-specific, special interest, pork-barrel spending projects, which are paid for by robbing billions from the budget surplus.

I cannot in good conscience support a bill that makes a mockery of the Congress' role in fiscal matters. This bill is a betrayal of our responsibility to spend the taxpayers' dollars wisely and enact laws and policies that reflect the best interests of all Americans, rather than the special interests of a few.

Most offensive and disturbing to me is the misallocation of more than $9 billion in so-called emergency defense funding in the bill. The decision to spend only slightly more than $1 billion on military readiness, when the Chairman of the Joint Chiefs of Staff and each of the Service Chiefs testified just last month about an impending readiness crisis, is a fundamental abandonment of the men and women who serve in our Armed Forces.

I recently released a comprehensive report on the state of military readiness that includes a lengthy compilation of material provided by the Chiefs detailing the myriad of problems the Armed Forces are facing as a result of inadequate resources to support the missions their civilian leaders have assigned them. In these documents and in their testimony to the Senate Armed Services Committee just last month, the Chiefs were unambiguous in pressing for additional funding to address several serious concerns.

Restoring military retirement benefits was the Chiefs' principal concern, and I and others introduced legislation to do so. The Chiefs cited the need to increase military pay for the 25,000 military families on food stamps. They asked for money to provide incentives to attract and retain qualified people in military service. They talked about the dire need for more training and maintenance funds.

Mr. President, the Chiefs are the highest ranking military officers in our nation. Their sole mission is to ensure that our Armed Forces can fight and win any future conflict. They are the ones whom we should heed when we are told how to avert a crisis in military readiness.

So what did the Congress decide to do to address the Chiefs' concerns? We put over $9 billion in so-called emergency defense funding in this bill. But we allocated only $1.1 billion to the Chiefs' priorities, and spent the other $8 billion on other programs that, while important, will not reverse the declining readiness trend in our military.

We did nothing to address the Chiefs' number-one concern—restoring military retirement benefits for 20-year veterans to a full 50 percent of their highest three salary years. General Hugh Shelton, Chairman of the Joint Chiefs of Staff, told the Congress very clearly that fixing the military retirement system is his top recommendation for restoring the readiness of our armed forces:

> The most critical element of both current and future readiness is the men and women we are privileged to have serving in uniform today. Our people are more important than hardware.

I concur whole-heartedly with the Chairman's remarks. Army Chief of Staff General Reimer has written to me that:

> . . . the retirement package we have offered our soldiers entering the Army since 1986 is inadequate. Having lost 25 percent of its lifetime value as a result of the 1980's reforms, military retirement is no longer our number one retention tool. Our soldiers and families deserve better. We need to send them a strong signal that we haven't forgotten them.

Mr. President, we did nothing to address this clearly stated, number-one concern.

Instead, we bought three Gulfstream executive passenger jets, bought helicopters for the Colombian anti-drug effort, and padded the budget to pay for burying utilities at Keesler Air Force Base. We gave another $210 million of defense money to the Coast Guard to pay for its drug interdiction mission.

We did give the Services $200 million for military health care, but that's less than a quarter of what's needed to ensure military personnel and their families receive the care they need. And we took care of other legitimate emergency costs, like ongoing operations in Bosnia and embassy security. But on the whole, the Congress ignored the clear warnings of our highest ranking military leaders and, once again, let their parochial priorities take precedence.

Obviously, the waste in this bill does not stop with defense spending.

Here is just a sampling of the egregious pork-barrel spending in this bill:

$250,000 to an Illinois firm to research caffeinated chewing gum;

$750,000 for grasshopper research in Alaska;

$1 million for peanut quality research in Georgia;

$1.1 million for manure handling and disposal in Starkville, Mississippi;

$5 million for a new International Law Enforcement Academy in Roswell, New Mexico;

$1 million for Kings College in Wilkes-Barre, Pennsylvania, for commercialization of pulverization technologies;

$250,000 for Hawaii Volcanoes Observatory;

$1.2 million for a C&O Canal visitors center in Cumberland, Maryland;

$250,000 for a lettuce geneticist in Salinas, California;

$500,000 for the U.S. Plant Stress and Water Conservation Lab in Lubbock, Texas;

$162,000 for research on peach tree short life in South Carolina;

$200,000 for research on turkey carnovirus in Indiana;

$64,000 for urban pest research in Georgia;

$100,000 for vidalia onion research in Georgia;

An additional $2.5 million for the Office of Cosmetics and Color; and

$200,000 for a grant to the Interstate Shellfish Sanitation Commission.

And there is much more wasteful spending in this 4,000-page document. I have here 52 pages of items that I have found in this bill that meet one or more of the criteria that I and others, such as Citizens Against Government Waste, the National Taxpayers Union, and other well-known pork-watchers have used for many years. I have no idea yet of the total amount of pork on this list, but I am sure it is in the billions of dollars.

Some of these earmarked projects may well prove meritorious and deserving of the priority given them in this bill. The problem is that none of these provisions went through the appropriate merit-based selection process, which is necessary to determine whether they are more or less a priority than thousands of other projects that are not funded in this bill. In addition, some of these provisions were never included in either the House or Senate version of any regular appropriations bill. They were simply added, behind closed doors, to this massive, non-amendable omnibus bill.

Mr. President, we are wasting the people's money when we fund these dubious proposals. We undermine the faith of our constituents—the taxpayers—when we continue the practice of earmarking and inappropriately designating funding for projects based on political interests rather than national priority and necessity. Unfortunately, that has occurred here. This bill is a shameful example of why the American public has become cynical and skeptical of government.

We seem to have forgotten that all these programs, whether meritorious or not, must be paid for. Designating spending as an ''emergency'' doesn't make it free; it still has to be paid for. And the Congress, blessed with the first budget surplus since 1969, has been unable to resist the temptation to dip into that $70 billion surplus and spend it on pork.

The President declares we must save Social Security first. Members of Congress declare we must save Social Security first. Yet, we spend billions from the surplus on everything but Social Security. We don't save Social Security. We don't pay down the debt. We don't return to taxpayers a little of their hard-earned money. But we can spend a little more on pork. I guess we can never have too much of that, Mr. President, surplus or no surplus.

Mr. President, we have lost track of our priorities. I am disheartened that Congress found the time and money to finance any number of pet projects, yet we failed to address the needs of over 7,000 children and families whose lives have been devastated by hemophilia-related AIDS, in part because of the government's failure to implement the appropriate safety precautions for the nation's blood supply in the 1980's. This is simply shameful.

Mr. President, we are supposed to follow a process in Congress for considering important legislation—a process that relies on openness, fairness, and public input. If we had adhered to that process in crafting this bill, many of these egregious provisions might have been eliminated and our priorities might have been compatible with the public's priorities.

The process by which this bill was created is deplorable. Negotiations were conducted behind closed doors, out of sight of the public as well as the vast majority of Members of Congress. Decisions were made, and then reversed without notice.

A case in point, Mr. President, is a provision to clarify the status of auctioned spectrum licenses if the purchaser declares bankruptcy. At 5:00 p.m. on Monday, just a few hours before the Omnibus Appropriations bill was filed in the House, I was told that this provision was included in the legislation. Yesterday morning, it had been dropped from the bill.

In addition, only after the bill was filed did I learn that several provisions which are clearly within the jurisdiction of the Commerce Committee, which I chair, were included in the bill. I know other authorizing chairmen share my frustration at never having been consulted or even advised about these matters.

Let me point to one example of an appropriation exceeding the amount authorized for a program. The Senate authorized $192 million for the Advanced Technology Program of the Commerce Department; the House approved $180 million. Yet this bill appropriates $203.5 million for the program. What is the purpose of authorizing funding levels, when the appropriators simply ignore it and alone decide how much money to appropriate?

Mr. President, I learned yesterday that the bill does not include a cost cap on the international space station, as I had earlier been assured—a cost cap that was included in the NASA reauthorization bill that was reported from the Commerce Committee and passed by the Senate. And I learned that the bill includes a provision for a $20 million, taxpayer-funded buyback of three boats to limit domestic competition in the fishing trade off Alaska—legislation that the Commerce Committee had not yet sent to the Senate.

Mr. President, speaking about the authorizing legislation in this bill, one of the greatest failures of the omnibus bill is its rejection of comprehensive legislation to improve aviation competition, safety, and security. Critical aviation programs were due to be reauthorized this year, and the Commerce Committee duly reported the Federal Aviation Administration Reauthorization bill to the Senate. It passed the Senate last month, on an overwhelming vote of 92 to 1.

In this bill, we had an opportunity to stimulate much-needed competition in the aviation industry and enact a host of other critical improvements in aviation policy. Frankly, because of the influence of the major airlines and other secondary interests, the legislation was blocked. But what we did see fit to do is place a hold on activities of the Department of Transportation to address anti-competitive behavior in the airline industry. Major airlines won; competition and consumers lost.

Mr. President, I am very disappointed to report that the major airlines have succeeded in dealing yet another setback to the nation's consumers. As many of my colleagues are aware, the major airlines were able to scuttle the Federal Aviation Administration reauthorization bill that passed the Senate last month by a vote of 92 to one. Some of the biggest players in

the industry fought against it because the bill contained numerous provisions that would have enhanced airline competition, promoted new entry, and benefitted consumers. That is why the reauthorization bill was reduced to a mere six-month extension of the airport grant program.

To add insult to injury, the major carriers have now succeeded in hampering efforts by the Department of Transportation (DOT) to curtail illegal competitive behavior industry. Regrettably, the omnibus appropriations bill includes provisions that would needlessly delay the issuance of pro-consumer airline competition guidelines that have been proposed by the DOT. Once again, the major airlines have gotten their way in Congress when it comes to protecting their turf. Not satisfied with maintaining the status quo, these carriers have forced us to take a step backwards.

Last April, the DOT took the commendable step of proposing guidelines to curb unfair and anti-competitive pricing behavior in the airline industry. It didn't take long, however, for the major airlines to begin attacking the DOT for having the audacity to address this issue.

The DOT has already been taking its time reviewing public comments on its proposed guidelines, which I admit may be in need of improvement. The added delay provided in the omnibus budget bill only serves to aggravate the existing situation. The airlines readily admit that this extended delay gives them more time to kill the competition guidelines outright. That has been the airlines' goal from the start.

Shortly after the DOT proposed its guidelines, the Aviation Subcommittee held a hearing on airline competition, and the main focus was these guidelines. The DOT presented very compelling evidence that there have been instances of predatory behavior. But the major airlines merely shrug when confronted with very specific examples of a major carrier's driving a new entrant out of a market by irrationally cutting prices and increasing capacity.

Even though such conduct makes sense only if predatory behavior is the standard, the major airlines insist that they only respond in normal ways to new entrants.

Clearly, the DOT's effort to address this sort of behavior was too much for the major carriers to accept. They were able to exert enough influence on the budget negotiation process to put the competition guidelines on hold. The carriers were successful, despite that fact that no such provision passed either Chamber of Congress.

With respect to airline competition policy, as well as many other matters in the omnibus bill, this situation represents the triumph of special interests over the public interest. The losers here are not just the new airlines, but the consumers.

Despite this setback, I want to assure everyone that I will continue my fight for full and fair airline competition. Whether because of predatory behavior, or artificial barriers to entry such as slots and perimeter rules, the traveling public has yet to realize fully the benefits of deregulation. Fortunately, Congress will have an opportunity to take action again soon when the authorization for the Airport Improvement Program expires at the end of next March.

Mr. President, we must not let the major airlines dictate the terms of competition in their own industry. I am determined to see Congress do better by consumers next time.

Mr. President, I am also deeply disturbed that the House leadership has killed aviation competition legislation this session of Congress. Congress' record shows that it has done nothing to ensure a vibrant, competitive airline industry. Instead, the negotiators eliminated competition provisions such as new slot exemptions at capacity controlled airports, as well as efforts to loosen the perimeter rule at Reagan National Airport. Legislation to manage the environmental effects of flights over national parks also fell by the wayside because of this approach. Obviously the agenda of some is only to protect the big airlines against competition. Let's be clear, the big airlines have won. Consumers lost. That is a record about which nobody should be proud.

Most of my Senate colleagues know that the Commerce Committee worked hard this year to develop a bill to reauthorize the Federal Aviation Administration and the programs it oversees. Following a bipartisan, inclusive, and constructive process, we developed a package that among other things would authorize important airport construction grants. The legislation would institute a host of safety and security enhancements. It would provide the necessary spending to add more air traffic controllers in a congested system, and to make sure that the critical air traffic control systems are equipped to deal with the year 2000 problem. And, the bill would have established a widely-endorsed system for managing the environmental consequences of commercial air tour flights over national parks.

One of the key elements of the Senate FAA bill was the aviation competition title. It would have modestly enhanced the capacity at the four slot-controlled airports in the country—LaGuardia and JFK in New York, Chicago O'Hare, and Reagan National. The new entrant, low fare carriers have been effectively shut out of these key markets, which are critical to sustaining a healthy network and giving consumers new low cost choices.

Service to underserved markets in the country would have greatly benefited under the Senate bill. Rural America has suffered the most from the effects of hub dominance and the lack of airline competition. My colleagues from the Dakotas can tell you firsthand about the crippling effects of the recent Northwest Airline strike, for instance. Northwest dominates their region. When it shut down, they were literally cut off from the rest of the country. This is unconscionable.

There are other, clear ''pockets of pain,'' according to the Department of Transportation and the General Accounting Office. These include communities in the Appalachian Region, such as Knoxville, Tennessee; communities in the southeast, such as Jackson, Mississippi; Des Moines, Iowa, in the midwest; Rochester, Syracuse and Albany in upstate New York. The citizens of these communities will continue to suffer from having to pay exorbitant air fares without any real kind of relief that could have been provided with the FAA bill's promotion of additional airline competition on existing routes, and additional access for these underserved communities in key business markets such as Washington and New York.

There are two reasons why the FAA reauthorization bill failed in the 105th Congress, along with its provisions to enhance competition in the domestic airline industry. The first reason is the utter intransigence on the part of the major airlines, and the unmitigated gall that they exhibit in defending the anti-competitive status quo. Their motives are dictated solely by increasing their profits with no concern for the free market. It's about blatant anti-competitiveness. At the same time that they herald industry consolidation and hoard capacity at their hubs, they continue to thwart efforts to respond to these changing dynamics in the industry.

Parochial interests on the part of members of Congress constitute the second reason that this bill failed.

Specifically, House lawmakers from Illinois and Virginia have taken down the entire FAA bill because of a few noise complaints from their districts. We have done everything possible to accommodate their constituents' noise concerns. We have minimized the impact of new flights by spreading them out so that there are only one or two new flights per hour. We have increased their noise mitigation funding. Further, the FAA continues to enforce Congressional aircraft noise requirements that have brought noise levels down in their neighborhoods significantly over the last decade.

Notwithstanding, these Members refused even to come to the table to acknowledge legitimate interests. Let us not forget, the FAA bill was approved freestanding by the Senate on a vote of 92 to one. However, the House refused to even conference with the Senate on the bill.

This is not an insignificant issue. As I noted earlier, just ask the people of North and South Dakota who were effectively paralyzed because of one airline. Competition is the principle upon which our free market economy is based. It is a complete, utter and

wholesale abrogation of our responsibilities, not only to kill pro-competition and pro-consumer provisions of the FAA bill, but to stop any addressing of the issue by the proper authorities. The omnibus appropriations bill blocks pro-consumer airline competition guidelines, which were recently proposed by the Department of Transportation.

During these six months we will seize the momentum we developed this year to enact aviation competition legislation. We will also be examining additional pro-competition issues. It is too important to our country, to consumers and to the principles of our free market economy to look the other way.

Mr. President, as we work over the next six months to finish the job of reauthorizing federal aviation programs, I intend to use all means at my disposal to rectify this situation.

Mr. President, even today, there is confusion about what is in the bill and what is not, because the only copy that was available Tuesday to all Republican Senators was scattered in pieces around the Republican Cloakroom. There are no copies of this bill available to the public and only a few copies available in the Capitol. Most of what the public knows about this bill comes from media reports and the rumor mill. Members of Congress are only slightly better informed about the details of this bill, and we have had no opportunity to carefully review it.

And even if a Senator discovers that there is something in this bill that is highly objectionable to him, he cannot amend the bill. He can only vote for or against the entire package. It is all or nothing—take it or leave it. We are all held hostage to a process that protects pork-barrel spending at the expense of good policy.

Well, I, for one, will leave it. That is why I voted against the wanton fiscal irresponsibility this legislation represents.

Mr. President, we cannot continue to do business this way. We have an established process and we should follow it. I intend to work with like-minded Senators to develop needed reforms in that process to ensure that the Congress cannot so easily sidestep the checks and balances that are so clearly necessary to control wasteful spending and ensure responsible legislating, and that were intended by the Constitution.

Mr. President, I do want to take a moment to talk about some of the programs and provisions in this bill that are meritorious and which, in other circumstances, would have received my full support and my vote.

For example, the bill blocks the use of taxpayer-funded needle exchange programs for drug addicts, institutes new reforms to ensure accountability and market-based response measures within the International Monetary Fund (IMF), and extends important tax provisions, such as the work opportunity and research and development tax credit. Also, the bill contains $18 billion to replenish the International Monetary Funds depleted resources, which is critical to restoring confidence and economic stability in the global economy.

This bill funds many important programs directly benefitting American families and providing critical assistance to our children, including Child Care Block grants and Head Start. It increases funding for the Department of Education to almost $33 billion, including $8 billion for disadvantaged children and over $5 billion for children with special needs, but not at the expense of local control. The bill sends $1.1 billion directly to local classrooms ensuring schools have the flexibility to determine how to meet the unique educational needs of their students instead of Washington bureaucrats, and it prohibits federally funded national tests, leaving that decision to state and local authorities.

I am also pleased to see inclusion of the Internet Tax Freedom bill, introduced as S. 442, in the omnibus appropriations bill. This limited moratorium reflects the need for careful thought and analysis of the implications for taxing electronic commerce, and the proper roles for local, state and federal government in taxing the Internet. Present federal law neither authorizes, imposes, nor ratifies any excise, sales, or domain name registration tax on Internet use for electronic interstate commerce, and only one fee for the Intellectual Infrastructure Fund. I am confident that this moratorium will allow Congress to move forward in developing a national strategy for advancing electronic commerce and appropriate taxation of the Internet.

I am pleased to see that the provisions concerning Amtrak generally maintain the integrity of the Amtrak Reform and Accountability Act and continue the mandate for Amtrak to operate free of taxpayer subsidies by 2002. The bill also provides funding, though limited, directly to the Amtrak Reform Council instead of channeling such funds through the Secretary of Transportation. These are good decisions, ones which I support.

Also contained in this omnibus bill is legislation to increase the number of H–1B visas for skilled foreign professionals who wish to work temporarily in the United States in jobs unfilled by American workers. I cosponsored the original Senate legislation to raise the existing cap on H–1B visas. The provisions in this bill will allow dynamic American companies and research labs to hire more skilled foreign professionals. At the same time, we have incorporated safeguards to protect American workers and provide substantial funding to educate and train Americans to fill the lucrative high-tech jobs that are available across our country. American companies, American workers, and the American consumer will all benefit as a result.

The provisions I have just mentioned, and many others, are good for the American people. In fact, if these and many of the other policies and programs contained in the Omnibus Appropriations bill had been proposed and considered in the established process, I would have voted for them. Unfortunately, because the Congress has abandoned the normal process of legislating, my vote against this Omnibus Appropriations bill may also be construed, albeit wrongly, as a vote against these meritorious provisions. My vote against this precedent-setting legislation should be recognized for what it was—a vote against wasting taxpayer dollars and failing to ensure the readiness of our Armed Forces.

Responsible spending is the cornerstone of good governance. I look forward to the day when we can go before the American people with a budget that is both fiscally responsible and ends the practice of earmarking funds in the appropriations process.

Mr. President, those of my colleagues who support this legislation will say of us who oppose it that we are not practical politicians, that we ask for the impossible—legislation that is free of compromise, that we would let the perfect be the enemy of the good. That is a false charge, and it fails utterly as a defense of a legislative process that everyone agrees is terribly, terribly flawed.

We do not ask that a Republican majority produce legislation that reflects in every detail our priorities and dismisses completely the views of the President and the minority. We ask only that, on balance, any legislation—and surely legislation of this magnitude—reflect the principles upon which our majority was elected. We ask only that the Congress complete its work when it is supposed to complete it work, and in a manner that ensures fairness, openness, and inclusions. We ask only that we adhere to a little truth in advertising.

When we say we are going to save Social Security first, we ask only that we make some attempt to do so. When we call something an emergency, we should be able to say it with a straight face. When we promise to restore the resources necessary to provide for the common defense, we must pay just a little attention to the concerns of the military. When we promise to return to the people some percentage of the money they have sent to Washington, we ask only that we rank that pledge somewhat higher on our list of priorities than the usual cornucopia of parochial spending.

Those who voted against the omnibus appropriations bill would not let the perfect be the enemy of the good. We simply oppose letting back-room negotiations, business as usual, and pork-barrel politics be the enemy of principle.

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

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll to determine the presence of a quorum.

The bill clerk proceeded to call the roll.

Mr. JOHNSON. 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. JOHNSON. Mr. President, I voted today for the omnibus appropriations bill that was pending before the Senate, in large part because, very frankly, of my great doubt that delaying what already has been an utterly abominable legislative process would, at this late point, improve the nature of the final product.

It should be abundantly clear to us all, to even the most casual observers, that the first and most fundamental mistake made by this 105th Congress was the unwillingness, or perhaps the inability, of the Republican leadership to craft a budget resolution acceptable to a majority of Members of both parties. But, amazingly, the Republican leadership was then unable or unwilling to put together a budget resolution that could even muster the majority support of its own party. As a result, for the very first time since the current Budget Act was enacted, Congress was forced to proceed on with the 13 separate appropriations bills without the benefit of the direction of a budget resolution at all.

In fairness, this body did pass its own version of a budget resolution, and much of the difficulty in reaching an agreement with the other body lies with the radical faction in the House, which was unwilling to support any measure unless it called for huge tax reductions funded out of a naked raid on the Social Security surplus. There were a few Members of this body as well who indicated they could not vote for a final resolution unless a tax cut/Social Security plunder plan was involved. So, April 15, the deadline for passage of a budget resolution, came and it went, and in the end no agreement was reached between the Senate and the other body and no serious effort at bipartisanship, frankly, was ever attempted. The budget process that has ensued, and we have witnessed its culmination today, is certainly a case of the Republican leadership having to reap what it sowed.

Without the discipline of a budget resolution, this Congress then proceeded to make an utter mockery of the appropriations process.

Rather than deliberate debate and careful consideration of the 13 separate appropriations bills needed to run the Federal Government, we wound up with an omnibus appropriations bill weighing some 40 pounds and going on for 3,825 pages as it compressed 8 of the appropriations bills, a supplemental appropriations bill, and miscellaneous matters all into one ill-considered mess. The bill we have had before us today is a consequence of massive, massive legislative mismanagement.

All this is not to say that the legislation that was before this body today did not have some redeeming strengths. There will be no Federal Government shutdown, and as the American people rightfully celebrate the first balanced unified Federal budget in 30 years, the omnibus bill does stay within the previously agreed upon budget caps. Thanks to President Clinton and his earlier veto, this legislation does provide for significant assistance for farmers and ranchers suffering through an economic crisis throughout much of rural America and, again, thanks to the President's tenacity, this bill will provide for the hiring of additional teachers and the expansion of some key educational programs, such as Head Start.

But even here, the omnibus bill is not as good as it ought to have been. The agricultural provisions failed to address the underlying problem of inadequate market prices for livestock and grain by neglecting to raise the marketing loan rates, and by eliminating price reporting and country of origin meat labeling, it does next to nothing for livestock producers.

The educational provisions are inadequate in several areas, but most noticeably, the Republican leadership refused to permit a Federal-State-local partnership which would have allowed the cost of school construction and renovation bonds to have been significantly reduced for local taxpayers.

To this Senator, it is simply outrageous for some on the far political right to claim, as they have, that this commonsense provision would have amounted to some sort of ''federalization'' of education. Clearly, the decisions as to whether to build or renovate a school would have remained at the local level, where such decisions belong, and the bulk of funding for such construction would likewise have remained appropriately enough with local taxpayers.

Mr. President, it is not federalization for the Federal Government to help local citizens reduce the cost of their education decisions, decisions that they make at the local level, by partially writing down interest rates on the bonds which these school districts would then have to issue.

There are some who are referring, with some justification, to the 105th Congress as the worst that has ever met in this Capitol Building. I don't know if that is true, but the mismanagement of this legislation, coupled with the refusal of the majority leader to even allow meaningful debate and progress on such issues as managed health care reform, campaign finance reform, and modernization of financial services, among others, ought to be a source of shame for this institution.

Again, Mr. President, while some have voted against the omnibus bill as a protest gesture, motivated by any number of concerns, I wanted to do the responsible thing, and I voted to pass this faulty but, frankly, at this point in time very necessary legislation. It is my hope, however, that never again will Congress proceed without a budget resolution and without an opportunity to debate and deliberate on individual appropriations bills in a timely manner.

FEDERAL VACANCIES REFORM ACT

Mr. THOMPSON. Mr. President, I am pleased that the essentials of S. 2176 have been incorporated into the Omnibus Appropriations bill, H.R. 4328. I appreciate the work of my colleagues, Senator BYRD in particular, in seeing that this bill becomes law.

Mr. President, I wish to address the changes that have been made to S. 2176 since it was reported out of the Governmental Affairs Committee. The legislative history of the bill is largely described in the Committee report, S. Rep. 105–250. However, this is the opportunity to discuss the subsequent changes made in the bill.

The term ''first assistant to the office'' is incorporated into 5 U.S.C. § 3345(a)(1), rather than ''first assistant to the officer.'' This change is made to ''depersonalize'' the first assistant. Questions have arisen concerning who might be the vacant officer's first assistant if the acting officer dies or if the acting officer resigns while a permanent nomination is pending. The term ''first assistant to the officer'' has been part of the Vacancies Act since 1868, however, and the change in wording is not intended to alter case law on the meaning of the term ''first assistant.''

A third category of ''acting officer'' is now permitted apart from first assistants and presidentially designated persons who have already received Senate-confirmation to hold another office. The President (and only the President) may also direct an officer or employee of the executive agency in which the vacancy arises to be the acting officer if that officer or employee served in that agency for 90 days preceding the vacancy caused by the departure of the prior Senate-confirmed officer and, the officer or employee has been paid at a rate at least equal to a GS–15. Concerns had been raised that, particularly early in a presidential administration, there will sometimes be vacancies in first assistant positions, and that there will not be a large number of Senate-confirmed officers in the government. In addition, concerns were raised about designating too many Senate-confirmed persons from other offices to serve as acting officers in additional positions.

The 180 day period in § 3345(b) governing the length of service prior to the onset of the vacancy that the first assistant must satisfy to be eligible to serve as the acting officer is reduced to 90 days. Under § 3345(b)(1), the revised reference to § 3345(a)(1) means that this subsection applies only when the acting officer is the first assistant, and not when the acting officer is designated by the President pursuant to §§ 3345(a)(2) or 3345(a)(3). The 90 day service requirement is inapplicable to a first assistant who has already received

Senate confirmation to serve in that position.

New § 3345(c) was added to address the special case of an executive department (not executive agency) officer who serves not at the pleasure of the President, but under a fixed term, and without a holdover provision that governs acting service in that office following expiration of the fixed term. In that situation, without passing judgment on the constitutionality of fixed term appointees within executive departments, if the person whose term expires is renominated without a break in service, that already Senate-confirmed officer may continue to serve in the position subject to the time limits contained in § 3346 until the Senate confirms or rejects that person's renomination, notwithstanding the adjournment of the Senate sine die. The subsection does not apply until the incumbent officeholder is renominated, or when a person other than the previously appointed officeholder is nominated.

In § 3346(a), an exception is added for ''sickness,'' a narrower category than ''unable to perform the functions and duties of the office.'' If the Senate-confirmed officer cannot serve because he is sick for more than 210 days, the acting officer may continue to serve during the sickness, and no nominee need be submitted to the Senate to avoid the vacant office provisions of § 3348. The office is not vacant if the Senate-confirmed officer is sick, and he may reclaim the office even after 210 days if he is no longer ill. However, the 210 day limit will apply if the Senate-confirmed officer is unable to perform the functions and duties of the office for other reasons. For instance, the Doolin court stated that the current language of the Vacancies Act does not apply when the officer is fired, and for similar reasons, it might not apply when the officer is in jail if he does not resign. To make the law cover all situations when the officer cannot perform his duties, the ''unable to perform the functions and duties of the office'' language was selected. Sickness is the only exception to the 210 day limit, since in other circumstances when the officer is unable to perform the functions and duties of the office, there is no reason to allow the officer to reclaim his duties sometime after 210 days.

The 150 day period adopted in the Governmental Affairs Committee was lengthened to 210 days in each place it appeared in § 3346 as an accommodation to the Administration in light of the increased time the vetting process now consumes.

The amendment's striking of ''in the case of a rejection or withdrawal'' in § 3346(b)(2) is to ensure that an acting officer can serve for 210 days if a second nomination is made of a person whose first nomination was returned by the Senate.

The phrase ''applicable to'' is replaced by ''the exclusive means for temporarily authorizing an acting official to perform the functions and duties of'' in § 3347(a) to ensure that the Vacancies Act provides the sole means by which temporary officers may be appointed unless contrary statutory language as set forth by this legislation creates an explicit exception.

The phrase ''statutorily vested in that agency head'' is added to § 3347(b) to clarify that so-called ''vesting and delegation'' statutes that permit the agency head to delegate functions and duties to subordinates in the department whose positions lack defined statutory duties apart from assisting the agency head do not permit the agency head to appoint acting officials. Thus, the organic statutes of the Cabinet departments do not qualify as a statutory exception to this legislation's exclusivity in governing the appointment of temporary officers.

Changes were made to § 3348(b) to provide that the vacant office provisions of the legislation apply not only when an acting officer has served more than 210 days without a nomination for the office having been submitted to the Senate, but also prior to the 210 days after the vacancy occurs unless an officer of employee performs the functions of the vacant office in accordance with §§ 3345, 3346, and 3347 of this legislation.

The tolling period provided in § 3348(c) when the 210th day falls on a day on which the Senate is not in session is extended from the first day that the Senate is next in session and receiving nominations to the second such day.

The changes clarify § 3348(d) to provide that actions taken by persons not acting under §§ 3345, 3346, or 3347 or as provided by § 3348(b) of any function of a vacant office to which §§ 3346, 3347, 3348, 3349, 3349a, 3349b, and 3349c apply shall have no force or effect.

Added to the list of positions in § 3348(e) that are not subject to the vacant office provisions are any chief financial officer appointed by the President by and with the advice and consent of the Senate, since the head of the agency should not be permitted to execute the functions of such an official. The amendment also adds to the same list any other positions with duties that statutory provisions prohibit the agency head from performing.

The Comptroller General's duties under § 3349(b) are now to be performed ''immediately'' upon his or her determining that the 210 day period has been exceeded.

Section 3349b is changed to preserve all statutory holdover provisions in independent establishments, not merely those independent establishments headed by a single officer.

The list of excluded officers contained in § 3349c is expanded to include any judge appointed by the President by and with the advice of the Senate to an Article I court. This includes the Court of Federal Claims, but this exclusion does not apply to administrative law judges, since they are not appointed by the President by and with the advice and consent of the Senate. The list is also expanded to include members of the Surface Transportation Board, which, like the Federal Energy Regulatory Commission, is denominated an ''independent establishment'' despite its location in an Executive department.

New § 3349d addresses the situation when the 210 day service period for an acting officer expires without a nominee having been submitted to the Senate, and the 211th day occurs during a Senate recess or adjournment of more than 15 days. Rather than wait until the Senate reconvenes to avoid the vacant office provisions of § 3348 from taking effect, the President may submit to the Senate a written notification of intent to nominate a permanent officer for a particular office after the recess or adjournment. At that point, an acting officer qualified to serve as such by this law may begin to serve as the acting officer for that particular position. So long as the President actually submits the nomination of the person so designated in the written notification for that particular office within two days of the Senate's reconvening, the actions of the acting officer are valid from the date the acting officer begins service and so long as the nomination is pending. However, if the President does not actually nominate the person who was the subject of the written notification for the particular subject designated in the written notification within two days of the reconvening of the Senate, then the notification considered a nomination that permitted the acting officer's service shall be treated after the second day the Senate reconvenes as a withdrawn nomination is treated under this legislation.

The effective date of this portion of the bill is 30 days after the date of its enactment. For any vacant office as of the date of enactment, the time limitations under § 3346 apply as if the office became vacant as of the effective date of this section.

If the President nominates a person after the effective date of this section for an office to which that person had been nominated before the effective date, that second nomination will be treated as a first nomination under this section.

All other changes are intended to be purely technical.

Mr. BYRD. Mr. President, the United States Constitution contains two options providing for the appointment of the principal officers of our federal government. First, the Appointments Clause, found in Article II, section 2, clause 2, states that the President ''shall nominate, and by and with the Advice and Consent of the Senate, shall appoint'' such officers. Alternatively, should the Senate not be in session, Article II, section 2, clause 3, authorizes the President to unilaterally ''fill up all Vacancies that may happen during the Recess of the Senate,'' subject only

to the proviso that the recess appointment expires at the end of the next session of Congress.

As the Supreme Court pointedly observed in the 1997 case of Edmond v. United States, ''the Appointments Clause of Article II is more than a matter of 'etiquette or protocol'; it is among the significant structural safeguards of the constitutional scheme.''

With enactment of the Federal Vacancies Reform Act of 1998, an important step will have been taken toward securing the Senate's constitutional responsibility to render its advice and consent on presidential nominations. It is my hope that this legislation, which makes several substantive changes to the current Vacancies Act, will protect this vital constitutional ''safeguard'' by bringing to an end a quarter century of obfuscation, bureaucratic intransigence, and outright circumvention

Mr. President, because I am an original sponsor of the Federal Vacancies Reform Act, and because the Act as it is being enacted differs somewhat from the bill reported to the Senate by the Committee on Governmental Affairs on July 15, 1998, (S. Rpt. 105–250), I wish to offer my perspective on the Act's application, time limitations, exclusivity and exceptions, enforcement, reporting requirements, and effective date and application to current vacancies.

APPLICATION

Section 3345 states that the provisions of the Act will apply to any officer in any executive agency, other than the General Accounting Office, if that officer's appointment is made by the President, subject to the advice and consent of the Senate. Unlike current law, this change will make clear that the Vacancies Act, as amended by this legislation, applies to all executive branch officers whose appointment requires Senate confirmation, except for those officers described in Section 3349c.

Section 3345 applies when an officer dies, resigns, or is otherwise unable to perform the functions and duties of the office (the latter provision covers, inter alia, sickness or absence, which are listed in current law, or expiration of a term of office). Should one of these situations arise, the officer's position may then be filled temporarily by either: (1) the first assistant to the vacant office; (2) an executive officer who has been confirmed by the Senate for his current position; or (3) a career civil servant, paid at or above the GS–15 rate, who has served in the agency for at least 90 of the past 365 days. However, a person may not serve as an acting officer if: (1)(a) he is not the first assistant, or (b) he has been the first assistant for less than 90 of the past 365 days, and has not been confirmed for the position; and (2), the President nominates him to fill the vacant office.

TIME LIMITATION

Section 3346 places a strict time limit of 210 days upon how long an acting officer may serve. As the language of this section make abundantly clear, the time limit begins on the day the position becomes vacant, and not on any other date. The precise language that was used in the Act will correct the decision of the D.C. Circuit Court of Appeals in *Doolin Security Savings Bank* v. *Office of Thrift Supervision*, 139 F.3rd 203 (D.C. Cir. 1998). If, however, the President forwards to the Senate a first or second nomination to fill the vacant office, the acting official may continue to serve until 210 days after the nomination is rejected by the Senate, withdrawn, or returned to the President by the Senate.

With respect to this time limitation, section 3349d further provides that the vacant office may be temporarily filled beyond the 210-day time limit if, during a recess or adjournment of greater than 15 days, the President formally notifies the Senate of his intention to nominate a specified person for the vacant position, and, in fact, does submit to the Senate the nomination within two days of the end of the recess or adjournment. Should the President, for whatever reason, fail to forward the nomination, then any action taken by the acting official shall have no legal force or effect, nor shall that action be ratified. Moreover, such failure would render the position vacant as of the second day following the Senate's return.

Finally, on the issue of time, the Act, unlike current law, appropriately recognizes the difficulties faced by a new President following his initial inauguration. To address that situation, section 3349a provides that, with respect to any advice-and-consent position which becomes vacant during the first 60 days of the new President's term, the 210 day time limitation shall not begin until 90 days after the inauguration date, or 90 days after the date of the vacancy, whichever is later. Effectively, then, this provision will give a new President up to 300 days to forward nominations to the Senate.

EXCLUSIVITY AND EXCEPTIONS

Mr. President, turning now to the question of the exclusivity of the Act, I think it is a fair assessment of this entire issue to say that the matter of exclusivity is the bedrock point on which the executive and legislative branches have historically differed. Indeed, it is very likely that we would not be here today were it not for the differing interpretations as to the exclusivity of the Vacancies Act. And, without opening old wounds, suffice it to say that the problems that have heretofore been brought to the attention of Congress were not the fault of any one President, any one Attorney General, and certainly not the fault of any one political party. Accordingly, it is my fervent hope that the language of the Act will, once and for all, end this decades-long disagreement.

As the language of Section 3347 makes clear, unless other statutory provisions exist which explicitly authorize the temporary filling of vacancies in executive positions requiring Senate confirmation, or unless such provisions are enacted in the future, Sections 3345–3349d are to be the exclusive statutory means for filling vacant advice-and-consent positions in the executive branch.

Moreover, in an effort to squarely address past problems, the Act specifically prohibits the use of general, ''housekeeping'' statutes as a basis for circumventing the Vacancies Act. Provisions such as, but not limited to, 28 U.S.C. 509 and 510, which vest all functions of the Department of Justice in the Attorney General and allow the Attorney General to delegate responsibility for carrying out those functions, shall not be construed as providing an alternative means of filling vacancies.

Finally, Section 3349b makes clear that the Vacancies Act, as now amended, does not affect statutory holdover provisions. Nor does the Act, as explained in Section 3349c, apply to members of independent, multiple-member boards or commissions, to commissioners of the Federal Energy Regulatory Commission, to members of the Surface Transportation Board, or to any judge of any court constituted pursuant to Article I of the Constitution.

ENFORCEMENT

Mr. President, with enactment of this legislation, the Vacancies Act will, for the first time ever, contain an effective enforcement mechanism. As spelled out in Section 3348, failure to comply with Sections 3345, 3346, or 3347 shall result in a vacant office remaining vacant, and no-one, other than the agency head, may perform the functions or duties that are assigned by statute or regulation to that office exclusively. An action taken by an acting official who is not in compliance with Sections 3345, 3346, or 3347 shall have no force or effect and may not be subsequently ratified.

For those who are concerned with this provision, I would point out that, while this is an effective, and admittedly tough enforcement mechanism, it is not so stringent that it will result in governmental paralysis. On the contrary, not only is the head of the agency authorized to carry out the most essential functions of an office forced to remain vacant due to noncompliance, but the language of the legislation is crafted in such a way as to allow for the filling of a vacant office once the President submits a nomination to the Senate. In that respect, then, the enforcement mechanism should not be considered, nor is it intended to be, a form of punishment, but, rather, a means of providing incentive for the timely submission of nominations.

REPORTING REQUIREMENT

Because one of the keys to exacting compliance with the Vacancies Act is full and complete disclosure of information regarding vacant positions, Section 3349 establishes a provision for the regular reporting of information.

Under this section, the head of each executive branch agency shall, at the appropriate time, submit to the Comptroller General and to each House of Congress the following information: Notification of any vacancy in an office subject to the Vacancies Act; the name of the person serving in an acting capacity and the date such service began; the name of any person nominated for the vacant position and the date such nomination was submitted to the Senate; and the date the nomination was withdrawn, rejected by the Senate or returned by the Senate. If the Comptroller General, once he has received the relevant information, determines that an individual is serving in an acting capacity beyond the 210-day time limitation in violation of the Vacancies Act, the Comptroller General is required to notify the Senate, the House of Representatives, various committees of the two Houses, the Office of Personnel Management and the President.

Mr. President, although these may seem to be rather routine procedures, in this case they are vitally important, because one of the great difficulties in crafting this legislation has been the absence of reliable information. However, with these reporting requirements, the Congress and the executive branch will be in a far better position to objectively evaluate the operation of the Vacancies Act, and, should this issue require further review, will be prepared to discuss the matter based on reliable data.

EFFECTIVE DATE AND APPLICATION TO CURRENT VACANCIES

Finally, let me address the matter of the Act's effective date and application. First, as the legislation makes clear, the Act will take effect 30 days after the date of enactment. Next, the Act, and all of its provisions, will fully apply to any position which becomes vacant after the effective date. Third, with respect to those positions that are vacant on the effective date, or those positions which are being filled by an acting official on the effective date, only the time limitations of section 3346 shall apply. None of the other provisions of the Act (including, but not limited to, the length of service requirements contained in section 3345), shall apply to those individuals currently serving in an acting capacity. Lastly, the Act makes clear that, notwithstanding the fact that an individual may have previously been nominated, the next nomination of that individual will be treated as a first nomination for purposes of the Vacancies Act, as amended.

Mr. President, that concludes my remarks on the meaning and intent of the various provisions of the Federal Vacancies Reform Act of 1998. However, I would like to take a moment to extend my congratulations and my sincere gratitude to Senator THOMPSON, the distinguished chairman of the Committee on Governmental Affairs, for all the time and effort he has put into this endeavor. I also wish to thank the Democratic members of the committee—in particular Senators GLENN, LEVIN, LIEBERMAN and DURBIN—for their willingness to see this legislation through to completion. It was not an easy task, and I commend them all for their hard work. Despite the difficulties, though, I hope they will agree that securing the rights of the Senate, and thus the integrity of the U.S. Constitution, is a task that bears doing no matter how demanding it may be.

WOMEN'S HEALTH CANCER RIGHTS ACT OF 1998

Mr. D'AMATO. Mr. President I rise today to applaud this body for passing perhaps one of the most critical pieces of legislation this Congress. Today, before the Senate, in the omnibus appropriations bill, is the Women's Health and Cancer Rights Act of 1998, or more appropriately, Janet's Law.

Mr. President, I first began the fight to pass this critical legislation on January 30, 1997 when I introduced this legislation along with Senator DIANE FEINSTEIN, Senator OLYMPIA SNOWE, Senators HOLLINGS, MOYNIHAN, DOMENICI, FAIRCLOTH, MOSELEY-BRAUN, BIDEN, INOUYE, MURKOWSKI, DODD, KERREY, HATCH, GREGG, SMITH, and FORD.

We faced an uphill fight, but we were persistent. We never gave up.

We couldn't—Mr. President, there was too much at stake. We took on this fight for the women of America—our mothers and daughters, sisters and wives, grandmothers and friends. We took on this fight because it was critical to the health of every woman in America.

Today, there are 2.6 million women living with breast cancer. In 1998 alone, more than 184,000 women will be diagnosed with breast cancer and, tragically, 44,000 women will die of this dreaded disease. Breast cancer is still the most common form of cancer in women; every 3 minutes another woman is diagnosed and every 11 minutes another woman dies of breast cancer.

I want to tell you, Mr. President, about one of those women, because the battle against breast cancer is not about statistics—it's about real women who are in the fight of their lives. Janet Franquet, a young woman, just 31 years old, from my home state of New York was recently denied reconstructive surgery following a mastectomy.

Janet Franquet was diagnosed with an extremely aggressive form of breast cancer on December 11, 1997. Mrs. Franquet required a mastectomy and a very intricate, involved reconstruction of the breast following her mastectomy. The wound site required her surgeon to perform a very extensive procedure, medically necessary due to the considerable wound site after the removal of her breast.

Mrs. Franquet's insurance provider, the National Organization of Industrial Trade Unions (NOITU) Insurance Trust Fund refused to cover the reconstruction of Mrs. Franquet's breast. Imagine the shock and horror of being told by your HMO that surgery following the removal of your breast is cosmetic. That is outrageous.

In fact, when the surgeon performing the reconstruction asked about coverage, the Medical Director of the insurance company told Mrs. Franquet's doctor that breast reconstruction was considered cosmetic surgery, and he would have to deny coverage.

So, Mr. President, I decided that I would give Mrs. Franquet's insurance company a call. When I spoke with the Medical Director for the insurance company, he told me that ''replacement of a breast is not medically necessary and not covered under the plan. This is not a bodily function and therefore can not and should not be replaced.''

Mrs. Franquet and her family, were left to pay for the procedure out of their own pocket. The procedure cost approximately $16,500. Luckily, her doctor, Dr. Todd Wider, agreed to forgo payment for this life saving surgery. But recently, the insurance fund agreed to pay for the surgery—only after a lengthy appeal before the Board of Directors with lawyers and doctors testifying as to the medical necessity of the surgery.

I ask you, Mr. President, how many other Janet Franquets are out there? Will they be lucky enough to have a Dr. Wider to take care of them, or will they be forced to forgo this lifesaving surgery so that insurance companies can cut costs and save money?

That is why, Mr. President, I began this fight in the Senate and made it my crusade every day, at every opportunity. The D'Amato legislation which we will enact into law today makes critically important changes in how breast cancer patients receive medical care.

This important reform legislation will significantly change the way insurance companies provide coverage for women diagnosed with breast cancer. This new law will ensure that breast cancer patients will have access to reconstructive surgery following mastectomies. Too many women have been denied reconstructive surgery following mastectomies because insurers have deemed the procedure cosmetic and not medically necessary. It is absolutely unacceptable and wrong that many insurers have decided that this essential surgery is ''cosmetic.''

I know that there are going to be those who say let the marketplace work, let free competition work. Well, that is simply naive. To say that by insisting on a minimum standard, insisting on basic commonsense minimums we are interfering with the free market system is preposterous. For the government to not live up to its most basic duty of protecting its citizenry, that is what is wrong.

There exists a very basic relationship between a doctor and a patient that no Member of Congress and no insurance bean counter can ever understand.

That bond is so basic and so sacred that it is only the physician who is treating their patient who can truly understand it. It is only that physician who can truly determine the best course of action for their patient and knows how to save their life. Congress has a duty to protect that bond and ensure that the physician is able to practice medicine.

This legislation is crucial not only for the women of New York, where breast cancer ranks among the top in the Nation, but for the entire country as well. Our families have been ravaged by this horrible disease. Our grandmothers, mothers and daughters, sisters and wives, children and friends have been afflicted at rates that are unexplained and far too high.

We must continue to work together, on a bipartisan basis, to find a cure for breast cancer. But until a cure is found, we must ensure that women receive the treatment they deserve. This legislation protects women and the families and friends of women who have been diagnosed with breast cancer.

Mr. President, I ask unanimous consent that this bill be recognized as Janet's Law, after Janet Franquet, the woman who was the inspiration for this bill and who in fact serves as a heroine to many women who were denied reconstructive surgery prior to her. Thanks largely to Mrs. Franquet's efforts and determination in this issue, no woman will ever be denied reconstructive surgery again. Janet's case has served as an inspiration for me to keep fighting in the war against breast cancer and should be an inspiration to every Member of Congress.

I thank all my colleagues for helping me pass this critical legislation, and I thank the Chairman of the Appropriations Committee, chairman STEVENS and the majority leader, Senator LOTT for their hard work in ensuring the protection of American women who have been afflicted with breast cancer.

THE NEED TO TRACK FORMER TANF RECIPIENTS

Mr. WELLSTONE. Mr. President, today, I would like to call attention to a small but very important issue that was not addressed in the appropriations bill that was considered today. In short, Congress has not provided the necessary funding to HHS to track what happens to families who have been dropped from the welfare caseloads.

Back in April when the Senate passed the budget resolution, it included an amendment that I offered directing HHS to determine whether former welfare recipients are achieving ''economic self-sufficiency'' once they stop receiving benefits. But a budget resolution was never adopted by Congress. I ask all my colleagues, why don't we want to know what is happening to families after they leave welfare? Are we afraid of what we might find?

So many of my colleagues keep talking about the success of reform, citing the dramatic drop in the number of caseloads. But I ask you, do we know where those families are? Are they better off? Have they achieved economic self-sufficiency? Or are they more deeply enmeshed in poverty? Why are we not interested in finding answers to these questions? As policy makers it is our duty and our responsibility to make sure that the policies we enact for the good of the people actually are doing good for the people. But if we don't go and find out how they are actually affecting families, how will we know? We need to put in place the means to address these very critical questions, and directing HHS to set up a means of evaluating what happens to families is the most common sense way to approach this issue.

Evaluation is one of the key ingredients in good policy making and it does not take a degree in political science to realize what anyone with good common sense knows: if we want to try something new, we need to assess how that new program works. Now when Congress enacted welfare reform, the goals as I understood them were to move people off of welfare and dependency and into jobs and economic self-sufficiency. The dropping number of caseloads implies that we have met only part of the first goal—moving families off of welfare. But eliminating dependency and achieving economic self-sufficiency through a job that supports a family are effects that can only be determined over a longer period of time. As policy makers—regardless of ideological stripe—it is our role to ensure that the programs that Congress enacts to provide for American families' well-being are effective and produce the goals we intended them to. We need to know what is happening with the families who are affected by the new reform, whether it is in fact effectively helping low income mothers and their children build a path to economic self-sufficiency.

What we do know, what everyone knows is that the caseloads have dropped dramatically—1.3 million families have left welfare since August of 1996 alone, that is 4.5 million total recipients including mothers and their children. But what that number tells us is only a snapshot of the broader picture.

I want to take a moment to talk about this number and what it tells us. First of all, we have to recognize how naive it is to assume that all 1.3 million of those families are finding jobs and moving towards a life of economic self-sufficiency, because that number only tells us about families that have been dropped from the caseload—and families drop from the caseloads for many different reasons. A family may lose their benefits due to sanctions, or they may leave welfare on their own, for many reasons which we do not know. Even more troubling is that although the number of families receiving welfare has declined, indicators of poverty have not shown a similar or equal rate of decline, which means that many families who are eligible for assistance are not even applying.

Even among families where the parent has found a job—because without it they would not be receiving any assistance—we know very little. We do not know how long those jobs are lasting or whether they are the kind of jobs that will put families on a path to economic self-sufficiency. Just because a parent finds a job does not mean that the family is no longer poor. Getting a job that pays a family wage, that enables a mother to provide a life for her children that lifts them all out of poverty does not happen overnight. We need to know what happens to families 6 months, 12 months, even a couple of years down the road. And we do not know that.

No one seems to know, even those members of Congress who keep trumpeting the ''victory'' of welfare reform. Just a few weeks ago, in the Conference Committee for the Higher Ed. bill, I asked my colleagues if they knew of any research demonstrating that these 1.3 million families had indeed achieved economic self-sufficiency and no one had an answer for me. No one! Let me just say that accepting a very narrow measure of what has happened to 1.3 million families is no victory in my book.

Each family is more than a number, more than another tally mark to be added to that statistic of 1.3 million caseloads. Adding up that tally does not answer critical questions. Questions like why did that family stop receiving benefits? Was it due to an increased income from the mother's job? If yes, then what kind of wages is that mother now making? Does she have a job that is going to enable her to continue to provide for her family, or will the next crisis of a sick child, a broken down car, or some other unforeseen problem push her back to needing assistance? We have very little information about the situations of these 1.3 million families. We are in the dark because we turned off the lights.

Now, let me back up a minute and provide my colleagues with some background on this issue of asking the necessary questions about the impact of welfare reform. Requiring states to evaluate the impact of new welfare policies is not new. Not at all. In fact, prior to enacting the 1996 reform, all states that applied for a waiver to try an experiment with their AFDC program—and 43 out of 50 states had been granted waivers by 1996—were required under the regulations of the waiver to hire an outside contractor to evaluate the impact of their new program. For example, in Minnesota, two of the primary criteria for evaluating the programs were whether the program ''helped families increased their income and self-sufficiency'' and ''supported families' movement toward self-support.''

But when Congress enacted TANF, states were no longer required to continue those evaluations. In fact, 24

states stopped the evaluation process altogether, and only 19 have applied for funds to continue those evaluations. That means that over half of the states ended their project evaluations when Congress dropped the requirement to assess the impact of reform.

Of course these projects that I have just mentioned are not the only evaluations of the new reform. When states begin to apply to HHS for the $1 billion in bonus money for successfully moving families into self-sufficiency, they will be required to report on the status of both current and former recipients. Then, HHS will have some information about what is happening. But that information will not be available until at least the Fall of 1999.

Last year Congress considered this issue important, since we specifically earmarked $5 million in the FY98 Labor-HHS appropriations for HHS to give to states interested in doing their own tracking studies. And just a few weeks ago, HHS announced it had awarded grants to 13 state and county projects to track ''leavers''—those who have been dropped from the caseloads due to increased earnings or sanctions, and those who have not even applied for assistance even though they are eligible. This is an example of responsible policy making, and I will be very interested in the outcomes of these evaluations. But in a year's time, these 13 projects will be cut off at the knees. These projects will be unable to complete their planned evaluations because they will not have the necessary funds. Why? Because Congress has failed to appropriate similar funds for FY99. I ask you again, what are we afraid of?

We do have some information, but it is not very helpful. You might not want to know about it, but I'm going to talk about it anyway, because I want to illustrate that what information we do have is very, very limited.

Recently released reports give us some idea of what is happening, but there are huge holes in what we do know. The good news is that many states—31 according to the National Conference of State Legislatures—are conducting various types of tracking studies on their own. The bad news is that these studies are wildly diverse in terms of who they track, how long they track recipients, and when their reports will be available to the public.

Let me just give you a snapshot of what this kind of tracking system looks like. The studies run the gamut from those examining all closed cases, to only sanctioned cases, to cases closed due to increased earnings, to families diverted from ever applying for assistance. And the time frames of the studies range from 6 months to five years and everything in between.

But the really frustrating thing about what appears to be a potential wealth of data is that there is no central clearinghouse for it. As I mentioned before, HHS received a special $5 million appropriation for FY98 to fund some tracking studies. But the funds were only to provide help to states to do their own tracking. It did not provide funds so that HHS could act as a central location for analyzing the results of these studies. So, while I was glad that Congress committed necessary resources to studying what happens to families after they leave welfare, that is only part of the job. We need an efficient means of analyzing the information that we do collect, and directing HHS to serve as a central clearinghouse would have been the best way of doing that.

There are other problems with this scatter-shot approach to tracking. One of them is that it does not allow us to trace what happens to families that get sanctioned. Do they get caught up in a ''churning'' cycle, getting sent to the end of the line, deepening the hardship of an already poor family? One study in Iowa of families that had been sanctioned found that only 30% were working 30 hours a week or more and almost half of them had experienced a dramatic decrease in their income (over $380 per month).

From several studies, in New Jersey, Iowa, and Tennessee, it seems that many families who are being dropped from welfare due to sanctions are turning to other family members for assistance. A study in New Jersey showed that almost 50% of the families that were sanctioned and lost their benefits turned to family for aid; in Tennessee, 71% sought help from other family members. While I understand the intent of welfare reform was to decrease families' dependency on welfare, I do not think—and I am confident that my colleagues agree—that it was Congress's intent to shift the burden of assistance to other low income families who are just keeping their own heads above water.

Families that get sanctioned are at least within the state's data base and are easier to track. The groups that we really know very little about are those families in need who never even make it onto the official welfare roles. Many families are discouraged from even applying for aid or get diverted by receiving a lump sum of 2 or 3 months of benefits. In New York City—in Brooklyn and Queens—the primary goal of city welfare offices, according to its official manual, is to discourage families from even applying for assistance by encouraging them to get a job or depend on relatives.

While this may initially save the state money and reduce its caseloads, shifting the need of mothers and their children to other family members spreads individual resources more thinly and risks expanding the number of families in poverty. More disturbing is that this phenomenon does not appear to be only happening in New York. I think this is a very troubling trend that seems to be attached to these groups, one that I want to bring to my colleagues' attention because I think it will have greater implications for all low-income working families.

As I have mentioned, very little research looks at the long term impact of reform, and most of the studies I have mentioned above are short-term studies. But a program in Oregon is often cited as one to emulate. I would like to take a moment here to tell my colleagues about this particular program, because I think this case shows us the importance of getting more information than just the number of recipients dropped from the caseloads.

Unlike other welfare to work programs that focused on recipients just getting a job—any job—the Portland program provided really strong support services to help families find a ''good'' job, a full-time job that paid above minimum wage, included medical benefits and the potential for advancement. The way that the Portland program did this was to take a ''mixed services'' approach. And what that translates into is what I would think would be a good job search program for anyone, whether they were on welfare or not.

First, staff assessed the skills and interests of recipients, and then they worked closely with individual recipients to help them plan a strategy for getting what they needed to find a good job. Those folks that needed educational or vocational training were sent to do that. Training also included programs that helped parents who needed some life skills training to improve their employability. And as recipients were participating in these programs, program staff worked closely with local companies and employers to match recipients with good jobs where they would succeed.

For many families, this approach worked to get them jobs that did pay higher than the minimum wage at the time ($4.15), and many were still at their jobs at the end of two years. But, there is a finer point that needs to be made about what appears to be good news in this study. The jobs that parents got were higher than minimum wage, but they were still only $6 an hour at the most. Well, that just isn't enough for a family of three—a mother and two children, which is what the average family on welfare consists of—to make ends meet. And the bigger downside is that although many families were able to leave welfare, 40% of families were still receiving cash assistance at the end of two years.

Even if we were to be optimistic about the potential for these $6 an hour jobs to translate into job advancement and greater earnings, what about the other 40% who still needed cash assistance? We cannot be celebrating welfare reform as a ''success'' when so many former recipients have jobs that only move them to just beyond the eligibility line for cash assistance but do not set them on that path to economic self-security. And, probably more importantly, we need to know more about the specific barriers that keep those 40% of families from getting a ''good job'' too. We just cannot walk away from them.

As I mentioned, the program in Portland is unusual compared to other welfare-to-work programs. On the other end of the spectrum are programs like Wisconsin Works, better known as W–2. With the W–2 program, the basic premise is that parents will not get cash assistance unless they are working. This kind of program moves parents into the work force very quickly, because they need that cash assistance. But what a recent study of Milwaukee families found was that even though parents are getting jobs quickly, 6 months later three quarters of them were no longer employed. And of those parents who did get jobs, only 14% were getting paid full time wages. That means that less than 2 out of 10 families had a parent who was working full time.

This is very disturbing information. What is happening to these families who are getting pushed into the work force so quickly that they are not given the opportunity or the training to find jobs that are more likely to translate into sustained, full-time employment. Based on this study, it is very clear to me that we as policy makers definitely need to know about how other ''work first'' approaches are affecting families. When less than 2 out of 10 families has a parent bringing home a full time wage, there are a lot of families who are not making ends meet, and that is not a success in my book.

Looking at the administrative side, we know that since the caseloads have dropped dramatically, states have more funds available to provide support services to families trying to find jobs. However, the 1.3 million drop in caseloads is only a drop in the number of families receiving cash assistance; many of those families are still receiving other support services such as subsidized child care, transportation, housing and medical care. When the labor market hits a downturn—which is the direction it appears to be heading—and many families are forced to return for cash assistance, what will happen to the states' ability to provide these support services necessary to put those mothers back in the workforce? There is much uncertainty about the future and we are doing little to reduce it.

Even those of my colleagues who supported the 1996 welfare reform bill must recognize Congress's important responsibility of finding out what is happening to those 1.3 million families who have been dropped from the roles. Reform is not a one-shot deal. Real reform involves long term oversight to insure that policies benefit all parties: states and poor mothers and their children.

I have always said, the true test of welfare reform will come in the austere economic times, when many more families will need it most. Will we wait until folks are again in dire straits before we begin to gather information about how to correct the programs that we have just reformed? Are we really going to allow ourselves to be so short-sighted? Or will we recognize that our responsibility to enact good policies that protect our most vulnerable populations such as poor mothers and their children is intrinsic to our duty as good and effective policy makers. Not until we are sure that this reform has accomplished all of its goals—eliminating dependency and helping families to establish and maintain economic self-sufficiency—can we truly claim that this reform is good and sound policy for all.

Mr. FRIST. Mr. President, I rise today to express my deep concern for some of the provisions in the omnibus measure that we have passed today. I voted for this bill because I believe that there are some very good provisions in it, and, on balance, I think it serves the American people well. It reenergizes our national drug control effort. It tries to boost the morale and readiness of our armed forces, rather than continuing the dangerous trend toward a hollow military. It helps protect citizens' second amendment rights. It prohibits Federal funding of needle exchanges. The bill retains language blocking Members of Congress, judges and members of the Federal executive service from receiving a cost-of-living increase. There is a one-year moratorium on Department of Education-sponsored national testing. I voted for this bill because I have been assured that we have stayed within the budget caps.

I am concerned, however, about the integrity of the budget and appropriations process and the classification of emergency spending that has prevailed in this omnibus measure. Other Senators have spoken here on the Senate floor about the dereliction of congressional duty in failing to pass 13 individual spending bills during this year's session of the Senate. Instead, because of partisan politics, we are here passing a massive spending bill that rolls eight appropriations bills into one large catch-all bill, which also includes dozens of extraneous matters. If that is not bad enough, we have also included ''emergency'' spending to the tune of more than $20 billion.

This spending is considered outside of the budget and therefore not subject to the budget caps. What this means, however, is that this $20 billion comes directly out of the budget surplus. It is sometimes necessary to appropriate funds for emergencies like hurricanes, floods or other natural disasters. I am disappointed, however, that we have appropriated billions of dollars for things that can hardly be considered emergencies. Our troops have been in Bosnia for three years—is this a surprise? The Year 2000 problem? With foresight, we could have planned for this through the regular appropriations process rather than designating it as an emergency. So instead of making room for these spending priorities, the President has declared them emergencies and instead of imposing fiscal discipline, he—and we—have used the surplus that the President demanded be saved for Social Security to pay for them.

As a member of the Senate Budget Committee, I think it should be our first priority next year to examine how we classify emergency spending. No longer should the Congress—or the President—be allowed to spend our budget surplus for matters that should be paid for through the regular appropriations process. Second, I would like to reiterate my support for Senator DOMENICI's biennial budgeting bill. It is at times like this that the need for biennial budgeting becomes even clearer.

Mr. President, as I said, this bill, though far from perfect, will work more good than mischief. There are real problems with this bill and the process that created it; however, we must sometimes accept that our system of government divides power between Congress and the President. The President's priorities differ from most of our priorities. In these circumstances, compromise must rule the day.

Mr. President, as a member of the Senate Budget Committee, I look forward to meeting our budgeting challenges when we return next year. I hope that we are able to continue on the course that we set last year when we enacted tight discretionary spending caps and charted a course toward a $1.5 trillion surplus. While I am concerned about the process that got us here today, I remain hopeful that we will take the necessary steps next year to keep us on our course toward fiscal responsibility and continued prosperity.

CHARITABLE GIVING INCENTIVE ACT

Mr. SMITH of Oregon. Mr. President, among the provisions included in the tax package we voted on today is a provision of great importance to the charitable giving community: an extension of the enhanced deduction for contributions of publicly-traded stock to private foundations. Although extending this deduction benefits many and is a useful tool for providing funds for charitable purposes, this deduction alone is not enough.

In this era of ever-tightening fiscal constraints, we have asked our communities to do more and more for those less fortunate. Charitable organizations in our communities have become an integral part of the safety net for the poor and homeless and significant sources of assistance for education, health care, child development and the arts.

To meet the increasing deficit in unmet social needs, the government cannot merely expect the private sector to fill the gap, but must provide the leadership for the use of private sector resources through changes in the Tax Code. One source of untapped resources for charitable purposes is the contribution of closely held corporate stock. Under current law, the tax cost of contributing closely held stock to a charity or foundation is prohibitive, and it

discourages families and owners from disposing of their businesses in this manner.

Earlier this year, I was joined by Senators FEINSTEIN, WYDEN, BAUCUS, and GORTON in introducing legislation that would provide an incentive to business owners to use their corporate wealth for charitable causes. S. 1412, the Charitable Giving Incentive Act of 1998, would permit a closely-held business to transfer its assets into a 501(c)(3) charitable organization without paying the 35 percent corporate level tax. Thus, the recipient charity would receive the full benefit of the gift. Identical legislation has also been introduced in the House by Representatives DUNN, FURSE, NETHERCUTT, HOOLEY, PAUL, and SMITH of Oregon.

In addition to this bipartisan congressional support, we have garnered support from the charitable community. It is my intention to reintroduce this legislation in the 106th Congress, and I look forward to working with the Finance Committee Chairman ROTH, Ranking Member MOYNIHAN and my Senate colleagues to legislate changes that will make it easier for the citizens of this country to give to charitable causes.

Mr. President, I ask unanimous consent that a letter from organizations supporting the legislation be printed in the RECORD.

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

OCTOBER 9, 1998.

Senator WILLIAM ROTH,
Chairman, Senate Committee on Finance, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

The undersigned organizations are all tax exempt 501(c)(3) charitable entities, or representatives thereof, whose efforts are dependent upon the charitable giving of concerned individuals. With the needs of our communities growing, and in some cases the financial support from government agencies diminishing, many endeavors are increasingly reliant upon a core group of concerned, consistent, and active givers. It is important to encourage and reward the selfless sharing by this group and to expand its membership.

Accordingly, we support legislation that has been introduced in this Congress to provide tax incentives for the donation of significant amounts of closely-held stock. H.R. 3029 and S. 1412, the Charitable Giving Incentive Act, would permit the tax-free liquidation of a closely-held corporation into a charity if at least 80 percent of the stock of the corporation were donated to a 501(c)(3) organization upon the death of a donor. Thus, the 35 percent corporate tax that would otherwise be paid is not imposed: all of the value of the contribution would go to charitable purposes. This is the same tax result as would occur if the business had been held in non-corporate form.

The current disincentive for substantial contributions of closely-held stock should be corrected at the earliest opportunity. We believe such a change would encourage additional transfers to charity because the donors will see more of the benefit going to the charity and not to taxes. We hope that appropriate tax incentives will encourage more families to devote significant portions of their businesses, and their wealth, to charitable purposes.

As a key member of Congress, we urge your active support for this effort to expand charitable giving by individuals and businesses. The needs are great. While government cannot do it all, it can provide leadership for others to do more by removing current impediments. Your support and assistance are needed. Thank you for your favorable consideration of this request.

Sincerely,

Council on Foundations; Council of Jewish Federations; The Children's Foundation; The National Federation of Nonprofits; and The National Community Action Foundation.

Mr. SMITH of New Hampshire. Mr. President, I voted against the Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999. One of the principal reasons why I voted against the bill is that it does not include two critically important provisions of the Smith amendment to the Commerce, Justice, State appropriations bill that passed the Senate on July 21, 1998, by a vote of 69–31. The Smith amendment provided major protections of the rights of law-abiding gun owners under the second amendment to the Constitution of the United States.

As passed by the Senate last July, the Smith amendment included three major provisions. First, the Smith amendment prohibited the Federal Bureau of Investigation from charging a user fee or ''gun tax'' for the so-called Brady handgun National Instant Check System (NICS) that will go into effect later this year. Second, the Smith amendment required the ''immediate destruction'' of all records related to gun purchasers who are determined by the system to be legally entitled to buy a gun. Third, the Smith amendment created a private cause of action on the part of any individual gun purchaser who is the victim of a violation of either or both of the first two provisions of the amendment.

Unfortunately, Mr. President, only the first provision of the Smith amendment remains intact in the final version of the omnibus appropriations bill. Although I am pleased that the FBI's gun tax scheme is now dead, I am deeply disappointed that those who negotiated this bill with the administration have ignored the legislatively expressed will of 69 United States Senators by rendering all but meaningless the second, and eliminating altogether the third, provisions of the Smith amendment.

The omnibus appropriations bill replaces the Smith amendment's requirement for the ''immediate destruction'' of records on law-abiding gun owners with one that only requires ''destruction'' of such records. Thus, the bill leaves open to question just how long the FBI may lawfully retain such records.

Although the omnibus appropriations bill does not include the Smith amendment's language explicitly creating a private cause of action, I believe that the bill retains an implied cause of action. Assuming that the courts will interpret the new law in a manner that gives full effect to legislative intent, judges will recognize such an implied cause of action on the part of gun owners to sue in Federal court in order to protect their rights under the Smith amendment.

Mr. President, early in the 106th Congress next year, I will be introducing legislation encompassing all of the protections of the Smith amendment for which 69 Senators voted last July.

Mr. GORTON. Mr. President, I voted in favor of the omnibus appropriations bill this morning, but I did so with some reluctance. While I am marginally pleased with this bill's contribution to education and defense, my primary concern is the $20.9 billion in emergency spending included in this bill that further jeopardizes the Social Security trust fund.

In July, the Congressional Budget Office predicted the Federal Government will run a $63 billion surplus in 1998 if the Social Security trust fund is included in the budget calculations. We still run a $41 billion deficit, however, if the surplus in the Social Security trust fund is excluded. The Federal Government will not run a surplus without the inclusion of the Social Security trust fund until 2002, when CBO expects a $1 billion surplus. By 2008, the surplus will rise to $64 billion, without counting the Social Security trust fund.

However, the omnibus appropriations package includes $20.9 billion in emergency spending—spending outside of the caps established in last year's balanced budget agreement, spending that is not paid for with offsets in other government programs.

So how are we paying for $20.9 billion in emergency spending? We're using money from the surplus—a surplus that doesn't exist yet unless we include the Social Security trust fund in our calculations.

I am dismayed by this outcome, especially when I recall the way we started this year. The President urged Congress to ''Save Social Security First'' during his State of the Union Address in January. In late April, the President again stated, ''I will resist any proposals that would squander the budget surplus, whether on new spending programs or new tax cuts until Social Security is strengthened for the long-term.''

Apparently, the President is ignoring his own advice. During negotiations over the appropriations package, the President pushed for $20 billion in so-called emergency spending. He did not propose to offset this spending with cuts in other Government programs. In fact, by categorizing his spending requests as ''emergencies,'' he plans to spend a large part of the surplus he himself designated for saving Social Security in January.

Frankly, I question the legitimacy of the ''emergencies'' identified by the President—the year 2000 computer problem, military responsibilities in Bosnia, and the decennial census.

These so-called emergencies have been on the radar screen for years. Unfortunately, the President failed to place a priority on these challenges when he gave Congress his budget in February.

Now we have several ''emergencies'' for which the President is willing to dip into the surplus he deemed sacred in January—a surplus that does not exist unless we tap into the Social Security trust fund.

Unfortunately, Congress capitulated to the President's inconsistent demands and policies. Today we approved a spending package that dips into the surplus that should be used to reform Social Security—a surplus that only exists with the current, but temporary, surplus in the Social Security trust fund.

Social Security reform is expected to top next year's congressional agenda. Unfortunately, this spending package starts us off on the wrong foot.

The President is willing to stick to his commitment to ''Save Social Security First'' when he wants to deny taxpayers tax relief. However, the surplus appears to be fair game when we are unwilling to make the tough choices needed to fund reprogramming government computers for the Year 2000, our continued military presence in Bosnia, or a responsibility as old as the Constitution—the decennial census.

Finally, I would like to stress my sincere hope that Congress and the President will engage in a constructive and honest debate over how to reform the Social Security system next year. We can't politicize this issue—our children and grandchildren depend on an honest and bipartisan reform of a system that will not meet its obligations for the next generation of retirees.

After declaring Social Security a priority during the State of the Union Address, the White House fell silent—invoking the famous pledge only when politically expedient. After President Clinton's speech, a number of my colleagues on both sides of the aisle have made tough choices and released Social Security reform packages. The White House must engage in this process. We do need to save Social Security first.

While I admit that I do not approve of the manner in which the emergency spending was added to this bill, I am pleased that it provides a much needed additional $7.5 billion for the Department of Defense to ensure the readiness of our nation's armed forces, to tackle the Y2K problem and sets aside funding for a ballistic missile defense. After 14 straight years of declining defense spending, the readiness of U.S. Armed Forces is clearly at risk.

By 2003, active duty military personnel strength will decline almost in half from 2.2 million to 1.36 million, the number of active Army divisions will drop from 18 to 10, the number of Navy ships will drop from 569 to 346, and the number of Air Force fighter wings will be decreased from 25 to 13.

At the same time, we are spending more of our defense resources on peacekeeping missions and our military personnel are spending more and more time on overseas deployments and less time training. If this trend continues it is unlikely the U.S. armed forces will not be the preeminent military force they were during the gulf war.

Unless we take action now to modernize our weapons systems, aircraft, and ships, other nations may catch up to the U.S. technologically, placing our military personnel at greater risk and eroding the tactical advantages they enjoy on the battlefield today. We must work to ensure that our fighter planes, tanks, submarines, and missiles are the best in the world.

This bill provides $1.1 billion to fund urgent readiness shortfalls in the services, such as flying hours, spare parts, depot maintenance, personnel recruiting and retention initiatives.

One billion is also set aside for a strategic anti-ballistic missile defense system. I'm pleased that appropriators recognized this priority as rogue states aggressively pursue the acquisition of nuclear and chemical weapons technology. It is disappointing that the efforts of my colleague Senator COCHRAN to pass legislation to establish a National Missile Defense system has failed two times this year by a margin of only one vote.

Not surprisingly, education was another issue the White House demagogued in this process for political purposes. This is a debate I personally welcome. This year's spending negotiations drew a bright line between the President and Republicans. The amount of money was never an issue. In fact, our budget agreement matched dollar-for-dollar the President's request for education spending. The debate was not about money—but about who gets to spend it.

Some Republican priorities were clearly represented in the omnibus package. This bill includees a $32.7 billion investment in our children's education; $91 million more than the President requested for disadvantaged students and $500 million more than the President thought we should spend on special education. And this bill includes $1.2 billion for school districts to hire new teachers.

This last program, providing new teachers for our nation's schools provided a real opportunity to debate the fundamentally different approach Republicans and Democrats have toward our nation's schools. Who do you trust with our children's education? Bureaucrats in Washington DC? Or those who know our children by name—their parents, teachers, and locally elected school board members.

Through this process it was clear that the President simply wanted to repeat the pattern of more top down control from Washington DC, new rules and regulations, more bureaucrats and more paperwork meaning that less money reaches our nation's classrooms.

According to the House Education at the Crossroads report, we already have some 760 Federal education programs, requiring over 48.6 million hours worth of paperwork per year. Both the House and Senate recognize that we simply cannot continue to add to that burden. Earlier this year both bodies approved measures which would radically change the way education funs are spent. The House approved the Dollars to the Classroom Act on September 18, 1998 and the Senate approved my block grant approach earlier this year on the Coverdell education savings account bill. Both proposals support the same philosophical approach, education decisions should be made by those closest to our children—their parents, teachers and locally elected school board members—not Washington, DC bureaucrats.

This new initiative to hire teachers represents a first step toward trusting local decisions regarding our children's education. Republicans were responsible for making sure that 100% of this new money would be spent by our local school districts not by Federal or State bureaucrats. Schools will be able to hire teachers for any grade, no matter where the need is and schools may hire special education teachers; neither would have been possible under the President's prescriptive proposal.

Importantly, few rules and regulations will accompany this new money. The President wanted to add this money to a program that already has 171 pages of ''non-regulatory guidance'' from the Federal Government. With the Federal Government providing only 6 percent of the funding for our local schools, and 50 percent of the regulation and paperwork—it was important that we not add to that burden. Republicans insisted that this new money be funneled through an existing block grant program.

In a 1997 State of Education speech, Secretary Riley said, ''* * * we should not cloud our children's future with silly arguments about Federal Government intrusion.''

But that is exactly what this debate was and is about—and it couldn't be more important. It will again be the focus of debate next year as Congress works to reauthorize the Elementary and Secondary Education Act.

I will continue to work in the 106th Congress to save Social Security and to restore authority over our children's education to those who are closest to our children—their parents, teachers, principals, and locally elected school board members.

Mr. BYRD. Mr. President, I expressed yesterday my abhorrence of the process that produced this behemoth Omnibus Bill. I said, however, that I would vote for it, because it contained some good things for the Nation. That is true, but I just could not do it. I cannot support such a twisting of constitutional intent and of the legislative process. Therefore, I voted no, so that I can sleep more peacefully tonight.

Mrs. MURRAY. Mr. President, earlier today, we passed an Omnibus Appropriations bill that expressed important

Congressional intent regarding the education of American children. By passing legislation to reduce class size in public schools, we are doing something concrete, common-sense, and effective to improve the quality of education across America. I am very proud of this Congress today.

But although there has been plenty of attention this last week devoted to the issue of class size reduction through helping local school districts to hire qualified teachers, I feel we are in danger of overlooking the true significance of the policy and funding we have passed here today.

By making this investment, which we will be increasing over the next several years, we are sending an important message to every community in this nation. The message is ''we have been listening. We have heard you. You've been saying that class size reduction is important because it makes a tangible difference in real-world public schools.''

This new law will not solve every problem in every school in America; that is not the appropriate federal role. Local communities make the decisions that improve local schools. The federal role is to support local decisions. I want people to know that Congress is finally listening; this place is starting to ring with your voice. This class size effort will help jump-start discussions in every local community and every state legislature—where the class size decisions that affect all schools will be made. And, this appropriations bill puts us all on the road to doing something tangible to helping the students in America's schools.

Some in Congress have made the argument: ''who do you trust to make decisions regarding the education of your children, your local educators and school boards, or some faceless bureaucrat in Washington, D.C.?''

For 5 years, I was a school board member in the Shoreline School District. I saw first-hand how every decision gets made in a school district, including how many teachers get hired, and what the budget will be for supplies, and what changes will be made to the bus schedule. And in those years and all the years since, I have heard local citizens say about the laws that affect their schools that they want their government to learn how to listen to the people it represents.

I have not heard people say that the government should walk away from its responsibilities, to support the children in public schools across America. I have not heard people advocate that the federal government should ignore its responsibility to prevent unfair treatment, or that it should ignore national priorities.

I have heard many times, however, parents and other local citizens ask very loudly for government to set goals, to get us on the right path, to do what works, to streamline its efforts, and to invest in common-sense solutions.

At the top of this list is class size reduction. Class size is common-sense, and it does work.

The research shows it:

A 1989 study of the Tennessee STAR program, which compared the performance of students in grades K–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 all geographic areas.

A follow-up study of the STAR program in 1995 found that students in small classes in grades K–3 continued to outperform their peers at least through grade 8, with achievement advantages especially large for minority students.

Other state and local studies have since found that students in smaller classes outperform their peers in reading and math, perform as well or better than students in magnet or voucher schools, and that gains are especially significant among African-American males.

A 1997 national study by Educational Testing Service found that smaller class size raises average achievement for students in fourth- and eighth-grade math, especially for low-income students in ''high-cost'' regions.

Particularly of note in the 1997 ETS study was the finding that in eighth-grade, the achievement effect comes about through the better discipline and learning environment smaller class size produces. As policy-makers try to make decisions that will affect students in the critical years of middle-school, class size makes a difference in terms of both behavior and academic achievement.

In addition, state organizations representing thousands of local educators know that hiring more high-qualified teachers to reduce class size works:

Larry Swift, Executive Director Emeritus of the Washington State School Directors' Association says it well:

> As we pursue our state's goal of improving learning for all of our students, 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.

Kenneth Winkes, with the Washington Association of School Principals says:

> 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.

Lee Ann Prielipp, President of the Washington Education Association says: ''When educators have too many students in a class, it is hard for them to give each student the individual attention that students need. It is this individual attention that is at the heart of the learning process, and it is crucial in helping our students succeed.''

And, as I've pointed out before, students themselves have thoughts about the importance of class size reduction:

Brooke Bodnar, age 16, recently moved from a school with larger classes to Olympia High School, which has smaller classes. She says: ''. . . with smaller classes I'm learning so much more. Class is going so much faster.''

Jared Stueckle, age 16, a junior at Selah High School, believes that education should be a higher priority in funding, and that class size is a good investment. Jared says: ''The classes in which the number (of students) is lower I generally do better, but in a crowded class, the teacher does not give us enough individual attention.''

Meghan Sullivan, age 15, a 10th grader at Tumwater High School, says: ''. . . reduction is needed especially at the K–5 grade levels. This is the beginning of their education and this is where they form study habits and learning skills, so it's more important to get some one-on-one contact with teachers.''

Antonella Novi, age 18, a senior at Anacortes High School, says:

''Smaller class sizes enrich the learning experience for the student and the teaching experience for the teacher.''

Jaime Oberlander, age 16, a junior at Tumwater High School, says:

''I know that I have learned more in smaller classes. I have a stronger relationship with the teacher. I am less intimidated to participate in class discussions or ask for help when I need it. I also receive more feedback from my teacher . . . my teacher can spend more time critiquing my work and helping me to learn.''

The American people have said over and over how important class size reduction is to them. When students start school in the fall, parents usually ask two questions: ''Who is my child's teacher?'' and ''How many students will be in my child's class?'' This is because, next to parents and family, the teacher is one of the most important adults in every child's life. We want that teacher to be the best-trained, most-qualified person available. And, we want the number of students in class to be manageable, so each student has access to the teacher, and the teacher is not reduced to doing ''crowd control.''

Qualified teachers in small classes can provide students with more individualized attention, spend more time on instruction and less on discipline and other tasks, cover more material more effectively, and work more closely with parents. Today Congress has done something significant and important—taken the first step to helping local communities increase the number and quality of the teachers in America's schools.

I want to thank all those who helped this happen, from the President and his staff, to Secretary Riley and those who work so diligently, to Senator DASCHLE and our Democratic Leadership in both the Senate and the House. I want to particularly thank Senator HARKIN, who worked with me on a strategy to turn the early defeat of the Administration's larger class size proposal into a one-year version, funded through an existing program—a clear victory for every student in America. I also want to especially thank Senator TED KENNEDY for his stalwart efforts to negotiate the final elements of this bill in consultation with me. His work is always excellent, here particularly so.

And I'd like to single out the people who joined me as co-sponsors of my bill, the Class Size Reduction and Teacher Quality Improvement Act of 1998: Senators KENNEDY, DODD, DASCHLE, MOSELEY-BRAUN, BOXER, LEVIN, ROBB, LIEBERMAN, REED, LAUTENBERG, LANDRIEU, TORRICELLI, BRYAN, KERRY, AKAKA, GLENN, BINGAMAN, and MIKULSKI. And I would like to thank Senator RUSS FEINGOLD who has given so much time and attention to the issue of class size reduction, and recognizing local efforts.

Finally, I would like to thank a few key staff people who worked on this issue all year: Marsha Simon, Ellen Murray, and Bettilou Taylor from the Appropriations Committee staff and Bev Schroeder with Senator HARKIN, Joan Huffer with Senator DASCHLE, and Danica Petroshius with Senator KENNEDY and Amy Abraham with the Budget Committee. I would also like to thank Greg Williamson, Micki Aronson, April Graff, Kennie Endelman and Minerva Lopez with my staff.

As with all things, the class size legislation would not have passed without the efforts of many, many people all working with determination, willing to make compromises on details and get to the important goals.

On other educational issues, we have also made progress this year. The funding levels for adult and family literacy programs have seen modest improvement—something I've worked hard for, and something that needs more improvement. And children's literacy has seen an important first step, in passage and funding for the Reading Excellence Act. Reading efforts around the country and in my state should look on this national attention to reading as the first step to further support.

On education technology, we have made such important investments. Not only did we fund $75 million for teacher technology training for pre-service teachers, but this year we passed the Higher Education Act, which includes my Teacher Technology Training bill, and we have provided another $75 million to fund the partnerships that will make the new law possible in every local community.

On funding for the Individuals with Disabilities in Education Act, we have included the $500 million I asked for in my budget amendment earlier this year, and we did not have to jeopardize other educational priorities to do it. In addition, by including special education teachers in the class size proposal, we have taken important steps to helping local communities deal with the important educational needs of all students.

There were also mis-steps in this bill—cuts to our schools that did not need to happen, negative language that will stir up unnecessary ill-feelings, or funding shifts, such as the one under the Safe and Drug-Free Schools program, that should have been done in a way more reflective of local expertise. But all in all this is a good bill for education, and puts us on the right path.

The Americans I talk to about education funding usually cannot believe that education is really a priority in Congress. After all, only 1.8 percent of overall education spending goes to education. This is the next great challenge. People want Congress to live up to its responsibilities, to look at its priorities, and to listen to people in communities across this great nation. This year, we made some important investments. Next year, we reauthorize the major K–12 education laws. We must look to all of these processes with respect for local knowledge, with bipartisanship, and with a steadfast determination to making education better for all students.

GULF WAR VETERANS ACT OF 1998

Mr. BYRD. Mr. President, I want to highlight a provision contained within this massive omnibus appropriations bill, H.R. 4328, that addresses a long-standing debt owed by this nation to the veterans of the Persian Gulf War. Title XVI of Division C of this bill contains the Persian Gulf War Veterans Act of 1998. In five short sections, the Persian Gulf War Veterans Act of 1998 lays out a sound, scientific process by which the Secretary of Veterans Affairs may make a determination, based on the recommendations of the National Academy of Sciences or other sound scientific or medical evidence, that diseases suffered by Gulf War veterans are linked to hazardous materials they were exposed to during that conflict. That is, the Secretary now has a credible process to determine what diseases should be considered service-connected for purposes of providing health care and disability compensation to Gulf War veterans.

This is not some give-away program, but a long overdue recognition that Gulf War veterans may be suffering from invisible wartime wounds just as real as any left by bullets—wounds to their immune systems, to their muscles and joints, or to their internal organs, caused by the toxic fog of chemicals, oil well fires, and medications in which they were immersed. This nation has a long history of caring for the men and women who were wounded in her service, and it is a shame that it took over seven years to recognize and honor our commitment to these veterans.

I have seen some news reports that this provision will cost between $1 and $6 billion over ten years. I do not know what these estimates are based on. The Congressional Budget Office determined that this program would cost $40 million over the first five years, and a total of $490 million over ten years. That is not an extravagant bill to pay for a war that cost the United States over $60 billion for less than two months of actual fighting—for a mere 100 hours of actual on-the-ground combat. Almost 700,000 service personnel were in the Southwest Asia theater during the initial phase of the conflict, and over one million service personnel have pulled tours of duty in Saudi Arabia and Kuwait since 1991. Over 120,000 of these men and women are now on Department of Defense or Department of Veterans Affairs Gulf War registries, many suffering from multiple debilitating symptoms since their service in the Gulf.

The provisions in this omnibus bill were extracted from S. 2358, a bill I introduced with Senator ROCKEFELLER and Senator SPECTER, the Ranking Member and Chairman, respectively, of the Senate Veterans' Affairs Committee, on July 27. I am proud of this collaboration, which I believe produced a sound as well as needed piece of legislation. Although S. 2358 was adopted by the Senate in the closing days of this Congress, and after the process of putting together the omnibus appropriations bill had begun, no action was taken on it by the House of Representatives. Some elements of S. 2358 were included in two House-passed bills, H.R. 3980 and H.R. 4110, that were sent to the Senate, again, after the process of putting together the omnibus appropriations bill had begun. In my opinion, these bills fell far short of delivering on our commitment to Gulf War veterans.

In both H.R. 3980 and H.R. 4110, the National Academy of Sciences was directed to conduct a study and to make recommendations to the Secretary of Veterans Affairs regarding illnesses that might be linked to service in the Gulf. But, the Secretary was directed only to make recommendations to Congress. The veterans would not receive any immediate assistance. It would be up to Congress to make the determination of service connection, find the funds to pay for it, and convince both Houses of Congress and the President to agree that action should be taken. Mr. President, I do not believe that adding this kind of delay to the process aids our veterans. We can do better, and we did better in S. 2358. Let the Secretary do his job, and if we do not like the way he carries out his job, then we can take corrective action.

Mr. President, I have already noted that these compromise bills arrived in the Senate late in this session, after work on the omnibus appropriations bill had begun. As the Ranking Member on the Senate Appropriations Committee, I had already added S. 2358 to the

list of legislation to be considered for inclusion in the omnibus package. I did this not because I approve of this way of passing legislation on an appropriations bill and especially not on a monstrosity like this omnibus bill, but because I saw an opportunity to do something useful and needed for these veterans. They do not deserve any additional delay. And when I saw that the compromise language contained only a study, and the possibility of further delay for these veterans, I became determined to include the key elements of S. 2358 in the omnibus appropriations bill.

Now, I have been noted for my stubbornness—my friends call it tenacity or perseverance, but my opponents call it stubbornness. On this matter, I was determined, tenacious, persistent, and, yes, even stubborn. As a conferee on the omnibus appropriations bill, I was able to defend my position. This section of the omnibus bill was among the last issues decided. I sincerely thank my colleagues, Senator STEVENS, Chairman of the Senate Appropriations Committee, and Representatives LIVINGSTON and OBEY, the Chairman and Ranking Member, respectively, of the House Appropriations Committee, who supported my efforts to include this provision in the final bill. They did this over the objections of the Administration. For their leadership and courage in defending the interests of Gulf War veterans they merit great praise.

The veterans of the Gulf War have struggled for seven years to have their wartime sacrifices recognized for what they are—the scars of battle. I hope that Title XVI of Division C of H.R. 4328 will set this process on a track that is both credible and fair, and that will follow through on our nation's commitment, in the words of Abraham Lincoln, ''To take care of him who has borne the battle. . . .''

Mrs. FEINSTEIN. Mr. President, today, I voted for H.R. 4328, the omnibus appropriations bill. I believe that on balance, this legislation will benefit California.

This bill is 4,000 pages, 38 pounds, and stands a foot tall. It appropriates $500 billion, funds a third of the federal government for fiscal year 1999, and includes many pieces of authorizing legislation. My staff reviewed the entire bill yesterday. It includes properly written legislative bill language as well as many hand written changes and amendments. Congressional negotiators, the administration, and many staff members have worked for weeks to finalize this legislation today, but that work was often done behind closed doors without the full review of the Senate.

I do not believe that this is the way the Congress should do its work. Our choice today was to shut down the government or pass this bill.

I want, however, to note that the omnibus bill provides many benefits for Californians.

EDUCATION

This bill funds several education initiatives. It includes $1.2 billion to hire teachers and reduce elementary class sizes, an effort already underway in California. This will mean 3,500 new teachers in California. This bill also includes increased funding for Head Start, for Education Reform, for bilingual education, for charter schools, for educational technology and for student financial assistance.

California school enrollment is growing at 3 times the national rate. We need to build 7 new classrooms a day at 25 students per class just to keep up with the growth in student population. We have students in closets, in cafeterias, in portables. We have some of the largest class sizes in the nation. We have 22,000 teachers on emergency credentials. California ranks last in the nation in the percentage of young adults with a high school diploma. Our students rank 37th in the country in SAT scores.

The California public school system has gone from one of the best, to one of the worse. Mr. President, quite simply, we welcome this assistance for the California education system.

I am disappointed that the bill includes a ''hold harmless'' provision for ESEA Title I.

Title I is the largest federal elementary and secondary education program, providing funds to virtually every school district in the country to educate disadvantaged children. Title I has often been called the ''anchor'' of all elementary and secondary education programs since its enactment in 1965. The bill includes $7.8 billion for Title I grants to school districts. California received $830 million last year.

Unfortunately, the bill includes a 100 percent ''hold harmless'' provision under which no school district would receive an allocation that is less than its allocation of the previous year. But the effect of the hold harmless provision for California, that has had an increase in the number of poor children, is not to receive all of the increase in funding to which we are entitled, entitled by law. Thankfully, the bill does include an ''extra'' $301 million that would provide some funds for high-growth states like mine. California could receive as much as $60 million out of the $301 million. I believe the dollars should go equally to all children in the country based on need.

I call on my colleagues to join me in working to join in an effort to make sure the dollars follow the children.

This Senator pledges to devote every ounce of energy I can muster to help our schools deliver on the promise of opportunity and achievement that America's public schools have always represented and I call on my colleagues to join me today in this campaign.

CALIFORNIA ENVIRONMENT

I am pleased that the Omnibus Appropriations bill includes funding for a number of important land acquisition projects in California, including $2 million for the Santa Monica Mountains National Recreation Area, $1 million for the Santa Rosa Mountains, and $1.5 million for the continued acquisition of Bair Island for the Don Edwards San Francisco Bay National Wildlife Refuge. While I am pleased that the bill includes $1 million for land acquisition in the Lake Tahoe Basin, I would have preferred to see the $3 million provided by the Senate Appropriations Committee. Lake Tahoe is an important national resource, and we need to make it a higher priority if we are to stem the environmental decline that is already affecting the area. I intend to work with my colleagues to further address the problems of Lake Tahoe in the 106th Congress.

The Salton Sea bill as approved calls for completion of a plan to save the Salton Sea by January 1, 2000. It provides a total of $5 million in additional funds for biological studies and to conduct demonstration projects to clean up the New and Alamo Rivers. These funds, along with an additional appropriation for the Bureau of Reclamation in a separate section of the bill, provide all the money that will be required to prepare a plan and conduct all environmental documentation. As a result, Congress and the President will be able early in the year 2000 to authorize and appropriate funding for a project to save this incredibly valuable resource.

TRANSPORTATION INFRASTRUCTURE

One of the most important sections of the omnibus appropriations bill provides funding for our nation's roads, airports, and transit systems. This bill will ensure that California's transit systems are more efficient and our roads and airports are safer. The bill will improve the quality of life of California residents by increasing mobility, reducing congestion, and improving the environment.

The bill provides a total of $73 million for the Los Angeles County Metropolitan Transit Authority (MTA). This includes $62 million for the North Hollywood Red Line extension, $8 million for the Regional Transit Alternative Analysis study for the Mid city and Eastside, and $3 million for the purchase of new clean fuel buses. This funding level will allow the MTA to proceed with its restructuring plan as well as improve bus service and move towards the competition of two important rail links.

The bill also provides $27 million for the Tasman West Rail Extension project. The Tasman West Extension will link the heavily congested residential areas of Santa Clara, Sunnyvale, and Mountain View with the Silicon Valley. The funding in this bill will allow the project to continue without interruption and hopefully will permit it to be completed ahead of schedule and under budget as is now projected.

Other important California rail projects funded in this bill are: $23.48 million for the Sacramento south corridor extension, $3.5 million for the San

Diego Mission Valley and midcoast corridor, $3 million for the Oceanside-Escondido light rail project, $1 million for the San Bernardino Metrolink project, and $500,000 to upgrade the rail line connecting the cities of Riverside and Perris.

The bill also provides almost $420 million in formula grants to California. These grants will fund capital projects and finance improvements in equipment and facilities associated with mass transportation. This is an increase of more than $40 million from Fiscal Year 1998. Included in the formula grants are $171 million for Los Angeles, $98.8 million for San Francisco and Oakland, $35 million for San Diego, and $26 million for San Jose. The bill also provides $6.2 million in grants for the special needs of elderly and disabled people in California and $8.2 million for non-urbanized areas of the state.

Another major component of the transportation appropriations bill is funding for buses and bus facilities. Again, this is very important for California where bus systems play a vital role in the transportation infrastructure of our cities. This bill provides more than $30 million to 30 cities and transportation authorities throughout the state. While I would have preferred to see a higher level of funding for many of these projects, the appropriations in this bill will allow local communities to begin purchasing badly needed fuel efficient buses and improving deteriorating bus facilities.

I am disappointed that the conference committee reduced funding for the Bay Area Rapid Transit extension to the San Francisco Airport to $40 million. This is a dramatic cut from the $100.6 requested by the Administration and will seriously impair BART's ability to complete the project on schedule.

Project construction for the BART/SFO extension is already underway. Contracts for over 90 percent of the construction activity have been awarded totaling $607 million. The State of California has recently agreed to provide an additional $57 million for the project. It is unfortunate that the federal government has failed to demonstrate the same level of commitment to this project that has been shown at the state and local level.

I believe that bringing rapid rail transit to the San Francisco Airport is of critical importance to continued economic viability of the region. I am hopeful that this setback in federal funding will not endanger the project and I will work in the 106th Congress to insure that additional funds are made available.

SECURING THE BORDER

The bill provides $97 million next year for 1,000 additional border patrol agents and 140 support personnel at the border, increasing our ability to interdict illegal aliens at the heaviest alien traffic areas such as the Southwest border. It also provides $21.8 million for interior enforcement, providing the badly needed resources for INS to work with state and local law enforcement against illegal immigration.

I am very pleased by the inclusion in the omnibus package of a number of measures that will have a direct impact on our efforts to prevent illegal narcotics from being transported across the Southwest border. These provisions are good news for California.

I want to thank Senator DEWINE and Senator BOB GRAHAM for their many months of leadership in this effort, and for their willingness to work with me to include provisions that will mean fewer drugs on the streets of California.

The supplemental appropriation portion of this bill will increase spending on drug interdiction by a total of $690 million for the current fiscal year. Of that total, $90 million is designated specifically for enhancements at the Southwest border, which is still, without question, ground zero for U.S. drug interdiction efforts. This amount includes $80 million for the U.S. Customs Service to purchase and deploy non-intrusive inspection technology, such as truck X-rays and gamma-imaging for drug interdiction at high-threat seaports and land border ports of entry; and $10 million for INS to purchase and deploy border barrier and surveillance technology, such as effective fences and night-vision scopes.

These funds will make a real difference on the ground. DEA Administrator Tom Constantine recently told me that he estimates that one ton of cocaine is smuggled across the Southwest border each and every day. The smugglers are growing more sophisticated every year, and our agents badly need state-of-the-art technology to counter them, which this bill provides.

In addition, the omnibus package includes the Western Hemisphere Drug Elimination Act, of which I was an original cosponsor. This act, which authorizes $2.6 billion over the next three years for enhanced drug interdiction programs, and requires annual regular reports by ONDCP and other drug-fighting agencies on their progress, contains two key provisions which will directly impact Southwest border, and which were included at my request: authorization of funding for the U.S. Customs Service to purchase truck X-rays as part of its 5-year technology plan; and authorization of $50 million for developing and purchasing computer software and hardware to facilitate direct communication between all the agencies that work on drug interdiction at the border.

Technology offers an important way to fight drug smuggling. Improved communication and coordination among our various border enforcement and drug interdiction agencies is another. Without effective interagency communications systems between Customs, INS, the FBI, DEA, and the Border Patrol, our ability to detect drug smugglers and interdict drugs at the border is seriously jeopardized. The funds authorized by this bill will enhance the effectiveness of all these agencies' interdiction efforts. That translates into fewer drugs on our streets.

NATURALIZING CITIZENS

The Omnibus Appropriation provides $171 million for additional naturalization services of which $11.6 million will be provided specifically for reducing the naturalization backlogs for those localities with backlogs of 15 months or longer. For California, San Diego, Los Angeles and San Francisco along with other counties who currently have a backlog of 2 years may receive the funds to help expedite naturalization applications.

METHAMPHETAMINE

I am very pleased that the Methamphetamine Trafficking Penalty Enhancement Act of 1998 was included in this bill. This provision increases penalties for methamphetamine trafficking, making them roughly equivalent to those for trafficking in crack cocaine. Specifically, it lowers the quantity of meth which qualifies for the highest level of federal drug penalties from 100 grams to 50 grams, the same as for crack. Dealers at this level get a 10 year mandatory minimum sentence for a first offense, a 20 year mandatory minimum for a second offense, and life for a third offense.

Similarly, it also lowers the quantity of meth which qualifies the next-most serious level of federal drug penalties from 10 grams to 5 grams. Again, this is the same quantity as is provided for crack. Dealers of this amount receive a 5 year mandatory minimum for a first offense, and a 10 year mandatory minimum for subsequent offenses.

This provision originally was part of the Comprehensive Methamphetamine Control Act of 1996, which I wrote with Senators HATCH and BIDEN. We were forced to drop this provision to pass the bill by unanimous consent that year, and this year it was re-introduced by Senator ASHCROFT. I am proud to be the first co-sponsor of Sen. ASHCROFT's bill.

Two aspects of methamphetamine make the rapid growth in California especially troubling.

First, meth leads to paranoid, violent, and even bizarre behavior by hardcore users. I will never forget the report of a New Mexico man, high on meth and alcohol, who beheaded his 14-year-old son and threw the head out of the window of his van, on a crowded highway.

Second, meth is cooked in this country in dangerous, clandestine labs, which use highly flammable chemicals, blow up in explosions, and leave toxic, hazardous waste sites, which require environmental cleanup.

This is not a silver bullet which will solve the problem, but it is one more useful step which we can take in this fight.

I am also pleased that this bill contains several appropriations which I

worked for to combat the spread of methamphetamine: $18.2 million for the California Bureau of Narcotics Enforcement's anti-methamphetamine strategy; $24.5 million to hire 100 new DEA agents to target meth trafficking organizations; and $5 million for hazardous waste cleanup of lab sites.

I am disappointed, however, that the conferees did not support the Senate's appropriation of $15 million for transfer to the Drug Diversion Control Fee Account. The clandestine meth labs operate primarily by converting legitimate pharmaceutical products, such as pseudoephedrine and ephedrine, into meth. The Drug Diversion Control Fee Account supports the DEA's efforts to control the diversion of such legitimate pharmaceuticals to illicit use, and we should provide it with greater support.

JUSTICE APPROPRIATIONS

I am pleased that several programs for which I have worked are fully funded in this bill:

COPS funding 88,000 police officers throughout the country now has $1.4 billion provided in this bill to fund another 17,000, reaching the President's goal of hiring 100,000 police—and exceeding it by 5 percent.

Local Law Enforcement Block Grant continued funding of $523 million for this program, which is important to California's cities and counties who utilize this funding to supplement COPS funding for non-personnel law enforcement expenditures.

$283 million is provided for the Violence Against Women Act, increasing support for these programs. I have heard from women's organizations in support of funding for battered woman's shelters and other support services. California sorely needs these resources.

The President's budget request of $95 million for at-risk children's prevention programs is fully funded, as I requested. With a growing adolescent population, California needs continued funding of anti-truancy, mentoring, and curfew initiatives.

A total of $40 million is provided in various ways for the successful Weed and Seed program. Criminal gang activity is a severe problem in many California cities and localities, and many of these California gangs spread their criminal activity to other states. I am committed to curbing the growth of gangs, and Weed and Seed prevention funds are essential to that effort. I have heard from a number of California mayors, including Mayor Omar Bradley from Compton, who support the program and expanded funding.

Another $12 million is provided for prevention efforts to combat youth gangs, under the Juvenile Justice and Delinquency Prevention Act.

TERRORISM AND TECHNOLOGY PROGRAMS

This bill also provides for several programs which were of particular interest to me as ranking member of the Subcommittee on Technology, Terrorism and Government Information of the Judiciary Committee;

Extensive funding is provided for a variety of programs to combat terrorism and to be prepared to meet the threat which this form of evil poses, including: $145 million for the counterterrorism fund, $135 million for state and local preparedness for the threat of chemical and biological weapons, including: personnel protective gear, communications equipment, decontamination equipment, training, needs assessment, technology development; and bomb technician equipment. It also includes: $10 million for the National Critical Infrastructure Protection Center, $282 million to the FBI for counter-terrorism and foreign counter-intelligence investigations.

$23.4 million is authorized from Justice's asset forfeiture fund to support more efficient use of the communications spectrum by law enforcement. The need to have adequate spectrum available for law enforcement is a particular concern of local law enforcement leaders from California. Enabling more efficient use of the available spectrum will help to address this concern.

CRIME PREVENTION

This bill also provides for several California programs to reduce crime which I have supported, including:

State Criminal Alien Assistance Program: I am particularly pleased that continued funding of $585 million to reimburse states and localities for the cost of incarcerating criminal aliens is provided, restoring the $50 million which had been cut by the Senate. This is particularly important to California, which bears the lion's share of the burden of incarcerating criminal aliens. This, however, is still not sufficient to meet the costs borne by the states and localities, and I will continue to work in the future for this program.

Delancy Street Foundation/Criminal Justice Council Juvenile Justice initiative received $750,000 earmarked for this public-private comprehensive effort designed to interrupt the cycle of chronic crime and transform a young person's negative cycle to a positive one by providing major life-altering interventions at continuous points. This program can serve as a model for the rest of the nation in simultaneously decreasing juvenile crime and providing new and real opportunities for youths.

Compton's crime problems merit special consideration and treatment. According to Mayor Omar Bradley, there are 9,000 suspected gang members in Compton, amounting to ten percent of the City's population. Compton's homicide rate is nearly 10 times that of similar sized cities in the Southeast L.A. area, with more homicides in January alone (14) than 23 of the other 27 cities had in all of 1996. Seventy-six percent of suspected homicide offenders were under the age of 27. The report directs the Justice Department to consider grants to help fight this uniquely severe crime problem by upgrading Compton's woefully outdated police computer system and by establishing a Compton Youth Intervention Center for afterschool programs to serve as a safe haven for 1,000 youth.

My colleagues from California, Senator BOXER, and I jointly requested this $2 million earmark to support this proven, successful initiative that has already helped over 12,000 California police officers better understand how they can promote tolerance and reduce prejudice in their workplaces and communities. With this additional funding, the Center can implement its plan to conduct four-day workshops to train tolerance instructors from police Departments from around the country on how to control prejudice and hate crimes. These officers will then be able to go back to their communities and teach other officers how to combat prejudice and bias.

The overwhelmed 911 emergency response system has prompted cities around the nation to experiment with a 311 non-emergency number to relieve the burden and improve access to emergency assistance. The 311 telephone system would allow police departments such as Los Angeles' to free officers from the burden of responding to non-emergency 911 calls and gives the community an easy-to-remember link to the police, thus strengthening community policing. The conference report supports the use of funds for non-emergency numbers such as 311.

CANCER RESEARCH

The bill also includes $2.9 billion for the National Cancer Institute, a 15 percent increase. Cancer afflicts 1.2 million Americans each year. Cancer will kill 1,500 people a day this year. But we currently invest less than 2 percent of cancer's health care costs in research to find a cure and treatments. NCI can currently only fund 28 percent of grants, less than one-third approved for funding.

In the September 25 hearing of the Senate Cancer Coalition, Dr. Allen Lichter, President of the American Society for Clinical Oncology said, ''It often takes several years to get a clinical cancer trial activated from the idea stage to the point of involving patients because of insufficient funds. For every clinical trial that gets activated, there are many worthwhile trials sitting undone.''

I submit that this is not a vigorous war on cancer, when we are funding less than one-third of grants proposed.

BREAST RECONSTRUCTION

I am also pleased that the bill includes language requiring insurance plans that cover mastectomies to also cover breast reconstruction and prostheses. The language in this bill is taken from S. 249, a bill that I introduced with Senator D'AMATO on January 30, 1997. One study found that 84 percent of patients were denied insurance coverage for reconstruction of the removed breast, calling it ''cosmetic.'' Plans have arbitrarily denied this very necessary surgery, to make a woman whole. Twelve states require coverage

of breast reconstruction, including my own, but we need a national standard. This provision can bring hope and help restore self-esteem to thousands of women who lose their breast to breast cancer every year.

PROTECTING CHILDREN'S ONLINE PRIVACY

The Omnibus Appropriations bill requires the Federal Trade Commission (FTC) to take steps to protect children's privacy on the Internet, similar to provisions authored by Senator FEINSTEIN in S. 504, the Children's Privacy Protection and Parental Empowerment bill. Specifically, the Omnibus bill directs the FTC to require commercial website operators to follow fair information practices in collecting and using personal information from children age 12 and under. Commercial websites must obtain verifiable parental consent for the collection, use, or disclosure of personal information from children. States are authorized to enforce the regulations. The bill further directs the FTC to provide incentives for self-regulation by operators to protect such information. The FTC is required to report to Congress on the implementation of the regulations.

EMPOWERMENT ZONES

I am also pleased that the bill includes $60 million in social services grant funding for a second round of 20 urban and rural empowerment zones. The empowerment zone concept has shown great promise in promoting economic development in some of our nation's income communities. I know of a number of California communities who are applying for empowerment zone designation in this latest round, and if selected, this funding will enable them to attract business to their area and prepare residents for jobs.

NEW COURTHOUSES

The bill includes funding to acquire sites for two new Federal courthouses, in San Jose and San Diego. These courthouses are badly needed to relieve the pressure of rising criminal, civil, and bankruptcy case filings. The bill includes $15.4 million to purchase land for the new courthouse in San Diego, and $10.8 million to purchase land for the new courthouse in San Jose.

The Omnibus Appropriations include $36 million for the State of California, pursuant to the agreement worked out between the state and the federal government to settle California's claim to lands that were located in the Elk Hills Naval Petroleum Reserve. This funding has been a bipartisan priority for California's entire delegation, and I am pleased to see that it was included in the final bill.

INTERNATIONAL AFFAIRS

The international affairs provisions of this omnibus package contain a number of important steps forward in stabilizing the global economy and combating the scourge of international drug trafficking.

I am pleased that our colleagues in the House finally saw the wisdom of providing the $17.9 billion to the International Monetary Fund that the President requested. These funds are among the best investments we can ever make. In 1998, we have seen economies across Asia and Latin America and in Russia go into virtual free fall. And if there is one principle of the global economy today, it is that economic turmoil abroad is sure to affect us here at home.

When the currencies of our trading partners fall through the floor, as we have seen repeatedly this year, they are unable to purchase U.S. exports. That translates into lost American jobs, as our producers discover that there is no one overseas to buy their products. The funds we are providing the IMF in this bill, and the additional funds they will leverage from other donors, will help to stabilize the economies of our trading partners, protecting our export markets from further collapse, and saving U.S. jobs. In a state with an export-driven economy like California, this is good news. The IMF reforms called for in this bill that will ensure greater transparency and more market-based lending practices are helpful, but the most important news is that the IMF's coffers will be replenished, allowing it to provide further assistance to vulnerable economies around the world.

The Foreign Operations Appropriations section of this bill also includes an important earmark, which I want to highlight: $75 million in economic assistance to Indonesia. I do not think that most Americans appreciate the strategic and economic significance of Indonesia, the fourth most populous nation in the world. Indonesia's status as the political and economic anchor of Southeast Asia make the economic and political crisis there that much more serious. The assistance that will be provided by this act—as directed by policy language in the bill which I authored—will help alleviate the most severe suffering and food shortages in Indonesia, while helping to ease the transition to a more democratic form of government and the reform of the Indonesian economy.

An important component of restoring social and economic stability to Indonesia is ensuring that all Indonesians, including minority ethnic groups, are protected and able to participate fully in the society. For that reason, I am pleased that the bill includes a provision I offered directing the President to assist the Indonesian government and appropriate non-governmental organizations in their investigation of the brutal violence and rapes against Indonesian Chinese in May of this year. In six months we will receive a report from the Administration on the findings of these investigations, and the steps taken by the Indonesian government to punish the perpetrators of the violence and protect Indonesian Chinese from its repetition.

STATE DEPARTMENT AUTHORIZATION

Let me say a word about the State Department Authorization portion of this bill, which contains some important progress, but also one major disappointment. I am pleased that after nearly four years of back-and-forth haggling, the State Department reorganization plan—now agreed to by the Administration and the Congress—can proceed. It should help to streamline our foreign affairs agencies and reduce unnecessary duplication of effort. In addition, I am pleased that the bill includes a provision I authored which will allow us to increase pressure on alien parents who abduct American citizen children from an American parent with legal custody by allowing us to deny visas to those who support the abducting parent.

But something very important is missing from this section of the bill: authorization to pay off our arrears to the United Nations. Unbelievably, the Republican leadership has acceded to the wishes of a tiny minority of their caucus, which has insisted on perpetuating an artificial link between paying U.N. arrears and international family planning assistance. Despite broad agreement on a three year plan to pay off our U.N. arrears while the U.N. conducted significant reforms a group of hardline House members have chosen to hold these arrears hostage to their agenda on a wholly unrelated, essentially domestic issue: abortion.

Under the false impression that by weakening our international family planning programs with Mexico City restrictions, they could prevent abortions—in fact, they would do the opposite, depriving many women of contraceptives and thereby leading to more abortions—these Members have insisted on weakening the United States' international reputation and the United Nations, causing great harm to our foreign policy interests.

This tactic is utterly irresponsible, and yet, the Republican leadership has gone along with it. They will send this bill without U.N. arrears, and the President will sign it. Then they will send the free standing bill which contains U.N. arrears, but also contains Mexico City restrictions, and, as we all know, the President will veto it. And although the United States will, by the skin of our teeth, avoid losing our vote in the U.N. General Assembly for nonpayment of arrears—postponing the crisis for one year—we will have to begin this effort all over again next year. Our foreign policy interests will be placed at further risk, all for the sake of a political point about abortion. And though I will vote for this bill, I am deeply distressed by the failure to include authorization to pay our U.N. arrears. It is a mistake that I believe we will regret.

Mr. KERREY. Mr. President, I voted no on this Omnibus spending bill. I did so reluctantly, because most of what I know about it—which is contained in the pages about agriculture, education and other areas—I like. It is because of the several hundred pages that are a complete mystery to me that I vote no.

Mr. President, democracy should not work this way. The people send us here to deliberate serious matters of public policy and to represent their interests and the nation's in the debate. In this case there was no debate, and it was not possible to represent anyone's interests because it is impossible to know how, if at all, those interests comport with a bill whose 3,800 pages were not even published until the dark of last night.

Lest the American people be confused about why it has come to this, there is a simple answer. The majority party did not schedule Congress' time to do the work the people pay us to do. One of the Congress' most basic duties is to decide how the people's money is to be spent. That process involves the passage of 13 appropriations bills, of which we managed to pass a whopping total of five in several months. The majority party found ample time to debate matters of such crashing importance as the scourge of human cloning and the name of the airport from which most of us are going to flee this scene later today. Let there be no mistake about it: The necessity of a $500 billion omnibus bill did not arise from grand ideological disputes. It came from a failure, plain, simple and unadulterated, to do our jobs because the majority party chose to use the Congress' time to do other things.

As a result, the American people suspect that what has happened over the last few days was a back-room deal involving hundreds of billions of dollars of their money being spent with no opportunity for their input, debate or, for that matter, even for their elected representatives to see the final product. Why is that? I submit the reason might be that this bill was a back-room deal involving hundreds of billions of dollars of their money being spent with no opportunity for their input, debate or, for that matter, even for their elected representatives to see the final product.

Later today I intend to participate in a panel discussion featuring the senior Senator from New York, who will discuss his new book on secrecy and national security. His thesis is that excessive secrecy produces suspicion, mistakes and unnecessary costs. I completely agree with him. This budget process—which the Senator from New York has aptly noted moves us toward something akin to a parliamentary system in which decisions are made behind closed doors by a select few—proves that the Senator's thesis on secrecy in national security applies equally to secrecy in domestic policy. It breeds suspicion, and it breeds mistakes. There are few things I can say with certainty about this budget, since very few of its several thousand pages were available before yesterday, but I can predict one thing with total confidence: When the smoke clears and the budget is actually read, there are going to be things in it that would never have survived a public debate.

The majority will protest that this last-minute flurry was caused by threats of vetoes from the President. I am not overly sympathetic on that point, Mr. President. The current occupant of that office has held it for six years. His views on appropriations bills are not a mystery sprung on the majority party at the last moment. He submitted a budget at the beginning of this year outlining what he wanted. He does not schedule the Senate's time for debate.

We cannot go on like this year after year, Mr. President, taking money from the pockets of taxpayers and then huddling behind a closed door to negotiate among a select few—many of them unelected—how to spend it. This is not government of, by and for the people. It is only half in jest that I say, sadly, that it is more like government by four people.

As I said, Mr. President, I cast my nay vote reluctantly because I am pleased with much of what I know about this bill. I am glad we succeeded in convincing the majority of the need to extend a helping hand to America's first industry—agriculture—at a time of grave crisis. I believe children in school are going to learn more and better because we are putting teachers in the classroom. I'm delighted the tax portion of this bill includes a provision much like a bill which I have introduced which would prevent working families from paying higher taxes by allowing them to deduct their child care, child and education credits under the Alternative Minimum Tax. This bill also provides a much-needed extension of the R&D tax credit and will help the self-employed, particularly farmers, by accelerating the deductible amount of their health insurance costs.

At the same time, I am very disappointed the livestock price reporting provision, which I authored in the Senate, was dropped from this package. I do not believe the home health care problems we face will be ''solved'' by this bill and we should not be led to believe that the agriculture crisis in this country will come to an end as a result of this bill. In addition, I firmly believe that the thousands of people in this country waiting for organ transplants, will be hurt, not helped by further delay in issuing regulations governing organ transplant allocations.

But what I object to the most is not what we know about this bill, but what we do not, and can not. You can stir up a lot of mischief in a bill that runs over 3,800 pages that no one has read.

Maybe we can take some comfort in the hope that the 106th Congress will do better. We won't be perfect. But perhaps we can get a jump on our pursuit of perfection by acting like a democracy, then by doing the work we are paid to do.

I yield the floor and 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. BAUCUS. Mr. President, I would like to speak a few minutes about the bill we just passed. I would like to register my personal views about both the substance of the bill and the process by which it was passed.

I have very mixed emotions. First, I am very disappointed in a process that led to this midnight power play. This bill, as has been pointed out by others speaking before me, is almost 4,000 pages long. It weighs 40 pounds. It contains about $500 billion in Federal spending. I might tell you, Mr. President, that $500 billion is enough to pay for the State budget of Montana for 200 years. It was also produced within 24 hours' notice of this vote. As a practical matter, most offices had no more than a few hours to look at this bill. They had no copies of it. They had to go to a central location and wade through it with other staff members. There is nobody in this entire Congress who knows all of the provisions in this bill; it is that massive, and it was written behind closed doors.

Mr. President, I will admit that it is a with many worthwhile projects and programs. For example, it provides assistance for farmers, so important to the State of Montana and other farming states. It has provisions that help increase our investment in education, again not only for the Nation but for my State of Montana. It provides important new tools on the war against drugs. And it provides important new funding for health care programs. The bill also provides money for the International Monetary Fund to help fulfill our obligations as a leader in the global community. By doing so, we are strengthening the economies on which our export markets depend. Montana has seen wheat exports decline by 50 percent, almost entirely because of lack of demand in Asia. In addition, one company, U.S. Semitool in Kalispell, MT, has had to lay off over 200, again because of a reduction in demand.

By funding the IMF we also fulfilled our role as leader of the world community. Like it or not, the United States is the sole remaining superpower, and our leadership is essential in resolving international crises. By appropriating $18 billion for an IMF credit line, Congress is letting the world know that the United States is interested in living up to its unique role. Incidentally, it should be noted that the United States has never lost one thin dime in the last 50 years that we supported funding for the IMF. It is not the big drain that some people, unfortunately, believe it is.

Mr. President, I obviously have serious reservations about the process with which this bill reached the Senate floor. That said, I do want to commend the efforts of those who made a flawed process better. The President's Chief of Staff Erskine Bowles, who is departing, was outstanding. He will be sorely missed by anyone, who has worked with him. I know of no finer public servant than Mr. Bowles.

The President's Director of the Office of Management and Budget, Jack Lew, has likewise been a pleasure to work with, as has Larry Stein, the President's congressional liaison. There are many others I could name in the executive branch with whom I worked—devoted servants tenacious in their support for good programs for our country.

The same applies to the chairman of the Appropriations Committee, Senator STEVENS, and Senator BYRD. Both are tremendous leaders and both are tremendous men. The House leadership was also very helpful at times, as were the chief persons in the House Appropriations Committee. I very much appreciate their efforts, without which we would have faced an even more objectionable means of legislating today.

Mr. President, I am convinced that Americans are less concerned about the process we have used to pass this bill than what is actually in it. Whether it is highway funding an airport project, I think process is less important than outcome, as long as results are delivered. I think Tip O'Neill, the former Speaker of the House, said it best: ''all politics is local.''

So, why am I so concerned about the process? Let me explain. Ordinarily, bills that go through the Congress arrive through committees. They are debated there and, if passed, sent to the floor. After being placed on the calendar, the majority leader—some years it is a Republican leader, other years it is a Democratic leader—sets the agenda and decides which bills to bring up to be debated before the Senate. It is generally a collegial agreement between the majority leader and the minority leader as to which bills are brought up and debated.

Following debate and passage on the floor, bills go to a conference, because the House has gone through a similar procedure. Many of the bills that are brought up on the floor under the Senate rules have added onto them various amendments. Some amendments are relevant and germane to the bill before the Congress but often, under the Senate rules, many are not. Regardless, all of those provisions are debated, in full view of the public and press. Senators cast their votes yes or no—sometimes with recorded votes, sometimes with voice votes—but then they go to conference.

What happens in conference? Generally, the principal members of the committee of jurisdiction meet with the principal members of the committee of jurisdiction of the House of the bill that passed, because they are similar but there are different provisions. There are some adjustments the conferees have to make, so they recommend the same bill with the same provisions back to both bodies. Both bodies then vote yes or no, and, if passed, the President gets one bill. The President can sign it, veto it, or pocket veto the bill.

That is the procedure, and it is basically the procedure our Founding Fathers had in mind when they wrote the Constitution. They didn't write all the rules for the House and the Senate, but they decided there should be a House and Senate and the bodies should make their own rules. They intended that Congress should operate in the context of openness in government and representative democracy in government. That was the whole purpose of our Founding Fathers writing the Constitution, escaping tyranny from Europe: representative democracy, where the people are in charge.

Mr. President, I am not going to stand up here as a purist and say we should follow that lock, stock and barrel. We have to be practical and do what works, but we must do so with full respect for the people who elected us, the people we have the privilege of serving.

Unfortunately, something very different than the process I just described was used to pass this omnibus appropriations bill. What happened, essentially, is that 3,800 pages of legislation—which, by and large, contains 8 appropriations bills that did not pass both bodies and go to conference, was put in one conference report. This legislation did not go to the floor of the House or the Senate, where it could be debated and amended. It is legislation, rather, which is in this conference report and sent back to the House and Senate unamendable—unamendable. I might also mention that roughly half this bill is authorizing language that ordinarily goes through the committee process.

So who made the decisions that resulted in this 4,000 page bill? Were they the chief people in the committees of jurisdiction? No. Were they Democrats, Democratic leadership? Not very often. So, who were they? Essentially, the people in the closed room—unavailable to the press, to the public, unavailable to other Senators—were top staff in the administration and the leadership of the House and Senate, usually Republican and to some degree Democratic, which would mean about five or six, maybe eight Members of Congress.

Mr. President, we have 535 Members of Congress, roughly. Eight of whom were in the room with the administration officials, hammering this bill out. There is so much here, even they do not know what is in it. What did the rest of us do? We had little choice but to do the very best for our people at home and get on the phone. We called the select few in that room, trying to make our views heard, trying to make a semblance of a democratic process.

I spent a lot of time talking to the chief administration officials who I know were in the room. To their credit, they listened to me. And to their credit, they agreed with a good number of the views that I was espousing.

I did the best I could, given the circumstances we had, and I am pleased that those people in the room decided to include some Montana provisions, like Canyon Ferry; various land and water conservation funds, like money for the purchase of the Royal Teton Ranch right next to Yellowstone Park; funding to help the massive Gallatin land exchange; the purchase of Lindbergh Lake, for a number of the same reasons. There are a lot of provisions in this bill that directly affect my State, in addition to broad national policies, such as more teachers, more funding for education, and so forth.

But I believe, Mr. President, that there comes a time when the process becomes so corrupted that it undermines and corrupts the legislation that is passed.

Let me give a little personal background here. Several years ago, I was involved in writing Montana's State Constitution. I think we are the last State in the Nation to rewrite a constitution. There is a very important provision in our State's constitution called an open meeting law. In Montana's constitution, all public meetings are open to the press. The Governor of our State knows all the meetings he has in his office will be attended by the press.

Sure, it causes some problems. Some in State government say, ''Oh, my gosh, this is a terrible provision; it cramps our style; it makes it difficult for us to do our work.'' Sure, it makes it sometimes difficult, but we all know deep down it is for the public good and, as with a lot of things that are good, it takes effort, it takes hard work. Most of the good things in life take effort and hard work. This is one of those. We have an open process in Montana, and we have a much higher view in Montana of our public servants. It is very helpful.

I will relate another personal experience which indicates my resolve toward a more open representative process. It occurred a little more than 20 years ago, when I was a freshman Member of the House. I had a free hour with not much to do, and I said, ''Well, I think I will learn something. I will go to a tax conference writing a tax bill,'' by Senate conferees, House conferees, Senate Finance Committee, House Ways and Means Committee, top folks who are in the conference for a large tax bill.

I asked around, ''Where is this meeting, where are they?'' I got the runaround. Nobody could tell me where they really were. I finally went to Mike Mansfield, then majority leader of the Senate. I thought, ''Gee, Senator Mansfield could find out where it is occurring.'' Sure enough, his people told me. I went over there. A policeman was standing right at the doorway. I said I am a Member. I think he thought I was a member of the conference, so he let me in.

I took a seat in a corner so I could watch and learn a little about tax policy and how conferences work. I was there, minding my own business listening to Wilbur Mills, chairman of the Ways and Means Committee, and Russell Long, chairman of the Senate Finance Committee, talking.

They were trying to work out this bill. There were a lot of executive branch people in the room. Treasury Secretary Bill Simon was in the room, along with other executive branch people. I was just sitting there about 5 or 10 minutes, and up walked a senior House Member, Congressman Burke from Massachusetts. He said, ''Sorry, you can't be here.''

I asked, ''Why? Why can't I be here?''

He said, ''Well, it's the rules.''

I said, ''What rule is it?''

He said, ''Well, it's the Senate rule.''

I said, ''What Senate rule is it?''

He said, ''I'm sorry, you just can't be here. Nobody can be here. No other Member of the House and Senate can be here. Not even Congressman Bill Green can be here.''

Bill Green, who was then a Member of the House Ways and Means Committee who successfully authored the provision on the floor of the House to modify the percentage of the oil depletion allowance, even he couldn't be in the room. All the people allowed in the room were the conferees. It was closed doors and that is it.

I said to Congressman Burke at the time, ''Look, I'm not going to cause a fuss here, but this is wrong. It is just not right that this is not open to the public, certainly to Members of the Congress.''

That afternoon, I stood before the House, along with Congressman Ab Mikva, who also did not like that process, and we voiced our disagreement and displeasure. Next year, things opened up because it was the right thing to do.

Perhaps I have too much of a personal investment in this, but I do believe the people are much better served the more the process is open and the more the process is not corrupted as, in my judgment, this process is.

Again, about half of the U.S. Government bills, which did not pass the House or the Senate or go through committees in the full light of day, which did not pass the floor of the House, some of which were not even brought up on the floor of the House or the Senate, were put in this huge bill, then sent back to the Senate and the House unamendable. No amendments are in order, Mr. President, in this process; none.

I suppose there is a reason for that because none of us know what is in the bill. How can we offer an amendment if we don't know what is in the bill? I asked the Parliamentarian not long ago: How much of this is authorization, how much is appropriations? He said, ''Senator, we just don't know; this huge stack here is too big for us to have gone through it by now. We just don't know.''

As I said, Mr. President, I am in an anxious position here because a lot of good is in this bill. But the process, in my view, is wrong. That's why I voted no on the bill.

The provisions that are in this bill I would have worked for in separate bills, in separate agriculture bills or Agriculture appropriations bills or in other authorizing bills that would ordinarily come before the Congress.

Again, I am not going to be a purist about this, I just want to be practical. We have done this 2 years in a row, dumping so much in such a very undemocratic way into a huge bill written behind closed doors, written by only a few Members of the House and Senate and the administration. This process dangerously disenfranchises most Senators, House Members and American voters.

We, as Senators and House Members, don't have an opportunity to go back to our people and say, ''What do you think of this provision?'' They don't have an opportunity to say to us, ''We don't like what is in there, vote this way or that. They are disenfranchised, cut out of the process.

This is not legislation by representative democracy, Mr. President. It is legislation by a very few, by oligarchy.

At a deeper level, what does that do? It further undermines the people's confidence or belief in Government. This process does that. It confirms some of the worst views a lot of Americans have; namely, oh, those guys back there in Washington are just out for themselves; they don't care about us.

Mr. President, we must draw the line. Enough is enough. We all know that the more issues are actually fully debated—and I mean debated—the more the public has a chance then to see what is going on, and they themselves get more involved. To the extent we do that, this country will be stronger. We know that. We also know that the less the people are involved, the less they know what is going on, and the weaker this country is going to be.

Mr. President, we are the world's oldest democracy. We have a form of government where the people elect their representatives to do their nation's business. We are not a kingdom, we are not a monarchy. And we will be the leader in the next century if people are more involved in government. And they will be more involved in government the more we, as representatives, respect them, respect their views, want their views, want them to be able to comment on what we are doing or not doing.

But on the other hand, the more we disrespect people by hiding behind closed doors, in the dark of night, the more we will cause a further deterioration of our government and weaken the United States role as the world leader that we want to be in the next century.

Finally, Mr. President, let me say that this is a sad moment for me. I cast my vote with reservation, fully aware of the good that this bill contains. But vote no I must, simply because I think that to vote yes would be to cast a vote for exclusivity and against the democratic process. I worked very closely with some individuals who made a few of this bill's important provisions reality, and I do not want now to be voting against their reference. They made a good effort and did a very good job, given the situation they were in, given the circumstances they faced. They were helpful to those of us who were working for our States and had nothing else to do—no alternative—but to try to work with this abominable process.

In closing, Mr. President, I want to say that next year it is critically important that we prevent this process from happening again. We have done this two years in a row, and each year more and more and more is getting dumped into this omnibus conference report process. If this trend continues, then within a year or two maybe three-quarters of Government is going to be in there; maybe everything is soon going to be in there, which means I might as well not report for work until the final 3 weeks of the Congress, because that is where it is all done, with those few people behind closed doors.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

FAREWELL TO RETIRING SENATORS

Mr. LOTT. Mr. President, in this last day of the 105th Congress, I think it is appropriate that we take a little more time to express our appreciation and our admiration for our retiring Senators. I look down the list: Senator BUMPERS of Arkansas; Senator COATS of Indiana; Senator FORD, the Democratic whip, of Kentucky; Senator GLENN, who will soon be taking another historic flight into space; and Senator KEMPTHORNE, who I believe is also going to be taking flight into a new position of leadership and honor. This is a distinguished group of men who have been outstanding Senators, who have left their mark on this institution. I believe you could say in each case they have left the Senate a better place than it was when they came.

Have we had our disagreements along the way? Sure, within parties and across party aisles. I have to take a moment to express my appreciation to each of these Senators. I especially want to thank Senator FORD for his cooperation in his position as whip. We worked together for a year and a half as the whip on our respective side of the aisle and we always had a very good relationship. Of course, I have already expressed my very close relationship for Senator COATS and for Senator KEMPTHORNE.

To all of these Senators, I want to extend my fondest farewell.

As majority leader, I feel a responsibility to speak for all of us in bidding