The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

TRIBUTE TO CAL ANDERSON

Mrs. MURRAY. Mr. President, this morning I was shocked and saddened to hear of the sudden and tragic death of a very good friend and long-time colleague of mine, State Senator Cal Anderson.

Cal passed away last night of a disease that is touching far too many lives. Cal announced that he had been stricken with HIV/AIDS just a short time ago. Cal faced AIDS as he faced every legislative battle we fought together: With courage, with integrity, and with honor. Even though Cal was seriously ill these past months, he continued to do his job for his constituents the best he could, fighting hard for the things he believed in. He worked hard to the end, representing his constituents to the best of his ability.

I worked very closely with Cal during my time in the Washington State Senate. He has been known throughout our State as an outstanding legislator. He worked hard, he stayed true to his beliefs, and he had a unique ability to find solutions. I worked with him on an open government committee on which we took steps to make the legislative process more accessible. Cal made sure our bill was not only workable but a big improvement in peoples' ability to participate in government.

Cal was a Vietnam combat veteran. He won two Bronze Stars and two Army commendations for meritorious service. He was courageous and he was honest. He served his country, as well as his constituents.

Perhaps most importantly, Cal was a passionate advocate for human rights and dignity. Just last month, a home in Seattle was dedicated in his name. The Cal Anderson House is a 24-unit facility that will provide housing, counseling, and other services to low-income families with HIV/AIDS.

A month ago, I visited Cal in his hospital room. As usual, he spoke not about himself but what I needed to do. Cal told me, if nothing else, I needed to do as much as I could as a U.S. Senator to ensure that people with serious diseases did not have to fight with their insurance companies for health care at the same time they had to fight the disease for their lives. Cal said he, himself, had excellent coverage as an elected official, but those around him suffered through insensitive insurance companies. He felt that dignity was and is being taken away from seriously ill Americans, and that did not reflect the America he knew and loved.

So, today, I rise to simply say goodbye to Cal, to thank him for his years of service to his country and his State, and to say: Cal, your battle is over, but our battle continues, to defeat AIDS so that it will stop taking lives from far too many young Americans.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1996

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT—AMENDMENT NO. 2153

Mr. SHELBY. Mr. President, I ask unanimous consent that a vote occur on or in relation to the Nickles amendment No. 2153 at 2:30 p.m. today, and that the time between now and the vote be equally divided in the usual form, and that no amendments be in order during the pendency of the Nickles amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. NICKLES. Mr. President, for the information of our colleagues, what we have just agreed to is that we will have a vote on or in relation to the Nickles amendment soon, which several of our colleagues have requested, which deals with prohibiting funds for the use of abortion in Federal employees' health care plans unless it is necessary to save the life of a mother, and in the case of rape or incest.

I hope we can vote much sooner. We have an hour and 10 minutes, equally divided. This Senator will be happy to yield back a significant amount of time. A lot of people would like to do something else on Saturday afternoon. It happens to be a very important vote. I think everybody knows how they are going to vote.

I ask my colleagues to speak briefly, and maybe we can yield back time and actually vote prior to 2:30.

I yield the floor.

Ms. MIKULSKI. Does the Senator from Oklahoma wish to comment on his amendment or on why he felt it met a compelling human need?

Mr. NICKLES. To respond, I have spoken more on the floor than I ever cared to on this particular Saturday. I think it is very well known what this amendment is. It is Hyde language. It says we are not going to use Federal funds to subsidize abortions for Federal employees unless it is necessary to save the life of the mother, or in the case of rape and incest. It is pretty self-explanatory.

The PRESIDING OFFICER (Mr. GRAMS). Under the previous agreement, the time is controlled by the Senator from Oklahoma and the Senator from Nebraska.

Mr. KERREY. I ask unanimous consent that the time on our side be controlled by the Senator from Maryland.

Ms. MIKULSKI. Mr. President, I yield myself such time as I may consume.

Now, where we are on the Nickles amendment is that, essentially, this is yet another version of a restriction. We just defeated an amendment that was a restriction, and each side articulated that position, I think, in a very clear way.

I do not want any restrictions on Federal employees health benefits. Therefore, I oppose the Nickles amendment.

Under the legislation pending, the committee amendment, if someone is a victim of rape, they can have an abortion. If someone is a victim of the most horrendous assault on a person, incest, they can have an abortion. This is not about allowing rape or incest; this amendment limits it only to the life of the mother, rape, and incest.

So, we will be clear, this is not about being a knight in shining armor that says we will provide at least some flexibility in harsh, punitive, restrictive, and repressive legislation. No. The legislation that is pending before the Senate through the committee amendment has no restrictions on Federal health employee benefits. That is the current law.

Now, the issue is not what is decided. The issue is, who decides? I believe the U.S. Congress should not interject itself into the physician's office. I believe the Congress should stay out of that and focus on what it is supposed to be doing, which is broad policy objectives for the Nation. It is not to intervene, interject, detour, derail, or micromanage what goes on in a physician's office when a Federal employee or a dependent in a Federal employee's family seeks medical help. That is why we oppose it.

We did not want restrictions. We believe in doctors' autonomy, in doctors' judgment. That is why we say the issue is not what is decided, but who decides.

Now, we also believe that there is a war going on against American women; that there is a war going on in the home; that there is a war going on through the terrible violence of domestic violence. We believe there is a war against women in terms of street crime, particularly rape. We believe there is a war against women going on in the workplace through sexual harassment. That there is even a war against women going on in the U.S. Senate, and we cannot even get a public hearing on this.

We also believe that there should be no cutting of health care. What we see is that there is a war against women. It is not only about abortion and Federal employees; we are also cutting medically necessary services in other areas of health care.

Look what we are doing to the elderly on Medicare. Look what we are doing to children on Medicaid, under the guise of welfare reform, when children will lose their health benefits. Look what we are doing to the elderly, in terms of long-term care, by cutting Medicaid. That is why we say there is a war against women going on in the United States of America.

We want our colleagues to defeat the Nickles amendment, restricting women's options in health care, to only be able to have an abortion if their life was at stake or if it is rape or incest.

Now, every single Member of the U.S. Senate will view rape and incest as the most repugnant, the most horrible, the most atrocious thing that can be done to a human being. Of course, if you are a victim of rape and incest, we would want you to be able to have that abortion. We want you to have an abortion if it is medically necessary and medically appropriate.

We believe in freedom of choice, self-determination. We believe in the United States of America, we believe it in foreign policy, and we believe it in the physician's offices where Federal employees or their dependents seek advice, counsel, and clinical judgment.

This is why we oppose this restriction. This is why we want to defeat the Nickles amendment.

Later on, we want to defeat the cuts in Medicare. Later on, we want to defeat the cuts in Medicaid that take away medical services for the elderly and for children. We will also want to defeat the other horrendous cuts that are going on where women are victims of violence and abuse, whether it is in the home, whether it is in the streets, or in the neighborhoods.

I hope that we would defeat the Nickles amendment, support the committee amendment, currently, which leaves the decisionmaking to the pregnant woman and to the physician.

How much time did I consume?

The PRESIDING OFFICER. The Senator from Maryland consumed 6 minutes.

Ms. MIKULSKI. I yield 5 minutes to the Senator from California.

Mrs. BOXER. Thank you very much, I say to my friend from Maryland.

I thought when we initiated this discussion we would have one vote, let the chips fall where they may. But I respect the fact that the Senator from Oklahoma wishes to raise this issue again, and we will see, now, where this leads.

What does this current amendment do? It reverses every single thing we just did, except that it adds two exceptions to the House restrictions.

I want to make that clear. It reverses everything that we did. It says that no Federal employee female can use her private insurance to get an abortion unless her life is at stake or in cases of rape and incest.

In essence, it is treating Federal employee women unlike every other woman in this country. They cannot use their private insurance to obtain an abortion unless their life is at stake or they are a victim of rape or incest.

I have a question to ask rhetorically to my friend from Oklahoma. What if her health is at risk if she carries the fetus to term? Can she get that abortion? No, not under the Nickles amendment. If her health is at stake, she cannot use her private insurance to get an abortion.

What if she runs the risk of severe paralysis if she carries the fetus to term? No, under the Nickles amendment she could not use her private insurance to obtain an abortion.

What if the doctor believes an abortion is necessary to preserve her future fertility? No, she cannot use her private insurance, unlike every other woman in America, to exercise her right to choose.

What if the doctor believes there would be untold pain and suffering throughout her entire life if the fetus is carried to term? No. No, under the Nickles amendment, she would not be able to use her private insurance to obtain an abortion, unlike every other woman in America who has insurance.

The answer is, that woman would be in deep, deep, trouble because she would be left alone, she would face a life, perhaps, of untold pain and suffering, if she carried the fetus to term.

I hope the women and men in America are watching this debate, although it is not too likely. I applaud those who are here watching us today. Why do I want them to watch this? Because this is not some ideological dispute. It affects their lives. I want them to think of a daughter, of a niece, of an aunt or a cousin. I want them to think of their favorite female person that they know who might find herself in a very troubled pregnancy, with terrible, terrible possibilities to that woman's health, unable to use her insurance. Perhaps this favorite relative is not wealthy. She is frightened. She is forced, because of the Nickles amendment, to carry a fetus to term, even though it threatens her long-term health.

I say the question comes down to this. Who do you trust? Who do you trust to make this difficult, personal, agonizing, troubling decision? Do you trust the U.S. Senator who does not even know your family? I do not. I do not put the health of my children in political hands. I keep it in my family, with my God, with my doctor, with my husband, with my loving family, with my loving rabbi, if you will. And I do not want to put it in the hands of the Senator from Oklahoma. I want to put it in the hands of the people who love—who love, personally—the people who are impacted by this ill-advised amendment.

The PRESIDING OFFICER. The 5 minutes for the Senator from California has elapsed.

Mrs. BOXER. I ask for 30 seconds.

Ms. MIKULSKI. I yield the Senator 30 additional seconds.

Mrs. BOXER. In summing up my argument, let me say to the people of America who are watching this debate, this is a difficult choice and we all make it inside our hearts, inside our minds, in our prayers. And we come at it a little differently.

So should the politicians of America now decide, if you happen to be a woman who works for the Federal Government, we are going to tell you—even if you face long-term risk to your health, to your person, to your body, to your future—what to do about a personal, religious decision? I say no. Let us stand firm for the individual to make that choice and let us support the Senator from Maryland and vote down the amendment that is before us.

I yield the floor.

Ms. MIKULSKI. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Maryland controls 22 minutes and 30 seconds.

Ms. MIKULSKI. Mr. President, I am going to yield 5 minutes to the Senator from Illinois, and then, after that, I will yield 10 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, there is a lot of emotional discussion in this debate regarding the issue of abortion and that, after all, is what it is about. But let me suggest to the Members and the people in the gallery and the people who are listening, there really is another issue here and that is an issue of liberty and an issue of the appropriate role of the Federal Government in micromanaging specific details having to do with women's health.

Whatever side of the abortion issue you come out on, it seems to me one thing can certainly be said and that is that it is unusual—it has been unusual for the Federal Government, for the Congress of the United States, for the Senate, to begin to detail, in specific detail, exactly what should and should not be covered by Federal employees' health plans.

Think about it. What would be the reaction on this floor if some Senator stood up and said: ''I think the Federal Employees Health Benefits Program should only prescribe this procedure for the prostate and not that procedure for the prostate.'' Everyone on this floor would say, ''This is absurd. We have an entire group of people to make decisions about health coverage so Federal employees can enjoy the same kind of health coverage as is enjoyed in the private sector.''

Yet, what is happening here is, because it is women's health, and because it is the volatile issue of abortion, there is an exception being made here, an exception that, frankly, goes back to overturning longstanding precedents regarding the Congress not micromanaging employee benefits in a way that exceeds our traditional role.

We have, traditionally, in the Congress, involved ourselves in issues of Federal pay. But, frankly, until the

Reagan administration we, the Congress, have consistently left details relating to the administration of employee benefits, employee benefits, to the Office of Personnel Management. This is as it should be.

It is the law that women are able to privately choose whether or not an abortion is appropriate for their personal circumstances and situation without interference from the Government. So 2 years ago, in 1993, we removed the intrusion of politicians from employee compensation issues and we should, I think, continue to keep the involvement of politicians out of issues going to benefit coverage on Federal health insurance.

I would like to make another point. This represents yet another special carving out in the area of women's health that I believe is inappropriate. This Congress has already moved to restrict the rights of poor women to exercise their right under the law to choose whether or not to have an abortion. Now we are trying to take another step. We are going to restrict the right of women who work for the Federal Government to choose whether or not to exercise their rights to have an abortion.

In any event, this would isolate Federal employees, as a group, with health insurance plans that were like no one else's. That is to say, an employee who worked for a major corporation in this country would have reproductive rights covered under her health insurance. An employee who worked for the Federal Government, if the Senator from Oklahoma is successful, would not. And that is really the crux of this debate. Not just the issue of abortion because, frankly, between Supreme Court decisions and decisions that have been in place for at least 20 years now, the issue of abortion—in the law, at least—has been settled. It is legal. It is a matter of personal choice by an individual woman with regard to what it is she does with her own body.

I believe that personal choice ought to remain that way. It is no one's business what somebody does in regard to a decision as private as this. It should be between a woman and her God and her conscience and her family. It certainly should be removed from interference by politicians who, frankly, I do not think should get that much into anybody's private business.

But that issue having been in the forefront of our public debate, we understand that right now there continue to be efforts here in the Congress to poke away at the issue, and to really repeal, by indirection, the decision of the courts and what has been the law in this country for easily 20 years.

I believe this repeal by indirection is inappropriate. I believe it is a mistaken approach for us to suggest to the world that we believe in liberty when it comes to all these hosts of issues having to do with personal freedom and individuals being treated fairly in terms of health coverage, and in terms of their decisions about their personal circumstances, on the one hand, and yet carve out exceptions, exception after exception after exception, when it comes to reproductive choice and reproductive rights.

Mr. President, I hope my colleagues will heed the warnings from the Senator from Maryland and will defeat the effort to make this incursion into women's rights that I believe is certainly inappropriate and should be defeated with this next vote.

With that, I say to the Senator from Maryland, I know I have no additional time but I will yield back whatever time may be remaining to the Senator from Maryland.

Ms. MIKULSKI. I thank the Senator from Illinois. She has been a marvelously strong advocate. It is a blessing to have her here.

I yield a maximum of 10 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 10 minutes.

Mr. SPECTER. Mr. President, I thank my distinguished colleague from Maryland for yielding me the time.

Mr. President, the major considerations on the pending amendment involve the underlying question of abortion and whether the U.S. Senate is going to continue at great length to debate this issue while relegating other very important subjects to lesser status.

I agree with my colleagues who have emphasized the point that it is a very important matter. And while I am personally opposed to abortion, I do not think it is a matter for the Federal Government to regulate them.

I think in the broadest context, the issue has been decided by the Supreme Court of the United States not just in Roe versus Wade in 1973 but in the 1992 decision of Casey versus Planned Parenthood in a decision written by three Justices who had been Republicans, all of whom were appointed by conservative Republican Presidents.

So that is the law of the land, and that is the dominant question. When you take a look at what has occurred in the course of the recent days and recent weeks you see a really concerted effort to dismantle the constitutional right of a woman to choose.

On July 21, within the past 2 weeks, there was an amendment passed in the House of Representatives overturning the option of the States, the requirements of the States really, to provide abortion in the cases of rape or incest for poor women. On July 20, there was an amendment adopted in the House of Representatives which prohibited human embryo research. On August 3, there was an amendment adopted eliminating the funding for the Office of Surgeon General which was a reaction of the debate on Dr. Henry Foster whose only wrongdoing, only alleged wrongdoing, was that he performed medical procedures permitted under the U.S. Constitution. This is a man who was practically ridden out of town on a railroad without being allowed a vote in the U.S. Senate on the confirmation process.

On July 21 of this year, the House adopted a provision which intruded upon the ability of medical schools to accredit hospitals and training institutions on the basis of requiring works in obstetrics and gynecology related to abortions. The House of Representatives, after very extensive debate, very narrowly defeated a provision to eliminate funding for Planned Parenthood.

We have seen legislation passed by the House of Representatives which would prohibit Federal funding for a woman in a prison. If a woman is in a prison and she is raped, she has no access to funds of her own, and according to the standard of the House of Representatives, the Federal Government may not pay for her abortion. The House has also passed legislation which would prohibit the abortion on military installations around the world when there are servicewomen and dependents of servicemen who would be denied the opportunity to have an abortion performed on U.S. military installations.

So what has in effect happened is that there has been a concerted attack to dismantle the woman's constitutional right to choose because those who have favored a constitutional amendment to ban abortions, to criminalize abortions, have been unsuccessful in doing so.

That led one of my ingenious staff members to prepare this chart which I displayed briefly this morning, and on a separate amendment it is worth just another look. It is a chart entitled ''Dismantling a Woman's Right to Choose'' from A to Z. And the A is, Amend the Constitution to abolish a woman's right to choose; B, Ban Federal funding for abortions of women in Federal prisons; C, Cut off family planning funds. And when you come down to M—I am not going to read them all—you have M, Mandate that Federal employees' insurance exclude abortion coverage. That is a matter on the floor today.

Mr. President, when the arguments have been made that there is a Federal subsidy, I submit, realistically viewed, it is not a Federal subsidy, for two reasons. One is that the employees pay a substantial part of the funding—about 28 percent. So it would be fair and reasonable to allocate that 28 percent to this particular kind of health coverage.

Second, the Federal employees give services for their compensation, and part of their compensation is this health care plan, which does have some Federal employer support as well as their own personal contribution.

So what we really have here is marking for consideration the doctrine of the law which says the employee is bargaining for his salary, and part of the consideration is his health coverage, part of which the employee pays

for and part of which the employer pays for.

An argument was made earlier today that you have the deductibility for the private health care plans where the employer can deduct it and the employee does not count it as income, which is a procedure under the Internal Revenue Code to encourage employers to have allocations for health care.

So when you take a really close analytical look, there really is not a Federal subsidy involved here, but it is a health care plan like many, many other health care plans available in the United States which gives this coverage for this kind of a medical procedure.

Mr. President, how much time remains on my 10 minutes?

The PRESIDING OFFICER. The Senator from Pennsylvania has 4 minutes remaining.

Mr. SPECTER. I thank the Chair.

Mr. President, as we move through the debate—it is now 1:47; the debate started shortly after 9 o'clock this morning—on this one issue on coverage in Federal employee health plans, it is obvious that unless we make a change in the approach of the U.S. Senate, this issue is going to occupy a tremendous amount of our time, which I suggest could be spent better on other matters of the public interest.

We are awaiting argument this afternoon on whether the office of drug czar ought to be defunded or not. The drug czar is an office which was created to coordinate and oversee all of our activities in the war on drugs. This is a very important matter to analyze what the drug czar has been doing—whether it has been an effective use of taxpayer dollars or whether it ought to be continued. That matter is being put off. And who knows whether we will reach it this afternoon or not?

Shortly before the debate started on this matter, the Senator from New York, Senator D'AMATO, was about to offer an amendment relating to the Federal payments on the Mexican debt issue, a matter of enormous importance. We have the issue of welfare reform, which is in the wings awaiting to come to the Senate floor. There is another appropriations bill on the Department of the Interior, which is awaiting consideration by the U.S. Senate.

This issue about the Federal employee insurance coverage is just one of many that we are going to be taking up. We are going to be taking up human embryo research. We will be taking up funding for women's abortions in prisons and abortion access in military hospitals for women in the armed services stationed overseas.

Mr. President, when we had the loud mandate in 1994 electing a Republican Congress, I would suggest to you that the item of the Contract With America was a dominant philosophical ground. It is important to note that there is nothing in the Contract With America about abortion, not a single word. That mandate in 1994 was instructing the Congress to work on reducing the size of Government, reducing Federal expenditures, having a tax cut, having strong national defense, and having effective crime control. And the issue of a balanced budget in the glidepath to the year 2002 was an item which involves a tremendous number of very, very important considerations.

If we are going to spend the better part of a day, if not the entire day, on this one item, a Saturday session at that, I would suggest to you, Mr. President, that we are not going to be fulfilling the mandate for which the voters elected a Republican Congress and sent a message to Washington to take care of a balanced budget to reduce spending, to focus on problems like the drug problem, like the problem of the issue of the drug czar, like national defense—where we had that bill taken from the calendar so we can proceed to the debate on this issue involving abortion.

So, Mr. President, I think essentially stated as to the particulars of this bill, there is bargain for consideration by the employees. The employees pay a portion of it themselves, 28 percent. But this, realistically viewed, is not a Federal subsidy. And on the broader picture, the issue of the constitutional right of a woman to choose has been established by the Supreme Court of the United States. That is the law of the land, and we ought to accept it as such.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. There is 5 minutes and 20 seconds remaining under the Senator's control.

Ms. MIKULSKI. That is it?

The PRESIDING OFFICER. That is it. Now it is 5 minutes 10 seconds.

Ms. MIKULSKI. I yield 3 minutes to the Senator from the State of Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I rise today in opposition to the Nickles amendment. This amendment discriminates against women in Government by severely limiting their access to abortion services through the Federal Employees Health Benefits Program.

The Senate just went on record saying that women who are Federal employees have a right to use their medical services in their own way. We should not change that decision now by going back on our word and saying only in very limited cases. I think it is extremely important that we understand this amendment significantly, and I go back to my friend, who I talked about earlier today, who I knew in college some years ago who was date raped and because abortion was illegal in this country was forced to go to a back-alley abortion and because of that procedure, today cannot have children.

Under the Nickles language, I have to ask, what would happen to my friend? Would she have to prove that she was raped? Would she have to go through a court process? I think we walk a very slippery slope in this determination, and I urge my colleagues to oppose this amendment.

I have listened carefully to their arguments today, and I have heard some say that we are using taxpayer dollars, taxpayer dollars which are essentially paid to our Federal employees, and we are saying because it is our money, we are going to tell them how their pay is going to have to be used.

I suggest to my colleagues that is a very slippery slope to go down. If we begin by saying, because it is our taxpayer dollars we pay you with, you cannot have abortion services, can we then use our prerogative here to determine how else they can use their pay, our taxpayer dollars? Can we tell them they cannot use their pay to buy tobacco products or they have to buy American cars?

Are we going to go through our Federal employees' budgets, home budgets line by line to determine how their money is used simply because taxpayers' dollars pay Federal employees?

I say to my colleagues this is a very slippery slope, and I urge us to proceed cautiously. I urge us to vote no on the Nickles amendment and retain the language this Senate very thoughtfully voted on just a few moments ago.

I yield back the time to my colleague from Maryland.

Ms. MIKULSKI. Mr. President, I know Senator FEINSTEIN wishes to speak. I yield myself 1 minute.

I wish to make very clear that this legislation is, No. 1, a restriction. No matter how it is improved, it is still a restriction.

Also, many people continue to bring out the issue of taxpayers' funds. Federal employees contribute to the health insurance plan. This is their contribution. They have a right as Federal employees to be able to seek medically necessary services. This is not like Medicaid funding on abortion which is 100 percent taxpayers' funds. I am sure we are going to be debating it extensively later on in the year.

I also want to bring to everyone's attention that right now no Federal plan restricts any type of medical procedure. The Federal Employees Benefit Program generally does not dictate what benefits are offered. Therefore, it goes counter to everything to then single out one medical procedure—abortion—for restriction.

We hope that the Nickles amendment is defeated.

Excuse me. Was the Presiding Officer tapping me down?

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Ms. MIKULSKI. I know we are waiting for Senator FEINSTEIN. Did Senator MURRAY have any other remarks that she wished to amplify?

I say to the Senator from Oklahoma, I note that the other Senator from Oklahoma wished to speak. I will reserve what time I have remaining.

The PRESIDING OFFICER. A reminder, the Senator from Maryland has 30 seconds remaining under her control.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, before I yield to my friend and colleague from Oklahoma, I will just tell my colleagues it is my intention to yield back the remainder of our time very shortly so there should be a rollcall vote probably in the next 10 minutes.

I yield to the Senator from Oklahoma such time as he desires.

Mr. INHOFE. I thank the senior Senator from Oklahoma for yielding the time. I thank him for all of his efforts in behalf of the unborn.

I think the senior Senator from Oklahoma is correct when he says that there are not any votes that are going to be changed by this discussion we are having today. We know when we walk in here how we were going to vote on this. We have debated this. There is not a person in this Chamber who has not debated and has not voted on this issue more than once. And so the benefit of this discussion we are having today is not for each other, not to change votes. It is for whoever might be watching, for maybe those rainy regions of America where people are stuck inside and a couple million people may be watching this. So I think that it is worth at least responding to a couple of things that have been said.

The Senator from Pennsylvania is a very eloquent attorney. He made some comments about Henry Foster. He said that his only wrongdoing and the thing that caused him not to be confirmed was his position on abortion.

That is not the case at all. It was his positions—plural—on abortion where he started out saying he had not performed abortions. Then it was 12, then 30, then 300. That has nothing to do with the subject today, but I thought I would just mention it.

The Senator from Illinois talked several times about the fact that this is a private matter; that Government should not be involved in the issue of abortion. I suggest to the Senator from Illinois that Government was not involved in this until abortion became a reality with Roe versus Wade. We seem to forget in this body that there are three branches of Government. It is not just the legislative branch. And the judicial branch of Government did all of a sudden make this an issue, so Government is the reason that we have an issue.

While I was serving in the other body, I kept track one time. Over an 8-year period, five out of six votes having to do with abortion had to do with the Federal funding of abortion. That is the Federal Government being involved in our lives.

Then the Senator from California, the junior Senator from California, made the comment that any decision having to do with abortion should be in consultation and concern with—those were her words, I believe—her husband, consultation and concern with her own body, consultation and concern with the doctor, consultation and concern with the rabbi. I suggest she is overlooking one very important part, and that is the most helpless of all, that little human being. That little human being cannot take care of himself or herself. I suggest the husband can; I suggest that the doctor can; certainly the junior Senator from California can; and certainly the rabbi can. But the one person not represented on that list is the little human being, the tiny baby. If somebody wants to explore that a little bit further and determine in his mind or her mind whether or not that is a little baby, I suggest you walk up to the President there and he will hand you a Bible and you might look for and read the 139th Psalm.

I yield back the time.

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. I yield whatever time I have remaining to the Senator from California.

The PRESIDING OFFICER. The Senator from California has 30 seconds.

Mrs. FEINSTEIN. I have a hard time, Mr. President, saying my name now in 30 seconds, but I will try.

I basically believe that this is a bad amendment, and the reason I believe it is a bad amendment is because it makes women in the Federal work force second-class citizens. The amount of taxpayer money in this is minimal, maybe $1 per $1,000. The fact is that most private health care plans afford a woman this opportunity.

The arguments on abortion on demand, I think, are ridiculous. That is not real life, that is not the way women are. So I believe the amendment that passed earlier this morning is the amendment that we should abide by. And in that respect, I am very hopeful there will be a very strong vote.

I thank the Chair.

The PRESIDING OFFICER. All time under the control of the Senator from Maryland has now expired.

The Senator from Oklahoma controls the remaining time of the debate.

Mr. NICKLES. Mr. President, I yield the Senator from Indiana such time as he desires.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I think everybody in the Chamber knows just exactly what we are doing here. Earlier we debated at length and voted on the issue of whether or not the taxpayer should fund abortions provided to Federal employees. The debate switched to an issue that included a definition of what exceptions would be allowed to that prohibition.

I stated then, and a number of others have stated, what we believe to be a clear consensus among the American people relative to the issue of funding for abortion, use of taxpayers' dollars. We are not debating here today—although it is part of the debate and I believe it should be the central focus of debate in the Senate—the question of human life, when it begins, what protections it deserves under our Constitution, what protections it deserves in terms of the statutes that we may pass. That is probably the most fundamental issue this Senate could ever debate. And I hope we will have an opportunity to debate those central issues.

That, however, is not the issue today. The issue today is whether or not we will force taxpayers to send their money to the Government to be used to provide a medical procedure which violates—for many, not all—but for many some of their most deeply held religious beliefs, some of their most deeply held moral convictions. This Senator, and others, have stated they did not believe that is proper.

Polls that have been repeatedly taken throughout this country have indicated that a very substantial majority of Americans do not believe it is proper to utilize tax dollars for Government provision of abortions for women. That is the central issue here today.

Now, in the earlier debate, we debated whether or not there should be exceptions to that rule. And the exception provided for in the earlier debate was simply the life of the mother. The Senator from Oklahoma had concluded, in discussion with a number of us, had concluded some time before, up to 48 hours before, that the exceptions that he would provide in his amendment or against the amendment in his language were not only abortion provision in the exception of the life of the mother but also in the cases of rape and incest. Because of a procedural problem, he was not able to do that. That issue was presented to Members of the Senate and raised because many came down and spoke on this floor saying they could not support a provision which did not allow exceptions for rape and incest. The Senator from Oklahoma said, ''I tried to do that. I was not able to do that for procedural reasons.''

So we moved to a vote. The vote failed—the Senator's position failed, which I supported. I was disappointed that it failed. But, nevertheless, it failed. The Senator from Oklahoma now comes back with the identical underlying premise, that is, taxpayers should not fund abortions, the Government ought to get out of the abortion business, but provides exceptions in cases where the life of the mother or in cases of rape and incest occur. A number of Senators spoke publicly on this floor saying that the reason they opposed the earlier amendment that did not include rape and incest is because it did not include rape and incest. They could not vote for a provision that allowed only for the exception of the life of the mother.

By statement or strong implication, they left the conclusion or the belief, at least in my understanding, that if an amendment were presented that did allow exceptions for rape and incest,

they would vote for it. They will have the opportunity to do that. A number of others with whom I talked privately expressed that same sentiment to me. ''I cannot vote for something that does not allow an additional exception for the life of the mother and rape and incest.'' That is what is before us. Let us keep the focus on what this issue is. Let us keep a focus on what this vote is. If, as many have said, you do support an amendment that allows life of the mother, rape and incest, then support the amendment offered by the Senator from Oklahoma.

That is the issue that is before us. And I hope Members understand that and the vote will clearly state where individuals stand on that issue.

Mr. President, I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. For the information of my colleagues, I misspoke earlier. It was my intention to yield back time. I understand the unanimous-consent agreement says that the vote will be at 2:30. I would be happy to yield back the time. It would require unanimous consent to do that. And I have been informed that the minority does not want us to yield back the time. So, I will not make that effort at this point.

But let me touch a little bit on this amendment.

First, I wish to compliment my colleagues, Senator INHOFE for his statement and also Senator COATS for his statement.

I ask unanimous consent that Senators INHOFE and KEMPTHORNE be added as cosponsors.

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

Mr. NICKLES. Mr. President, a couple of our colleagues——

I ask unanimous consent that Senator THURMOND and Senator THOMAS be added as cosponsors.

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

Mr. NICKLES. Also Senator CRAIG and Senator COATS be added as cosponsors.

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

Mr. NICKLES. Mr. President, I heard a couple of things that kind of intrigued me during the course of this debate. Now, I think everybody knows how they are going to vote. I wish we could vote in just a couple minutes. Evidently that is not going to happen. The language that we now have is Hyde language. We have had restrictions on public funding of abortion going back to the 1970's. Actually going back to Roe versus Wade, there have been some restrictions on public funds used to pay for abortions because it bothers a lot of people. Abortion bothers them for what it is. It is destroying the life of an unborn child. And to think that the Government would be paying for it bothers a lot of people. It is kind of a double hit. One is abortion is bad, it is wrong, it is terrible, it is destroying the life of an innocent child. And then, two, to have the Federal Government pay for it or subsidize paying for it really bothers a lot of people. It bothers this Senator. And evidently it has bothered the country, because Congress has had restrictions on abortion funding in different elements, either for Federal employees or for Medicaid recipients, for a long time, and some restrictions on how funds are spent overseas in military hospitals. We have had all kinds of different restrictions because it bothers people to have taxpayers' funds used to destroy innocent human lives.

So that is what we are trying to do now, is to save human lives. We are trying to make sure that taxpayer funds are not used to subsidize abortion for Federal employees. The Federal Government subsidizes health care, rather generously, 72 percent. We do have a right to control funds. We do have a right to say how the money is spent. We do it every year. We have done it every year. That is the reason why most of us, probably, voted on this in Congress. The majority of Congress has supported the Hyde language for the last many, many years.

Some people said, well, that is unconstitutional. It is taking away a woman's constitutional right to choose. I disagree. There is nothing in the Constitution that says, ''Taxpayers, you must pay for abortions,'' nothing. As a matter of fact, there is a Supreme Court case that says ''Abortion is inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life.'' That is Harris versus McRae on June 30, 1980. The Supreme Court says, as we know, we have the power of the purse. We can withhold funds. And abortion is a different type of medical procedure. A lot of our colleagues seem to think it is a fringe benefit and it should be available just like any other medical procedure.

Most of us disagree, or a lot of us disagree. That is the reason why we are here. I wish we were not debating this all morning. I would have been happy to have 30 minutes on the initial amendment. I really did not want the initial amendment. I wanted to vote on this. I was denied that opportunity. We had a vote on it 2 years ago. We lost by a couple votes. This vote is going to be close.

I do not know if some additional colleagues have left or not. But I will tell all my colleagues, this is very important.

One of our colleagues during the debate said in 1980, before we had the Hyde restriction on Federal employees, that OMB calculated—or maybe it was not OMB, but some Federal agency—had calculated that there were 17,000 abortions paid for under the Federal employees plan.

It was illegal to do that from 1984 to 1993. We had similar restrictions to the one we voted on before. The restriction we have now is more broad.

Let me rephrase that. The restriction that we had from 1984 to 1993 only allowed abortion to save the life of the mother. The language we have now allows abortion or moneys to be used for abortion to save the life of the mother or in cases of rape and incest. The Senator from North Dakota made an excellent statement. He talked about his wife. He made it very passionately. You can tell he believed in what he is saying. I do not disagree. It is hard to argue with the statement that he made.

Mr. KERREY. Will the Senator yield?

Mr. NICKLES. Withhold for a moment and I will be happy to yield.

If we do not have some restrictions, then you can have Federal Government taxpayers' funding of abortion for any reason—any reason. You would have abortion on demand paid for by the Federal employees health care plan, and it can be for sex selection. If you find out the fetus is a different sex than you desire, you can have it aborted, and it will be paid for by your health care plan, or you can have a late-term abortion and have that terminated. Or maybe you find out that your fetus has a health problem of some kind, you can have the baby destroyed. Any reason, no restriction, no restriction whatsoever, and all you have to do is say, ''Here's my health card.''

Some people in the private sector have that option. Lots of people in the private sector do not have that option. We should not use taxpayer funds to make that so readily available.

I heard some people say they want abortion to be safe, they want it legal and want it to be rare. If you make this a common fringe benefit in health care plans, three-fourths paid by the Federal Government, it does not cost very much, it is pretty easy and oh, yes, it is paid for by the Government, it must be OK, it has the sanction of the Government.

This is a fringe benefit provided for by the Federal Government, so your out-of-pocket costs are going to be what? If an abortion costs $200 or $300 and you had to pay 20 percent or 10 percent, maybe it cost $20, $30, or $40. The majority of abortions that are done in the District of Columbia are repeat abortions, and the majority of those are done because of convenience. As a matter of fact, one of the statements made earlier in the debate by Senator SMITH said 90-some odd percent. I believe the figure is 98 percent of the abortions performed are done because it is inconvenient, not because of rape, not because of incest, not because the mother's life is in danger, but because it is inconvenient. Maybe the pregnancy was not planned. I will admit, I was not a planned pregnancy, but I am thankful my mother decided to go ahead to term. She debates it right now.

Mr. President, we are here because our mothers made decisions to bring us to term. I hate to think that we are

going to make a fringe benefit so available, so commonplace, so ordinary and minimize the cost for anyone to have abortions so routine—''Oh, yes it is covered by health care insurance, let's just go do it.'' Oh, incidentally, your health care insurance is paid 72 percent by Uncle Sam. That is Uncle Sam encouraging the policy.

For a couple of our colleagues who stated we want to get the Government out, we do not want the Government in our bedroom—and we do not want the Government in our wallets, we are trying to say Government taxpayers should not subsidize abortion. If they still want to have an abortion, they can get it and pay for it with their own money, but we should not have Uncle Sam saying, ''We will pay it for you.''

That is the whole issue of what we are talking about, should we have Federal subsidies; do we want the Federal Government to subsidize. On Medicaid, we said no. On Medicaid, we have the Hyde language. We do not provide abortions for Medicaid-eligible people unless it is necessary to save their life or in cases of rape or incest. That is what this language is. We are saying the same thing should apply for Federal employees. I will be happy to yield to my colleague.

Mr. KERREY. Let me say, first of all, I know my friend from Oklahoma has very strong feelings about this, and we have a different, I think, core belief. I presume earlier discussions that I had with the Senator from New Hampshire is not going to be repeated in this case. We have a different core belief, and it leads in a different direction.

But the question I have is, let us presume that we go into conference and we come back out and the House language holds and health insurance is not going to be used to pay for abortions, except to save the life of the mother. I have a woman who is making $45,000 a year working for the Federal Government. She decides to take that $250 of her pay to get an abortion. What is the difference between her taking $250 of taxpayer money and using it to get an abortion and an insurance company? Are we not still subsidizing? If a military employee who is not covered by this legislation, this insurance, uses their salary, are they not subsidized as well?

If you really want to eliminate all the subsidization, would we not have to go out and make sure that no Federal employee used any of their Federal salary to pay for a legal abortion?

Mr. NICKLES. Mr. President, responding to my friend and colleague from Nebraska, the answer is no. We do not have anything in this language saying we are going to control how anybody spends their disposable income. What we do say is on health care plans that we subsidize—health care plans the Federal Government writes, health care plans the Federal Government pays 72 percent of the cost of—we do not think abortion should be a fringe benefit. Abortion is entirely different than other medical procedures. It destroys a human life. We are saying that should not be a fringe benefit. What somebody does with their own money is entirely their own business. We are not trying to change that. What we are trying to say is, as far as Federal policy is concerned, we should not be subsidizing abortion, we should not have that included as a fringe benefit.

I reserve the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. NICKLES. Mr. President, within a moment, we will be voting on the amendment I offered that basically is the Hyde language. It says that no funds will be used for abortion unless necessary to save the life of a mother, or in the case of rape or incest.

If this amendment prevails, the Senator from Maryland, Ms. MIKULSKI, will offer an amendment with time not to exceed 30 minutes. Hopefully, maybe we can reduce that time, as well. I know some of our colleagues wanted to know the schedule. This vote will begin at 2:30, and if this amendment wins—and I hope it will; I hope our colleagues will support it—we will be voting on the amendment of the Senator from Maryland within 30 minutes.

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

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from New Hampshire [Mr. GREGG], the Senator from Indiana [Mr. LUGAR], the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

Mr. FORD. I announce that the Senator from Arkansas [Mr. BUMPERS], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

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

The result was announced—yeas 50, nays 44, as follows:

[Rollcall Vote No. 370 Leg.]

YEAS—50

Abraham	Coverdell	Gramm
Ashcroft	Craig	Grams
Bennett	D'Amato	Grassley
Biden	DeWine	Hatch
Bond	Dole	Hatfield
Breaux	Dorgan	Heflin
Brown	Exon	Helms
Burns	Faircloth	Hutchison
Coats	Ford	Inhofe
Cochran	Frist	Johnston
Conrad	Gorton	Kempthorne
Kyl	Nunn	Smith
Lott	Pressler	Thomas
Mack	Reid	Thompson
McCain	Roth	Thurmond
McConnell	Santorum	Warner
Nickles	Shelby	

NAYS—44

Akaka	Glenn	Mikulski
Baucus	Graham	Moseley-Braun
Bingaman	Harkin	Moynihan
Boxer	Hollings	Murray
Bradley	Inouye	Packwood
Bryan	Jeffords	Pell
Byrd	Kassebaum	Robb
Campbell	Kennedy	Rockefeller
Chafee	Kerrey	Sarbanes
Cohen	Kerry	Simon
Daschle	Kohl	Simpson
Dodd	Lautenberg	Snowe
Domenici	Leahy	Specter
Feingold	Levin	Wellstone
Feinstein	Lieberman	

NOT VOTING—6

Bumpers	Lugar	Pryor
Gregg	Murkowski	Stevens

So the amendment (No. 2153) was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I have an amendment that has been agreed to, and I ask unanimous consent that Senator MIKULSKI now be recognized to offer an amendment to the committee amendment, as amended, regarding ''medically necessary'' and that there be 30 minutes of debate equally divided in the usual form and that following the conclusion or yielding back of the time, the Senate proceed to vote on or in relation to the Mikulski amendment.

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

Several Senators addressed the Chair.

AMENDMENT NO. 2227 TO THE COMMITTEE AMENDMENT ON PAGE 2, LINE 14, AS AMENDED

Ms. MIKULSKI. Mr. President, I send an amendment to the desk and ask for its consideration, and while the clerk is reporting the amendment, I would like the courtesy of the Senate to be in order.

Mr. President, the Senate is not in order, and I would really ask as a courtesy to me that all Senators take their seats.

The PRESIDING OFFICER. The Senate will be in order. The Senate will be in order. Take all conversations to the Cloakrooms, please.

Mr. NICKLES. Mr. President, the Senate is still not in order.

The PRESIDING OFFICER. The Senate will be in order so we can proceed, please.

The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland (Ms. MIKULSKI) proposes an amendment numbered 1227.

At the end of the amendment add the following:

Notwithstanding the provisions of the preceding two sections, no funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

The provision of section shall not apply where the life of the mother would be endangered if the fetus were carried to term, or that the pregnancy is the result of an act of rape or incest, or where the abortion is determined to be medically necessary.

Ms. MIKULSKI. Mr. President, the amendment that I am offering will guarantee that there will be coverage for women. This is a serious issue, and I do not want to raise it and I do not want to shout. I understand the desire to come to a closure.

Mr. President, the amendment I am offering will guarantee that there will be coverage for women under the Federal employees health benefit plan for abortion services that are medically necessary.

What is ''medically necessary''? When a doctor decides using his or her trained professional judgment, in consultation with the patient, what will best protect the woman's health, this judgment is made based on the totality of the circumstances presented by the patient's situation.

We, the Senate, are not doctors. It is not our role to substitute our judgment for the judgment of trained medical professionals. With one exception, we do not have medical degrees. We do not have medical training. The Senate cannot write prescriptions. The Senate cannot elaborate on lab results. The Senate cannot conduct physical exams. The Senate cannot perform surgery. This body should allow doctors to do what they are trained to do. We should not second guess these judgments.

There are medical conditions which, when presented, increase risk to a woman's health during pregnancy. Cancer, diabetes, high blood pressure, kidney disease, cardiovascular disease, AIDS—these and other conditions are known to increase a woman's health risk. If she carries her pregnancy to term and her doctor concludes that an abortion is medically necessary to protect her health, should we, the Senate, make these judgments? Should we then substitute our judgment for that of a physician? Abortion is a complex, personal decision. It must be made by a woman in consultation with her physician.

This amendment will ensure that Congress does not intrude into that personal decision of what the woman and her physician believe to be medically necessary for her.

Reproductive health care, including abortion, is essential for women's health and well-being. Providing access to safe, legal abortions protects women's health.

The American Medical Association concluded that as access to safe, early, legal abortions becomes increasingly restricted, there is a likelihood there will be a small but measurable increase in mortality and morbidity among women in the United States.

That is what the AMA said. They are the doctors. That is what the doctors say. They say to deny access to abortion will harm the health of American women.

With the last vote the Senate already carved out exceptions to an absolute prohibition on abortion. We should, therefore, allow one more exemption, and that is where it is medically necessary.

That is what I am proposing. Congress should not substitute its political judgment for the judgment of health professionals.

Just keep this in mind. Unless the Mikulski amendment passes, if a woman is told by her doctor that she will be paralyzed for life if she carries the fetus to term, she will be unable to obtain an abortion.

Mr. President, I yield 3 minutes to the Senator from Pennsylvania.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I submit that the pending amendment is one which is very reasonable. Even those who stand very determined against a constitutional right of a woman to choose should have little trouble in accepting medical necessity as determined by the attending physician.

In earlier speeches today, I outlined my own view that what is happening in Congress today is an assault on the constitutional right of a woman to choose, and that we have had a veritable meltdown of women's rights as there have been limitations on abortions in military hospitals overseas, limitations on research, limitations on accreditation of medical schools where doctors in training should be given instruction on ob-gyn, and abortion. But in the example given by the distinguished Senator from Maryland, a woman who is about to be paralyzed certainly is in an extreme situation.

The Constitution of the United States has been interpreted by the Supreme Court, which is the final arbiter on the constitutional right of a woman to choose, and in a series of increments there has been a virtual meltdown of that right.

If this amendment is rejected, it will be also attacking the basic doctor-patient relationship and the determination of the doctor as to what ought to be done.

If there is not insurance coverage for a woman's health, what is the purpose of insurance coverage? And when Federal employees have this coverage, it is something that is bargained for.

It escapes me as to why anyone would think that it is really a subsidy when you have part of payment made by the individual employee and where you have the totality of the benefit as part of the bargained-for consideration for employment.

I think this is a minimal amendment and ought to be adopted.

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. Mr. President, I should really ask my colleagues, for any person who has a sense of honor and decency, please support this amendment. Let us leave the decision to the doctors and not to the Senate.

Mr. President, I do not expect any more speakers. I look forward to hearing the comments of the Senator from Oklahoma, and perhaps after he has concluded we might be able to yield back our time.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I appreciate the cooperation of my friend and colleague from Maryland and I just inform my colleagues that it is my intention to yield back some time very quickly. So hopefully we will be voting in the next 5 minutes or so.

I might ask my friend and colleague from Maryland what ''medically necessary'' means. I will just ask the question. If a woman wanted to have an abortion and the doctor wanted to perform the abortion, is there any circumstance in which the Senator from Maryland would see that it is not medically necessary?

Ms. MIKULSKI. For a social reason, possibly an economic reason.

What I use, and what I believe the physicians also use, is the dictionary definition of ''necessary'':

that which is essential, indispensable, or requisite in order to save the health of the mother.

Mr. NICKLES. Mr. President, I appreciate my colleague's explanation, but let me just give you an example. The National Abortion Rights League defines ''medically necessary'' as ''a term which generally includes the broadest range of situations for which a state will fund abortion.''

In testimony against implementation of the Hyde language, Dr. Jane Hodgson said, ''In my medical judgment every one that is not wanted by the patient, I feel there is a medical indication to abort a pregnancy where it is not wanted * * * I think they are all medically necessary.''

I am afraid that if we adopted the Senator's language, we would have no restriction whatsoever, none whatsoever. Someone could say: You have a headache. Therefore, yes, it is medically necessary.

There would be no restriction. It would greatly undermine the language which we just agreed to, the so-called Hyde language, which does allow abortion in those cases necessary to save the life of the mother or in cases of rape and incest.

I urge my colleagues to vote no on the amendment of the Senator from Maryland.

Mr. President, I am ready to yield the remainder of my time.

Ms. MIKULSKI. Mr. President, I am ready to yield the time as well.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Maryland.

Ms. MIKULSKI. I would just comment that one example I can give that is not medically necessary is where someone would want an abortion for the purpose of sex selection.

So, Mr. President, having said that, I am prepared to again affirm medically necessary and yield back my time.

The PRESIDING OFFICER. The Senator yields back the remainder of her time.

Mr. NICKLES. Mr. President, I yield back the remainder of my time and ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

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

Mr. LOTT. I announce that the Senator from New Hampshire [Mr. GREGG], the Senator from Idaho [Mr. LUGAR], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

Mr. FORD. I announce that the Senator from Arkansas [Mr. BUMPERS] and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

The result was announced—yeas 45, nays 49, as follows:

The result was announced—yeas 45, nays 49, as follows:

[Rollcall Vote No. 371 Leg.]

YEAS—45

Akaka	Feinstein	Lieberman
Baucus	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Bradley	Hollings	Murray
Bryan	Inouye	Packwood
Byrd	Jeffords	Pell
Campbell	Kassebaum	Robb
Chafee	Kennedy	Rockefeller
Cohen	Kerrey	Sarbanes
Conrad	Kerry	Simon
Daschle	Kohl	Simpson
Dodd	Lautenberg	Snowe
Dorgan	Leahy	Specter
Feingold	Levin	Wellstone

NAYS—49

Abraham	Faircloth	Mack
Ashcroft	Ford	McCain
Bennett	Frist	McConnell
Biden	Gorton	Nickles
Bond	Gramm	Nunn
Breaux	Grams	Pressler
Brown	Grassley	Reid
Burns	Hatch	Roth
Coats	Hatfield	Santorum
Cochran	Heflin	Shelby
Coverdell	Helms	Smith
Craig	Hutchison	Thomas
D'Amato	Inhofe	Thompson
DeWine	Johnston	Thurmond
Dole	Kempthorne	Warner
Domenici	Kyl	
Exon	Lott	

NOT VOTING—6

Bumpers	Lugar	Pryor
Gregg	Murkowski	Stevens

So the amendment (No. 2227) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, if I could have my colleagues' attention. I am informed by the managers they have done an outstanding job. They did not tell me they have done an outstanding job, but I am informed——

[Laughter.]

But they have. They have worked out a number of amendments, and they may be in a position to take any additional amendments to this bill and have a voice vote on final passage. We will have a rollcall vote then on the conference report. There is a standing request that we have a vote on the bill and, if not on the bill, on the conference report.

Also, as we speak, there are negotiations going on with Senator NUNN, Senator WARNER, Senator LEVIN, and Senator COHEN on an issue relating to the DOD authorization bill. We should have some information on that between now and a quarter of 4. If there is some resolution of that matter, plus I guess another one the Democratic leader mentioned, it might be possible to get an agreement on the remainder of the work on the DOD authorization bill.

If we are able to do that—we will not do that today—we will get the agreement today and finish the work on Monday or sometime when we have a little spare time next week during the welfare reform debate.

So if my colleagues can give us a little bit of time, we will be able to make an announcement about whether or not there will be additional votes today.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I have an amendment on behalf of myself, Senator MCCAIN, and others at the desk. I understand it will be accepted by the managers, and I ask that it be in order for me to call up the amendment.

VOTE ON COMMITTEE AMENDMENT ON PAGE 2, BEGINNING ON LINE 14, AS AMENDED

The PRESIDING OFFICER. If the Senator from Wisconsin will suspend. Is there further debate on the first committee amendment, as amended?

If not, the question occurs on agreeing to the first committee amendment, on page 2, beginning on line 14, as amended.

So the committee amendment, as amended, was agreed to.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the pending committee amendment be temporarily laid aside.

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

AMENDMENT NO. 2228

(Purpose: To reduce the number of executive branch political appointees)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. MCCAIN, Mr. SANTORUM, and Mr. GRAMS, proposes an amendment numbered 2228.

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

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

The amendment is as follows:

On page 93, below line 13, insert the following:

(c)(1) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality to employ, on or after January 1, 1996, in excess of a total of 2000 employees in the Executive Branch who are (i) employed in a position on the executive schedule under sections 5312 through 5316 of title 5, United States Code, (ii) a limited term appointee, limited emergency appointee, or noncareer appointee in the senior executive service as defined under section 3132(a)(5), (6), and (7) of title 5, United States Code, respectively, or (iii) employed in a position in the executive branch of the Government of a confidential or policy-determining character under Schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

(2) Notwithstanding the provisions of subsection (c)(1) of this section, any actions required by such section shall be consistent with reduction in force procedures established under section 3502 of title 5, United States Code.

Mr. FEINGOLD. Mr. President, I am pleased to join with my good friend, the Senator from Arizona [Mr. MCCAIN], along with the Senator from Pennsylvania [Mr. SANTORUM], and the Senator from Minnesota [Mr. GRAMS], in offering an amendment to reduce the number of political employees who are appointed by the President.

I understand the amendment will be accepted by the manager.

Specifically, the amendment caps the number of political appointees at 2,000, down from an estimated average of 2,800.

CBO estimates that this measure will save $363 million over the next 5 years.

Mr. President, as the cosponsorship of this amendment attests, this is a bipartisan proposal.

It has been endorsed by Citizens Against Government Waste, and it is similar to one of the assumptions the Budget Committee of the other body made in developing their concurrent budget resolution. It is also consistent with the recommendations of the Vice President's National Performance Review, which called for reductions in the number of Federal managers and supervisors, arguing that ''over-control and micromanagement'' not only ''stifle the creativity of line managers and workers, they consume billions per year in salary, benefits, and administrative costs.''

Mr. President, that assessment is especially appropriate with respect to political appointees.

Between 1980 and 1992, the number of political appointees grew by more than 17 percent, over three times as fast as the total number of executive branch

employees. And since 1960, political appointees have grown by a startling 430 percent.

Mr. President, the exploding number of political appointees was a target of the 1989 National Commission on the Public Service, chaired by former Federal Reserve Board Chairman Paul Volcker.

As the Commission noted, Presidents must have the flexibility to appoint staff that are ideologically compatible. Political appointees can be important sources of fresh ideas, and can bring important experience from the private sector into an administration.

Equally as important, political appointees help ensure that Government responds to the policy priorities mandated by the electorate at the ballot box.

But, as the Volcker Commission found, far from enhancing responsiveness, the growing number of Presidential appointees ''actually undermine effective presidential control of the executive branch.''

The Commission noted that the large number of Presidential appointees simply cannot be managed effectively by any President or White House.

Altogether, the Volcker Commission argued that this lack of control and political focus ''may actually dilute the President's ability to develop and enforce a coherent, coordinated program and to hold cabinet secretaries accountable.''

The Commission found that the excessive number of appointees are a barrier to critical expertise, distancing the President and his principal assistants both from the most experienced career officials and the front line workers, often the best positioned to make critical assessments of Government policies.

Mr. President, the problem of distancing that was raised by the Volcker Commission has been chronicled by Paul Light in his book, ''Thickening Government.''

Light found that the increasing number of political appointees are arrayed in layer upon layer of management, layers that did not exist 30 years ago. He found that in 1960 there were 17 layers of management at the very top of Government, but by 1992, there were 32 layers.

Compounding the problem, Mr. President, Light notes that these 32 layers do not stack neatly one on top of the other in a unified chain of command. Some layers come into play on some issues but not on others.

Light asserts that ''* * * As this sediment has thickened over the decades, presidents have grown increasingly distant from the lines of government, and the front lines from them.''

He adds that ''Presidential leadership, therefore, may reside in stripping government of the barriers to doing its job effectively * * *''

Mr. President, many will recall the difficulties the current administration has had in filling even some of the more visible political appointments.

A story in the National Journal in November 1993, focusing upon the delays in the Clinton administration in filling political positions, noted that in Great Britain, the transition to a new government if finished a week after it begins.

A speedy transition is possible because British Government runs on a handful of political appointees.

According to Paul Light, they have about one-tenth as many career executives and only five layers of management between the Minister and the British equivalent of the Deputy Assistant Secretary, compared to more than 16 layers here.

By contrast, the transition of U.S. administrations over the past 35 years has seen increasing delays and logjams, and perfectly illustrate another reason why the number of positions should be cut back.

The average length of time from inauguration to confirmation of top level executive positions has steadily risen from 2.4 months under President Kennedy, to 5.3 months under President Reagan, to 8.1 months under President Bush, to 8.5 months under President Clinton.

The consequences of having so many critical positions unfilled when an administration changes can be serious.

In the first 2 years of the Clinton administration, there were a number of stories of problems created by delays in making these appointments.

From strained relationships with foreign allies over failures to make ambassadorship appointments to the 2-year vacancy at the top of the National Archives, the record is replete with examples of agencies left drifting while a political appointment was delayed.

Obviously, there are a number of situations were the delays were caused by circumstances beyond control of the administration.

The case involving the position of Surgeon General of the United States is a clear example.

Nonetheless, it is clear that with a reduced number of political appointments to fill, the process of selecting and appointing individuals to key positions in a new administration is likely to be enhanced.

Mr. President, let me also stress that the problem is not simply the initial filling of a political appointment, but keeping someone in that position over time. Between 1970 and 1986, the tenure of a political appointee was 20 months, even shorter for schedule C employees.

And in a report released last year, the General Accounting Office reviewed a portion of these positions for the period of 1981 to 1991, and found high levels of turnover—seven appointees in 10 years for one position—as well as delays, usually of months but sometimes years, in filling vacancies.

Mr. President, as I have noted before on this floor, this legislative proposal may not be popular with many people, both within this Administration and perhaps among member of the other party who hope to win back the White House in the next election.

I want to stress that I do not view efforts to reduce the number of political appointees to be a partisan issue. In making its recommendations, the nonpartisan Volcker Commission included the very proposal embodied in this amendment—capping political appointees at 2,000.

And, as I noted earlier, I am pleased that this amendment has bipartisan sponsorship.

Indeed, I think it adds to the credibility and merits of this proposal that a Democratic Senator is proposing to cut back these appointments at a time when there is a Democratic administration in place.

The amendment requires this President to reduce the number of political appointees, and would obviously apply to any further administration as well.

Mr. President, the sacrifices that deficit reduction efforts require must be spread among all of us. This measure requires us to bite the bullet and impose limitations upon political appointments that both parties may well wish to retain.

The test of commitment to deficit reduction, however, is not simply to propose measure that impact someone else.

Mr. President, as we move forward to implement the NPR recommendations to reduce the number of Government employees, streamline agencies, and make government more responsive, we should also right size the number of political appointees, ensuring a sufficient number to implement the policies of any administration without burdening the Federal budget with unnecessary, possibly counterproductive political jobs.

I thank the Chair, and I yield the floor.

Mr. MCCAIN. Mr. President, I am pleased to join Senators FEINGOLD and GRAMS in supporting this amendment.

The amendment would reduce the number of Presidential appointees from around 2,800 to 2,000.

The number of political appointees has been constantly increasing. Today there are between 2,800 and 3,000. There are approximately 570 to 580 Presidential appointees subject to Senate confirmation, 670 noncareer members of the Senior Executive Service, 100 Presidential appointees not subject to Senate confirmation, and over 1,700 personal and confidential assistants—also known as ''schedule Cs.''

Fifty years ago, President Roosevelt, ran the country for four terms, dealt with the Great Depression, and orchestrated a war with some 200 political appointees.

According to the Volker Report:

> From 1933 to 1965, during a period of profound expansion in government responsibilities, the number of cabinet and sub-cabinet officers appointed by the President and confirmed by the Senate doubled from 73 to 152. From 965 to the present, span when the total

employment and programs were more stable, that number more than tripled to 573.

The Commission continues:

Typically, the increase in presidential appointments has been justified as a way to prod or control reluctant bureaucrats, and to speed implementation of the President's agenda. Thus the operative question is not whether the current number of appointees is large or small, in absolute terms or in compared to the number of civilian employees. The real question is whether the proliferation has in fact made government more effective and more responsible to presidential leadership. The Commission concludes that the answer is NO.

Mr. President, I think that point is worth repeating. When this issue was studies by a distinguished, bipartisan group of experts, they concluded that the increased number of political appointees had not resulted in more effective and more responsive leadership.

The public believes that our Government is too large and that it is too politicized. This amendment begins to address that situation. It is clearly not the solution. It is only a small step, but an important step.

I also want to point out that this is not an amendment conceived by a Republican Congress to punish or hurt a Democratic Presidency. This amendment has bipartisan support. My friend from Wisconsin who introduced the amendment is from the same party as the President. And I hope to be in the same party of the President in 2 years. This amendment is about creating a better Government. It has nothing to do with politics.

Additionally, Mr. President, according to the Congressional Budget Office, adoption of this amendment would save approximately $363 million over the next 5 years. The savings for fiscal year 1996 alone would be $45 million.

These savings could be used for a much greater good than giving third and fourth tier campaign workers superfluous Federal jobs.

Mr. President, this is a simple amendment. It will save money and result in a more streamlined executive branch. It should be adopted.

Mr. GRAMS. Mr. President, I rise today as a cosponsor of the McCain amendment to the Treasury Postal appropriations bill. This amendment would cap the number of Presidential political appointees, or schedule C's, at 2,000, down from the current average of 2,800.

Overall, the Treasury Postal appropriations bill goes a long way toward fulfilling our promise of deficit reduction to the American people. Senator SHELBY should be commended for weeding out excessive and duplicative layers of bureaucracy from the Treasury Department, Postal Service, Executive Office of the Presidency, and several independent agencies. The result is an appropriations bill that is $42 million below the House appropriation for 1996, $367 million below the level enacted for 1995, and $1.8 billion below Clinton's budget request.

But the McCain amendment would make this bill even better for at least two reasons.

In terms of deficit reduction, CBO estimates that limiting the number of political appointees to 2,000 would save $363 million over the next 5 years. This degree of deficit reduction will contribute to greater economic benefits for all Americans, with lower interest rates stimulating investment, economic growth, and jobs.

In addition to the monetary savings this amendment would generate, capping the number of political appointees in the executive branch would help make Government run more efficiently and productively. In fact, back in 1989, the Commission on Public Service, led by former Federal Reserve Board Chairman Paul Volcker, recommended limiting the number of political appointees to 2,000.

Even more recently, Vice President Gore's National Performance Review recommends a reduction in the number of political appointees, arguing that ''overcontrol and micromanagement * * * stifle the creativity of line managers and workers * * * [and] consume billions [of dollars] per year in salary, benefits, and administrative costs.'' As a bipartisan solution, the McCain amendment fits in with reform strategies advocated at both ends of the political spectrum.

I urge my colleagues to support the McCain amendment. Your vote will be a vote for greater Government efficiency, deficit reduction, and good economic sense.

Mr. SHELBY. Mr. President, we have conferred with the Senator from Wisconsin and the ranking Democrat, Senator KERREY. We accept the amendment.

Mr. MCCAIN. I thank the Senator from Wisconsin for this amendment.

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

The question is on agreeing to the amendment.

The amendment (No. 2228) was agreed to.

AMENDMENT NO. 2229

(Purpose: To prohibit the use of funds to take certain actions with respect to the exchange stabilization fund)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, Mr. DOLE, Mr. HOLLINGS, Mr. FAIRCLOTH, Mr. GRAMS, Mr. HELMS, Mr. MURKOWSKI, and Mr. DOMENICI, proposes an amendment numbered 2229.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

Sec. . LIMITATION ON USE OF FUNDS FOR THE PROVISION OF CERTAIN FOREIGN ASSISTANCE.

(a) IN GENERAL.—Notwithstanding any other provision of law, none of the funds made available by this Act for the Department of the Treasury shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would permit the Secretary of the Treasury to make any loan or extension of credit under section 5302 of title 31, United States Code, with respect to a single foreign entity or government of a foreign country (including agencies or other entities of that government)—

(1) unless the President first certifies to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services of the House of Representatives that—

(A) there is no projected cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990) to the United States from the proposed loan or extension of credit; and

(B) any proposed obligation or expenditure of United States funds to or on behalf of the foreign government is adequately backed by an assured source of repayment to ensure that all United States funds will be repaid; and

(2) other than as provided by an Act of Congress, if that loan or extension of credit would result in expenditures and obligations, including contingent obligations, aggregating more than $1,000,000,000 with respect to that foreign country for more than 180 days during the 12 month period beginning on the date on which the first action is taken.

(b) WAIVER OF LIMITATIONS.—The President may exceed the dollar and time limitations in subsection (a)(2) if he certifies in writing to the Congress that a financial crisis in that foreign country poses a threat to vital United States economic interests or to the stability of the international financial system.

(c) EXPEDITED PROCEDURES FOR A RESOLUTION OF DISAPPROVAL.—A presidential certification pursuant to subsection (b) with respect to exceeding dollar or time limitations in subsection (a)(2) shall be considered as follows:

(1) REFERENCE TO COMMITTEES—All joint resolutions introduced in the Senate to disapprove the certification shall be referred to the Committee on Banking, Housing and Urban Affairs, and in the House of Representatives, to the appropriate committees.

(2) DISCHARGE OF COMMITTEES.—(A) If the committee of either House to which a resolution has been referred has not reported it at the end of 30 days after its introduction, it is in order to move either to discharge the committee from further consideration of the joint resolution or to discharge the committee from further consideration of any other resolution introduced with respect to the same matter, except no motion to discharge shall be in order after the committee has reported a joint resolution with respect to the same matter.

(B) A motion to discharge may be made only by an individual favoring the resolution, and is privileged in the Senate; and debate thereon shall be limited to not more than 1 hour, the time to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees.

(3) FLOOR CONSIDERATION IN THE SENATE.—(A) A motion in the Senate to proceed to the consideration of a resolution shall be privileged.

(B) Debate in the Senate on a resolution, and all debatable motions and appeals in

connection therewith, shall be limited to not more than 4 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 20 minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

(4) In the case of a resolution, if prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(B) the vote on final passage shall be on the resolution of the other House.

(5) For purposes of this subsection, the term ''joint resolution'' means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: ''That the Congress disapproves the action of the President under section (b) of the Treasury and Post Office Appropriations Act for Fiscal Year 1996, notice of which was submitted to the Congress on .'', with the first blank space being filled with the appropriate section, and the second blank space being filled with the appropriate date.

(d) APPLICABILITY.—This section—

(1) shall not apply to any action taken as part of the program of assistance to Mexico announced by the President on January 31, 1995; and

(2) shall remain in effect through fiscal year 1996.

Mr. D'AMATO. Mr. President, this amendment deals with the utilization of the Exchange Stabilization Fund. This amendment does not deal with Mexico specifically. It is the result of what we have learned from the Mexican crisis and the manner in which those funds have been used. This amendment attempts to deal with what I believe is Congress' absolute responsibility. That is to say, if we are going to make American taxpayers' funds available, there should be a process which gives to the Congress the ability to be involved in that decision.

Let me give you the four main provisions. First, before using ESF, the President must certify that there was no cost to the U.S. taxpayers and that repayment of the ESF funds is guaranteed.

Second, congressional approval is required before using more than $1 billion of ESF funds for more than 6 months in any 1 year to a single foreign country.

Third, in extreme circumstances, the President may exceed these limits if he certifies that there is a threat to vital U.S. economic interests or the stability of the international financial system.

Fourth, Congress may disapprove of the emergency certification on an expedited basis.

Mr. President, I have conferred with Senator DODD and others and we are all in agreement with this amendment.

Mr. President, since February, I have repeatedly expressed my concern about the President's decision to circumvent Congress to bail out Mexico. Billions of taxpayer dollars were wasted, put in jeopardy, and may ultimately be lost, because the President used the Exchange Stabilization Fund—the ESF—in an unprecedented action to bail out global speculators.

We must make sure that this never happens again. This amendment is designed to protect the American taxpayers and reassert congressional control and responsibility over the ESF. I am very pleased that Majority Leader DOLE, and Senators HELMS, HOLLINGS, FAIRCLOTH, MURKOWSKI, DOMENICI, and GRAMS, are cosponsors of this amendment.

Mr. President, let me briefly explain my amendment. First, when using ESF funds, the President would be required to certify that there is no cost to the U.S. taxpayers from the proposed transaction and that repayment of the ESF funds is guaranteed. Earlier this year, Congress approved this same certification requirement for ESF funds sent to Mexico.

Second, this amendment would impose a $1 billion 6-month cap on the Secretary's unrestricted ability to use ESF funds. When the Secretary wants to provide more than $1 billion to a single foreign country for longer than 6 months, Congress will be forced to take action.

Mr. President, I want to make clear that this amendment does not overturn the President's bailout of Mexico. Instead, this amendment restores the proper role of Congress in future economic crises in foreign countries.

We must learn from the Mexican crisis. Although reasonable people may disagree about the wisdom of the President's Mexican bailout, there can be no doubt that the ESF should not be used to provide foreign aid.

Mr. President, the time has come to make sure that Presidents cannot circumvent Congress through the ESF to provide foreign aid. This amendment is the first step. The Constitution expressly provides that Congress must approve appropriations, including foreign aid. It is spelled out in article 1, section 9: ''No money shall be drawn from the Treasury, but in consequence of Appropriations made by Law.''

The Treasury Department has acknowledged that the ESF can't be used for foreign aid. I quote from a recent opinion to Treasury Secretary Robert Rubin, from the Treasury Department's general counsel: ''Although loans and credits are clearly permitted under the ESF, their purpose must be to maintain orderly exchange arrangements and a stable system of exchange rates, and not to serve as foreign aid.'' This is clear. The ESF can't be used by the administration as a foreign aid piggy bank.

Mr. President, the administration's use of the ESF to bail out Mexico was completely unprecedented and went well beyond any previous use of the ESF. The ESF was established over 60 years ago, and until this bailout, it operated without controversy and in compliance with its original purpose—supporting the dollar and maintaining orderly exchange arrangements. But this small fund, which was rarely mentioned and relatively unknown, quietly grew into a $40 billion slush fund that is beyond congressional control.

Mr. President, in the Mexican bailout, the administration ignored all precedent and recognized use of the ESF. Prior to the Mexican bailout, the largest loan to a foreign country from the ESF was $1 billion to Mexico in 1982—and that loan was for just 10 days. Another loan to Mexico in 1982, for 6 months, was the longest loan in the history of the ESF.

But this year, the administration committed $20 billion of American taxpayer dollars to Mexico for loans and securities guarantees extending up to 10 years. And the administration took this unprecedented action without a single vote of Congress. I want to emphasize again: $20 billion to a foreign country for 10 years without a single vote of Congress. That was not the purpose of the ESF—that was foreign aid, pure and simple.

Mr. President, my amendment would reassert Congress' rights and responsibilities over the ESF. And this amendment would restore the ESF to its original purpose—short-term stabilization of the dollar. American taxpayers' money in the ESF should not, and must not, be used as foreign aid.

I would also like to address the apparent lack of cooperation by the administration with the House leadership. I refer my colleagues to the abundant correspondence between Speaker GINGRICH and the White House that details the problems with, and the potential violations of, the Mexican Debt Disclosure Act. This correspondence is available from my office. The recent vote in the House on Congressman SANDERS' ESF amendment clearly illustrates the frustration and outrage felt by Congress and the American people toward the Mexican bailout and the President's use of the ESF.

Mr. President, I fully recognize that the ESF is an important tool in these times of rapidly changing and turbulent financial markets. This amendment would not limit, in any way, the Secretary's ability to use the ESF to stabilize the dollar. The ESF was designed to protect the dollar, not the Mexican peso or any other foreign currency. This amendment will simply reassert Congress' control over the ESF while restraining the Secretary's

unchecked ability to spend taxpayer dollars.

We must not allow ESF to be used to circumvent Congress' constitutional authority to appropriate funds and provide foreign aid. Congress is the peoples' voice and the administration must not turn its back on the people ever again.

Mr. SHELBY. Mr. President, Senator KERREY and I have reviewed the amendment and statement by Senator D'AMATO. We will agree to the amendment.

Mr. DODD. Mr. President, I rise to express my support for the proposal that our colleague from New York has fashioned. I think this provision strikes a good balance between the prerogative of the Congress and the responsibilities of the executive branch.

I believe a little background on the issue we are dealing with might be useful for our colleagues. This amendment relates to the Exchange Stabilization Fund which was created by the Congress more than 60 years ago—in 1934. Throughout that 60-year period, it has been used prudently in dealing with currency-related matters.

I know that the recent use of this fund for Mexico has brought it to the attention of our colleagues. Without question the $20 billion assistance effort extended to Mexico is without precedent in the history of the Exchange Stabilization Fund. Prior to that instance, the largest single use of the fund occurred in 1982 when Mexico was confronted with another currency crisis. On that occasion the fund extended a very brief extension of credit totaling $1 billion.

Much has changed in world financial markets since 1982. There has been an explosion of growth of these markets. In 1982, for example, the world equity market totalled $ 2.73 trillion. By 1993 that market had grown more than 500 percent to $14 trillion. This is just one indicator of the magnitude of capital flows that can occur in crisis situations—virtually overwhelming most domestic exchange markets. I believe that these factors should be taken into account in making a judgment about the recent use of the Exchange Stabilization Fund.

The Senator from New York has felt very strongly that the Exchange Stabilization Fund should not be a secret foreign aid spigot. Our colleague from New York is correct about that. This was not its intended purpose. I am not suggesting, or is our colleague from New York, that has been the case.

The President made no secret of his intention to assist Mexico in its effort to address its financial crisis. To the President's credit, he came to the Congress first, and asked us to be involved. For reasons we do not need to go into today, that did not work out. The President recognized that Congress was not going to be able to respond in a timely fashion. Senator DOLE, the majority leader, and the Speaker of the House of Representatives, NEWT GINGRICH, recognized that as well. They joined with the President and endorsed his decision to utilize the authorities of the Exchange Stabilization Fund to assist Mexico.

Senator D'AMATO's amendment will enable the Congress to respond more effectively to any future crises of this nature, if it so decides to involve itself.

For these reasons, I support the amendment of the Senator from New York. I think this is a good proposal.

Mr. DOMENICI. Mr. President, I congratulate Senator D'AMATO on this amendment. I really believe it came as a great surprise to many Senators—perhaps all but him—that this fund was around there and could be used. I think the time has come for us to set some legislative limitations on its use, because it is a very vital fund for its originally intended purposes.

Therefore, as in years past, we will be grateful that it will start to accumulate again. And clearly we will not use it without Congress understanding its use, unless it be in a minor amount of dollars. I think that is good for the future of the strength of our dollar, and that we stabilize other currencies around the country, which has become a vital part of our dollar valuation.

Mr. BENNETT. Mr. President, I want to join in congratulating the chairman of the Banking Committee for the way in which he handled this issue. He was courteous enough to talk with me about it some days—even weeks—ago. We have been negotiating back and forth on this as to what we thought would be the best way to do this. The way he has ultimately decided to do this, I think, demonstrates his willingness to be open to suggestion—his willingness to accept changes that are suggested.

I not only congratulate him on this amendment, I look forward to hearings on this issue before the Banking Committee, because we recognize that this particular amendment will run out after one fiscal year. And we probably need to have hearings to discuss the underlying issue. Is $1 billion the right number for the long term? Should it be 5, 10, 2, or 6? Is 6 months the right number of months? I think for the time limit, set in this amendment, the Senator has made the right choice. I encourage him to look for a long-term solution to this issue and to schedule hearings. I look forward to participating in those.

Mr. DODD. Mr. President, I commend our colleague from Utah, as well. He has been very involved in this from the very beginning and has offered very good, sound advice on how to proceed. I know our colleague from New York agrees with that, as well. Also, I make the point that I happen to believe—and I think most of our colleagues agree here—that the Secretary of the Treasury has done a good job. He had a very difficult problem to grapple with and he handled it very well.

As I pointed out earlier, we were faced with the difficult situation of the Congress being unable to act quickly and with very few other alternatives for responding to the Mexican problem.

I think we have gone through a good process over the spring. Treasury officials, the Chairman of the Federal Reserve Board, Alan Greenspan, and other experts have come up to talk about this. I think all of these discussions have had a beneficial affect on the conduct of this entire process.

We do not want to discourage this administration or future ones from responding decisively to crises like that which confronted us with respect to Mexico. I don't believe this provision does that. Rather, it makes the Congress more a part of that process. Heretofore, We did not have the mechanism for being a part of the process. Now we will during fiscal year 1996.

I thank my colleague for yielding and congratulate him on his efforts.

Mr. D'AMATO. I thank Senator DODD. I thank my colleagues from Utah and New Mexico for their kind words, also. I do believe that Congress, by not becoming part of the process, shares the responsibility and onus in not doing so. Congressional involvement is part of our oversight, and it should be. Hopefully, this legislation will lead to a permanent manner in which to bring us into the process, and if we choose not to, so be it. But I think we should be part of that process.

I thank all of my colleagues for the suggestion and their help in bringing us to this point.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2229) was agreed to.

Mr. DODD. I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2230

(Purpose: To provide funding for the Advisory Commission on Intergovernmental Relations, and for other purposes)

Mr. KEMPTHORNE. I want to thank the managers of this bill for the hard work they have undertaken. I want to acknowledge that this Congress, Members of this Senate, and Members of the House of Representatives this year established something that is quite remarkable. This Congress will be known for establishing the mechanism to stop unfunded Federal mandates, something talked about for years. It has been accomplished. It was accomplished with the passage of Senate bill 1 which received 90 percent positive vote in the Senate and 90 percent positive vote in the House of Representatives.

Most of the legislation is prospective, dealing with future mandates. That does not mean that our job is finished. What about the existing mandates that have been burdening local and State governments for years?

A key provision in the Senate bill was title 3 which said we are going to

take a look at all of the existing mandates and determine which of those may be duplicating the cost, which of those are obsolete, which of those do not make sense and ought to be taken off the books entirely. That report is to be accomplished by April 1 of next year, not a great deal of time to get that accomplished.

We designated in that legislation that the Advisory Commission on Intergovernmental Relations would be charged with that task. They have been working on it ever since Senate bill 1 became law.

What is the result of that? A letter from the Advisory Commission stated on August 3 they are making progress on the mandate study, they have already met the first two deadlines and expect to meet the remainder as well. They have already approved criteria published in the Federal Register July 6 of this year and a report on court rulings involving State and local government which was officially transmitted to the President and the Congress, and a copy of which is attached.

I raise this, Mr. President, because the House of Representatives in their companion legislation to this took an unusual action, in my estimation. The House determined that while we have already launched this effort, while we have already asked a Commission comprised of Members of the U.S. Senate, Members of the U.S. House of Representatives, Governors, mayors, members of State legislatures, county officials, the executive branch and private citizens, they now say, ''Stop, we do not think this group ought to do this task.''

They say, ''We would like to provide funds of $334,000 to the Office of Management and Budget to carry out this task.'' I do not understand that, Mr. President. I do not understand the wisdom of saying that this group, which is the exact group that helped us pass the efforts to stop unfunded mandates, should not be the one tasked with coming up with the review of existing mandates, but instead we would like to have the Office of Management and Budget take on this task.

Now, we discussed this again in Senate bill 1. The House set up a different commission now. Again, we have looked at the same type of commission when we discussed in Senate bill 1. An amendment was offered by the Senator from North Dakota, Senator DORGAN, which said that this is the group that ought to do the job, and in a vote of 88–0 this Senate said that is correct, this is the group.

Yet now we have the committee that has come forward with their legislation, and they say we concur with the House. We believe that the funds that were dedicated to this group for that cause ought to be given to the Office of Management and Budget. Again, I totally disagree with that.

This amendment, Mr. President, says that this group, the Advisory Commission on Intergovernmental Relations, will be allowed to finish the job, and it provides the funds up through April 1 to complete that task. At that point, no further funds would be made available to this group.

The idea of telling the very people that are impacted most by unfunded mandates that for some reason we do not want the report from them, we would rather have it from the Federal Government that has been imposing unfunded mandates for years, does not make sense to me.

That is the essence of the amendment, Mr. President. I yield the floor.

Mr. GLENN. Mr. President, I rise in strong support of the Kempthorne-Dorgan amendment. If we do not pass this, I think we could be looked at as once again doing something half-baked and ill-considered in the Congress that just leaves people sick when they look at it.

What we are doing is giving a job and at the same time we are cutting off the money to do the job, if we do not pass this amendment. It just makes us look silly. I compliment my friend from Idaho for picking this up and doing something about it.

As he said, earlier this year we enacted the Unfunded Mandates Reform Act. This is historic legislation. We desired to bring balance to our system of Federalism. It was a bipartisan effort. As we all know, we worked many long hours here on the floor of the Senate for almost 2 weeks full time, morning to night, and we ultimately passed the Senate by a vote of 91 to 9. Huge support, both sides of the aisle.

It deals primarily with future mandates on both the public and private sectors. It sets up a process of consideration and analysis whereby we would have a better understanding of the cost and impact of Federal mandates in both the legislative and regulatory process.

S. 1 requires cost estimates to be made. Cost estimates of legislation by the Congressional Budget Office, and cost benefit analysis of regulations by the agencies.

Now, title 3 of S. 1 sets up a series of studies on the impact of existing—big difference—existing regulatory and legislative mandates on State and local governments, and to make recommendations on how to reduce the burdening and improve the flexibility of these mandates.

Title 3 tasks this responsibility, as the Senator from Idaho said, to the Advisory Commission on Intergovernmental Relations. We authorized $500,000 each year for fiscal year 1995 and 1996 for them to carry out their responsibilities under the act. We expect to get back far more than that $500,000 for each year in the increased efficiencies that we will have result from the studies they will do.

Unfortunately, the question is zeroed out of the ACIR, provided no appropriation to complete the studies required under S. 1. We gave them a job and cut their budget to do it, which is just a bit idiotic. Once again, the left hand does not know what the right hand is doing. It just makes us look foolish because it is foolish. What the Senator from Idaho is doing is correcting that situation.

I understand about half of ACIR's budget comes from Federal appropriations. The rest comes from State and local governments and from the sale of publications and services.

I also realize by fiscal year 1997, ACIR is hoping to become fully self-sustained, no longer reliant on Federal funds. That is good. I am glad they are moving in that direction.

ACIR tells us they do need $334,000 in order to complete the studies that we in Congress required of them to carry out S. 1. If we do not provide these funds, what we are doing is saying we have set up here another unfunded mandate with the group that was supposed to be looking into unfunded mandates. We will not even have the people out there to do that. Ultimately, they will not be able to do the studies and make the needed recommendations.

I believe we should live up to the commitments we made when we enacted S. 1. I do not think there is objection to this. I hope we have full support for it and can do it unanimously. I urge my colleagues strongly to support the Kempthorne-Dorgan amendment. I thank my colleague from Idaho.

Mr. KEMPTHORNE. Mr. President, may I acknowledge and thank the Senator from Ohio, Senator GLENN, who is a strong partner in bringing about Senate bill 1. It was a bipartisan effort. The same bipartisanship is alive and well. We should keep it going.

Mr. SHELBY. Mr. President, Senator KERREY and I have conferred with Senator KEMPTHORNE, Senator GLENN, and others, and we are willing to accept the amendment.

Mr. KERREY. Mr. President, our side is willing to accept the amendment as well. The ACIR will have the same happy ending and continue the same work started by Senator GLENN and Senator KEMPTHORNE. I appreciate their hard work and effort.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE] for himself, Mr. GLENN, and Mr. DORGAN, proposes an amendment numbered 2230.

On page 29, line 12, strike out ''$55,907,000,'' and insert in lieu thereof ''$55,573,000,''.

On page 33, insert between lines 1 and 2 the following:

ADVISORY COMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

For necessary expenses of the Advisory Commission on Intergovernmental Relations to carry out the provisions of title III of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), $334,000; *provided*, that upon the completion of the Final Report required by such title, no further Federal funds shall be available for the Advisory Commission on Intergovernmental Relations.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2230) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 2231

(Purpose: To provide that no increase in the rates of pay for Members of Congress shall be made in fiscal year 1996, and for other purposes)

Mr. THOMPSON. Mr. President, I send an amendment to the desk on behalf of myself and Senator DOMENICI, the Senator from New Mexico, and ask for its immediate consideration.

The PRESIDING OFFICER. If there is no objection, the committee amendments are set aside.

It is so ordered, and the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for himself, Mr. DOMENICI, Mr. PRESSLER, Mrs. HUTCHISON, Mr. D'AMATO, Mr. ABRAHAM, Mr. DEWINE, Mr. ASHCROFT, Ms. SNOWE, Mr. MCCAIN, and Mr. GRASSLEY proposes an amendment numbered 2231.

At the appropriate place in the bill, insert the following new section:

SEC. . Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost of living adjustments for Members of Congress) during fiscal year 1996.

Mr. THOMPSON. I also ask unanimous consent the following Senators be listed as cosponsors to this amendment. In addition to Senator DOMENICI and myself, Senator PRESSLER, Senator HUTCHISON, Senator D'AMATO, Senator ABRAHAM, Senator DEWINE, Senator ASHCROFT, Senator SNOWE, Senator MCCAIN, and Senator GRASSLEY.

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

Mr. THOMPSON. For several months now this body has debated many fundamental issues facing this country. While we still disagree on many of these issues, there are certain truths that are becoming readily apparent. One is that we must get our fiscal house in order in this country if we are to avoid national bankruptcy and preserve the country that we have known.

It is true, it has been said often—and it cannot be said too often—that our national debt and interest on that debt are strangling us. We cannot sustain deficits endlessly in the future at the rate we have. It will have its effects on savings, a detrimental effect on interest rates, and ultimately the long-term growth of this country. We will be leaving a legacy of higher interest rates and a lower standard of living to future generations.

We are coming to agree on this basic general principle during these debates, and I think we are in the beginning stages, finally, of facing up to these problems. We have now passed a balanced budget resolution—which will lead us to a balanced budget in the year 2002—for the first time in decades in this country. The President has now acknowledged the seriousness of this problem. We have a great opportunity, I think, to work together to solve this problem. Although we may differ on the means by which we solve it, I think we can certainly agree on the end that we must all work toward.

I think we are also becoming more honest with the American people. I think it is clearer every day. People are beginning to realize if we are to solve this problem, we cannot have everything exactly as we have had it in years past. Sooner or later, we are going to all have to make some sacrifices for the sake of our country.

We have seen this in nondiscretionary spending items, where we have come to realize we cannot continue to have growth in some of these programs at multiples of 10 percent a year. We have begun to address the question of cost-of-living increases. Some of our citizens have now had delays in those. Others, such as Federal workers, will be having to face up to this.

Many of us who are concerned about our national defense and the fact that seemingly every time we have a major engagement in this country we become complacent, we do not keep our appropriations up. And we are faced with that situation, perhaps, again.

But the point is that all of us are suddenly realizing everybody is going to have to pitch in. Nobody is going to get all of what they want. We are going to have to make sacrifices across the board. I feel there are very few Americans who are not willing to help, as long as they feel they are being treated fairly and there is an across-the-board addressing of the problem.

The amendment Senator DOMENICI and I offer today is based upon the simple proposition that while we are asking the American people and leading the American people toward addressing these problems and making these adjustments, we do the same thing with regard to ourselves. We certainly should not be having automatic cost-of-living increases for this body during this particular period of time. Automatic pay increases, where we do not even have to vote on them, stick in the craw of the American people, and it is destructive to what we are ultimately trying to do here in this body.

Some people will say we are not going to save all that much money by freezing the automatic cost-of-living increase for the year 1996, that it is largely symbolic. Our response to that is that symbolism is important. It is somewhat ironic that we are the body that has to lead the American people, the Congress. We have to lead the American people toward these difficult choices, but we are a body not held in high regard by the American people. So we must do what we need to do to put ourselves in a position of leadership. In order for us to be able to deliver a message to the American people and have it be credible, the messenger is going to have to have more credibility.

Mr. President, I think we have begun to demonstrate to the American people that this body is willing to do its part. We have seen we have faced up to the problems of gifts and the problems of free trips we have had in this body in the past. We have seen one of the first thing we did in this session of Congress was to apply the laws to ourselves that have, for so many years, been applied to the American people. We are going to be facing up to the pension issues which will bring us more into line with other Federal employees and other people in the private sector.

So turning down an automatic cost-of-living increase this year, I think, is a part of that overall, very important picture. We are going down the right road now, and I am delighted to see this amendment is going to be, apparently, agreed to, and we are not turning back at this stage.

With that, I yield to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to assure the majority leader, from everything I understand, we are not going to speak very long—very long in addition to what has already been said. He need not worry about filing a cloture motion or anything like that. The only speakers I think are Senator HUTCHISON and myself.

I ask unanimous consent Senator DOLE be added as a cosponsor of this amendment.

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

Mr. DOMENICI. I ask unanimous consent that this amendment be open until the Senate close today for additional cosponsors who might want to join it.

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

Mr. DOMENICI. Mr. President, I join with Senator THOMPSON in a very simple amendment. I think it is very basic, it is very fair. It is the thing we ought to do.

We are in the midst of a great change. Part of that change is to get the Federal deficit under control and make Government smaller. In doing that, we are asking a lot of people to sacrifice and we are asking that a lot of programs be restrained, some cut, some eliminated. I think we must send the right signal to the American people. We must say to them we are also willing to restrain ourselves in a way that reminds us that we are in an era of restraining the budget.

I think the best way to do that is to say we are not going to have any pay raises for Members of Congress in 1996.

The budget resolution said we would not do that for 7 years. We cannot do that today for 7 years. I am not sure that we should. But we take it 1 year at a time, and for now we are saying,

consistent with the budget resolution and our affirmations as we all voted with that—that we want to get the deficit under control and be fair—wherein we said let us not have any pay raises, we are saying that is what we want to do. No pay raises for 1996 for Members of Congress.

I thank the Senator from Tennessee for offering this amendment. It is a privilege to be his cosponsor. I think the managers are doing the right thing in accepting it. It probably will become law, thanks to Senator THOMPSON's efforts, and I think the public deserves that this year.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I appreciate the leadership of the Senator from Tennessee, Senator THOMPSON, and the Senator from New Mexico, Senator DOMENICI.

Senator DOMENICI, in the budget resolution, provided that there would be no increases in salaries of Members of Congress until this budget is balanced. I think that is a fair contract with the American people.

Senator THOMPSON today is implementing that decision and we must do it in every appropriations bill that comes forward. That is necessary for us to show that we are going to do what every American is doing when times are hard.

By freezing the salaries, we can contribute to this ending of the budget deficit so that our children and grandchildren will have a chance to grow up with the kinds of childhoods we have been able to grow up in and love in America.

So I thank the Senator from Tennessee. I thank the Senator from New Mexico and our leader for making sure that we are going to do the right thing.

You have seen, the American people have seen, Mr. President, you have seen in the last few weeks and days and hours how hard it is for us to make the necessary cuts to do what is right for America. But we are going to do it. We are showing that we are going to do it, that we have the commitment, that we have the tenacity, that we have the will to do what is right, no matter how hard it is, so that our children will be able to inherit an America that is free from debt at some point in their future so that they will not have to pay taxes so onerous that they will not have the quality of life that we enjoy today.

Thank you, Mr. President. I thank the Senator from Tennessee.

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

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

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, Senator KERREY, the ranking Democrat on the subcommittee, and I have agreed to take this amendment.

Mr. KERREY. Mr. President, while it is true that we have already spent the money, I accept the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment.

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

Mr. BROWN. Mr. President, an essential element of leadership is to lead by example. I think this does that.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 2231) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. THOMPSON. Mr. President, I ask unanimous consent that the Senator from Pennsylvania, Senator SANTORUM, be added as a cosponsor.

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

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I wanted to indicate that there will be no more rollcall votes today. We have already notified the cloakrooms in case somebody was not notified. We will complete action on this bill.

I wanted to congratulate the managers. Getting it done in one day is, I think, an outstanding accomplishment.

Then we will go back to the DOD authorization bill with the managers dealing with about 20 to 30 amendments that have been cleared. So following disposition of this bill, we will go back to the DOD authorization bill. It will probably take about 30 or 40 minutes to do that.

AUTHORITY FOR ENROLLING CLERK

Mr. SHELBY. Mr. President, I ask unanimous consent that the enrolling clerk be authorized to insert the Nickles amendment No. 2153 at the appropriate place in the bill.

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

COMMITTEE AMENDMENTS AGREED TO EN BLOC

Mr. SHELBY. Mr. President, I also ask unanimous consent that the committee amendments to H.R. 2020 be considered and agreed to en bloc.

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

So the committee amendments were agreed to en bloc.

Mr. SHELBY. Mr. President, I ask unanimous consent that no points of order be waived thereon and that the measure, as amended, be considered as original text for the purpose of further amendment.

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

AMENDMENTS NOS. 2232 THROUGH 2251

Mr. SHELBY. Mr. President, I send a group of amendments which have been cleared to the desk.

Mr. President, these amendments are as follows:

An amendment on behalf of myself and Senator KERREY to increase the limitation of funds the Secret Service can spend to secure nongovernmental properties; an amendment on behalf of Senator STEVENS pertaining to mail delivery in Alaska; an amendment on behalf of Senators D'AMATO and MOYNIHAN transferring a forfeited aircraft to a war museum; an amendment on behalf of Senators FORD and MCCONNELL prohibiting implementation of an ATF ruling on citrus contents in alcohol; an amendment on behalf of Senator PRYOR striking the committee amendment on page 15, line 5 through line 9; an amendment on behalf of Senators SIMPSON and CRAIG restricting IRS funds to certain tax-exempt organizations; an amendment for myself and Senator KERREY allowing for the Department of Treasury to reimburse the District of Columbia for costs incurred as a result of the closure of Pennsylvania Avenue.

Further, an amendment on behalf of Senator COVERDELL providing $5 million for payments to States to partially cover costs of the National Voter Registration Act of 1993; an amendment on behalf of Senator BINGAMAN prohibiting the sale of tobacco products in vending machines in Federal buildings; a sense-of-the-Senate amendment on behalf of Senator BROWN on GSA supply depots; two amendments on behalf of Senator KERREY and myself on an IRS commission and on a Secret Service protection matter; an amendment on behalf of Senator HUTCHISON on border stations; an amendment on behalf of Senator BINGAMAN requiring energy costs in Federal facilities; a sense of the Senate on behalf of Senator BROWN regarding an airport issue in Colorado; an amendment on behalf of Senators HATCH and BIDEN restoring—I have a modification on the Hatch-Biden amendment—funds to ONDCP; an amendment on behalf of Senator BROWN regarding SES leave; an amendment on behalf of Senator LAUTENBERG regarding transfer of a building in Hoboken, NJ; an amendment on behalf of Senator GRASSLEY restoring funding for ACUS; an amendment on behalf of Senator MIKULSKI regarding pay for Uniformed Service officers.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama (Mr. SHELBY) proposes amendment Nos. 2232 through 2251, en bloc.

The amendments are as follows:

AMENDMENT NO. 2232

Mr. SHELBY offered an amendment (No. 2232) for himself and Mr. KERREY.

At the end of Title V, add the following new section:

SEC. . Section 4 of the Presidential Protection Assistance Act of 1976, Public Law 94–524, is amended by striking ''$75,000'' and inserting in lieu thereof ''$200,000''.

AMENDMENT NO. 2233

Mr. SHELBY offered an amendment (No. 2233) for Mr. STEVENS.

On page 104, insert between lines 19 and 20 the following new section:

SEC. 635. (a) Section 5402 of title 39, United States Code, is amended—

(1) in subsection (f) by striking out ''During the period beginning January 1, 1995, and ending January 1, 1999, the'' and inserting in lieu thereof ''The''; and

(2) in subsection (g)(1) by amending subparagraph (D) to read as follows:

''(D) have provided scheduled service within the State of Alaska for at least 12 consecutive months with aircraft—

''(i) under 7,500 pounds payload before being selected as a carrier of nonpriority bypass mail at an applicable intra-Alaska bush service mail rate; and

''(ii) equal to or over 7,500 pounds before being selected as a carrier of nonpriority bypass mail at the intra-Alaska mainline service mail rate.''.

(b)(1) Subject to paragraph (2), the amendment made by subsection (a) shall be effective on and after August 1, 1995.

(2) Subparagraph (D) of section 5402(g)(1) of title 39, United States Code (as in effect before the amendment made under subsection (a)) shall apply to a carrier, if such carrier—

(A) has an application pending before the Department of Transportation for approval under Section 41102 or 41110(e) of title 39, United States Code, before August 1, 1995; and

(B) would meet the requirements of such subparagraph if such application were approved and such certificate were purchased.

AMENDMENT NO. 2234

Mr. SHELBY offered an amendment (No. 2234) for Mr. D'AMATO, for himself and Mr. MOYNIHAN.

At the appropriate place in the bill, add the following new section:

SEC. . Notwithstanding any other provision of law, the United States Customs Service shall transfer, without consideration, to the National Warplane Museum in Geneseo, New York, 2 seized and forfeited A–37 Dragonfly jets for display and museum purposes.

AMENDMENT NO. 2235

Mr. SHELBY offered an amendment (No. 2235) for Mr. FORD, for himself and Mr. MCCONNELL.

Add the following new Section to Title V:

SEC. . No part of any appropriation made available in this Act shall be used to implement Bureau of Alcohol, Tobacco and Firearms Ruling TD ATF–360; Re: Notice Nos. 782, 780, 91F009P.

AMENDMENT NO. 2236

Mr. SHELBY offered an amendment (No. 2236) for Mr. PRYOR.

(Purpose: To eliminate funding requiring an initiation of a program to use private law firms and debt collection agencies in collection activities of the Internal Revenue Service, and for other purposes)

On page 15, line 5, strike out all after ''research'' through line 9 and insert in lieu thereof a period.

● Mr. PRYOR. Mr. President, it is my understanding that the managers of the bill, Senators SHELBY and KERRY, have accepted my amendment, and I want to thank them for their support. However, a similar provision was included in the House Treasury, Postal Service appropriations bill, and I want to make my comments on this matter part of the RECORD in anticipation of the conference between the House and Senate.

Mr. President, the Treasury, Postal Service, and General Government appropriations bill provides $13 million to ''initiate a program to utilize private counsel law firms and debt collection agencies in the collection activities of the Internal Revenue Service.''

In short, this provision requires the IRS to spend $13 million to hire private law firms and private bill collectors to collect the debts of the American taxpayer. My amendment is very simple—It strikes this provision from the Treasury, Postal Service appropriations bill.

Mr. President, in over 200 years of our Federal Government, we have never turned over the business of collecting taxes to the private sector—But I must point out that this dubious practice is as old as the hills and dates back to at least ancient Greece.

The practice of private tax collection even has a name. It is called ''tax farming'', and its modern history is chronicled in a book authored by Charles Adams, a tax lawyer and history teacher. The book is named ''For Good and Evil: The Impact of Taxes on the Course of Civilization.''

In this book, Mr. Adams recounts many tales of how the world has suffered under the oppression of the tax farmers. He specifically describes the tax farmers sent by the Greek kings to the island of Cos as ''thugs, and even the privacy of a person's home was not secure from them.'' He further notes that a respected lady of Cos around 200 B.C. wrote ''Every door trembles at the tax-farmers.''

Mr. President, in the later Greek and Roman world, no social class was hated more than the tax farmer. The leading historian of the period, Rostovtzeff, described tax farmers with these words: ''The publican (keepers of the public house) certainly were ruthless tax collectors, and dangerous and unscrupulous rivals in business. They were often dishonest and probably always cruel.''

Tax farming flourished, as a monster of oppression in many forms, in Western civilization, for over 2,500 years until its demise after World War I.

Tax farming brutalized prerevolutionary France. The French court paid the price during the Reign of Terror when the people were so incensed that they rounded up the tax farmers, tried them in the people's courts, and condemned them to death. Accounts of the time tell of the taxpayers cheering while the heads of the tax farmers tumbled from the guillotine.

In 17th-century England, Charles II imposed a ''Hearth Tax'', assessing 2 shillings per chimney in each house. To collect it, the king contracted out with private parties—named by the people, ''Chimney Men''. These Chimney Men were ruthless and hated by the people of England. Hatred of the privately collected tax helped depose Charles' brother, James II. As soon as the new monarchs, William and Mary, were installed, the House of Commons abolished the tax, ending a ''badge of slavery upon the whole people that allowed every man's house to be entered and searched at the pleasure of persons unknown to him.''

Now, I am not suggesting that providing $13,000,000 to the IRS in order to contract out with private law firms and collection agencies will cause anyone to actually lose their head. But, for well-reasoned decisionmakers, history should be utilized as a guide as to—what is, and what is not—a good idea. Clearly, Mr. President, history tells us that contracting out the tax collection responsibilities of government is not a good idea.

Mr. President, some very notable economists and philosophers have also warned against tax farming. In his book, ''The Wealth of Nations,'' Adam Smith states, ''The best and most frugal way of levying a tax can never be by farm.''

Smith goes on to observe that ''The farmers of the public revenue never find the laws too severe, which punish any attempt to evade the payment of tax. They have no bowels for the contributors, who are not their subjects, and whose universal bankruptcy, if it should happen the day after their farm is expired, would not much affect their interest.''

Mr. President, I know there are those in this Chamber who revere Adam Smith, so I hope they will heed his message in ''The Wealth of Nations.''

Mr. President, just as relevant to the discussion is how this practice may be employed in our time and by our Federal Government?

First, Who will these people be?

Second, How will they be hired?

Third, Who will train them?

Fourth, Who will oversee them?

Fifth, Which taxpayer's cases will they work on?

Sixth, What type of taxpayer information will be made available to them? And,

Seventh, How will these private bill collectors be paid?

Mr. President, this legislation provides no answer to these important questions—it simply provides taxpayer dollars, $13 million of them, to nameless, faceless, untrained, and unaccountable bill collectors with no guidance as to how they will be paid.

Let us just briefly explore two of the questions that I just mentioned.

First, what type of taxpayer information will these private bill collectors have access to? The American people demand that their tax return information will be kept confidential; that it will only be shared with the appropriate personnel within the Government. It is an essential element which lends confidence in our tax system and

leads to a high percentage of voluntary compliance.

If taxpayer information is shared outside of the Government confidence, how many taxpayer will decide to no longer comply? I fear in an effort to collect more revenues, we will collect less.

Second, how will these bill collectors be paid? The bill does not specify the manner in which these private law firms and private collection agencies will be compensated. But Mr. President, most bill collectors are paid on a contingency basis—that is, they are compensated on some percentage of what they collect.

If this is to be the case—and it is certainly a possibility under this bill—this is a blatant violation of the Taxpayer Bill of Rights. In the Taxpayer Bill of Rights, passed in 1988, there is included a strict prohibition against the IRS from using enforcement goals or quotas.

Mr. President, a contingency fee to an outside contractor is a quota, and if applied to the compensation of an IRS agent would be strictly prohibited under the Taxpayer Bill of Rights. However, there is a fatal problem the drafters of this legislation have not recognized. And that is—the Taxpayer Bill of Rights only applies to the IRS—not outside contractors. Given this loophole, I must register my strongest objection to any possibility that a modern day tax farmer might be paid on a contingency basis.

But this certainly will not be the only protection afforded by the Taxpayer Bill of Rights which does not apply to these private bill collectors. For example, a reckless IRS agent can be sued under the Taxpayer Bill of Rights. Mr. President, no such right exists for the taxpayer against a private bill collector. We must take the time to analyze what other rights the taxpayer may be losing under this provision.

Mr. President, I might also point out that we have had no hearings in the Senate on this proposed practice. And, as a member of the Finance Committee, I must say I am shocked that an issue so fundamental to the relationship between the Government and the taxpayer has not been the topic of any discussion before the members of the Finance Committee.

Mr. President, the IRS Commissioner raises serious questions about this provision. In a letter I received today, Commissioner Richardson outlines her concerns. Mr. President, I ask that a copy of the Commissioner's statement be printed in the RECORD.

Mr. President, I believe the IRS Commissioner's concerns are warranted and we should not act until we have the answer to these questions.

The statement follows:

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, August 4, 1995.

Hon. DAVID PRYOR,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRYOR: I am writing to express my concern regarding statutory language in the FY 1996 Appropriations Committee Bill (H.R. 2020) for Treasury, Postal Service and General Government that would mandate the Internal Revenue Service (IRS) spend $13 million ''to initiate a program to utilize private counsel law firms and debt collection activities . . .'' I have grave reservations about starting down the path of using private contractors to contact taxpayers regarding their delinquent tax debts without Congress having a thorough understanding of the costs, benefits and risks of embarking on such a course.

There are some administrative and support functions in the collection activity that do lend themselves to performance by private sector enterprises under contract to the IRS. For example, in FY 1994, the IRS spent nearly $5 million for contracts to acquire addresses and telephone numbers for taxpayers with delinquent accounts. In addition, we are taking many steps to emulate the best collection practices of the private sector to the extent they are compatible with safeguarding taxpayer rights. However, to this point, the IRS has not engaged contractors to make direct contact with taxpayers regarding delinquent taxes as is envisioned in H.R. 2020. Before taking this step, I strongly recommend that all parties with an interest obtain solid information on the following key issues:

(1) What impact would private debt collectors have on the public's perception of the fairness of tax administration and of the security of the financial information provided to the IRS? A recent survey conducted by Anderson Consulting revealed that 59% of Americans oppose state tax agencies contracting with private companies to administer and collect taxes while only 35% favor such a proposal. In all likelihood, the proportion of those opposed would be even higher for Federal taxes. Addressing potential public misgivings should be a priority concern.

(2) How would taxpayers rights be protected and privacy be guaranteed once tax information was released to private debt collectors? Would the financial incentives common to private debt collection (keeping a percentage of the amount collected) result in reduced rights for certain taxpayers whose accounts had been privatized? Using private collectors to contact taxpayers on collection matters would pose unique oversight problems for the IRS to assure that Taxpayers Bill of Rights and privacy rights are protected for all taxpayers. Commingling of tax and non-tax data by contractors is a risk as is the use of tax information for purposes other than intended.

(3) Is privatizing collection of tax debt a good business decision for the Federal Government? Private contractors have none of the collection powers the Congress has given to the IRS. Therefore, their success in collection may not yield the same return as a similar amount invested in IRS telephone or field collection activities where the capability to contact taxpayers is linked with the ability to institute liens and levy on property if need be. Currently, the IRS telephone collection efforts yield about $26 collected for every dollar expended. More complex and difficult cases dealt with in the field yield about $10 for every dollar spent.

I strongly believe a more extensive dialogue is needed on the matter of contracting out collection activity before the IRS proceeds to implement such a provision. Please let me know if I can provide any additional information that would be of value to you as Congress considers this matter.

Sincerely,

MARGARET MILNER-RICHARDSON.●

AMENDMENT NO. 2237

Mr. SHELBY offered an amendment (No. 2237) for Mr. SIMPSON, for himself and Mr. CRAIG.

At the appropriate place, insert the following:

SEC. ___. EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—An organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible for the receipt of Federal funds constituting an award, grant, or loan.

(b) DEFINITIONS.—For purposes of this section:

(1) AGENCY.—The term ''agency'' has the meaning given that term in section 551(1) of title 5, United States Code.

(2) CLIENT.—The term ''client'' means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose employees act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.

(3) COVERED EXECUTIVE BRANCH OFFICIAL.—The term ''covered executive branch official'' means—

(A) the President;

(B) the Vice President;

(C) any officer or employee, or any other individual functioning in the capacity of such an officer or employee, in the Executive Office of the President;

(D) any officer or employee serving in a position in level I, II, III, IV, or V of the Executive Schedule, as designated by statute or Executive order;

(E) any member of the uniformed services whose pay grade is at or above O–7 under section 201 of title 37, United States Code; and

(F) any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policy-advocating character described in section 7511(b)(2) of title 5, United States Code.

(4) COVERED LEGISLATIVE BRANCH OFFICIAL.—The term ''covered legislative branch official'' means—

(A) a Member of Congress;

(B) an elected officer of either House of Congress;

(C) any employee of, or any other individual functioning in the capacity of an employee of—

(i) a Member of Congress;

(ii) a committee of either House of Congress;

(iii) the leadership staff of the House of Representatives or the leadership staff of the Senate;

(iv) a joint committee of Congress; and

(v) a working group or caucus organized to provide legislative services or other assistance to Members of Congress; and

(D) any other legislative branch employee serving in a position described under section 109(13) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(5) EMPLOYEE.—The term ''employee'' means any individual who is an officer, employee, partner, director, or proprietor of a person or entity, but does not include—

(A) independent contractors; or

(B) volunteers who receive no financial or other compensation from the person or entity for their services.

(6) FOREIGN ENTITY.—The term ''foreign entity'' means a foreign principal (as defined in section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)).

(7) LOBBYING ACTIVITIES.—The term ''lobbying activities'' means lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others.

(8) LOBBYING CONTACT.—

(A) DEFINITION.—The term ''lobbying contact'' means any oral or written communication (including an electronic communication) to a covered executive branch official or a covered legislative branch official that is made on behalf of a client with regard to—

(i) the formulation, modification, or adoption of Federal legislation (including legislative proposals);

(ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government;

(iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); or

(iv) the nomination or confirmation of a person for a position subject to confirmation by the Senate.

(B) EXCEPTIONS.—The term ''lobbying contact'' does not include a communication that is—

(i) made by a public official acting in the public official's official capacity;

(ii) made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;

(iii) made in a speech, article, publication or other material that is distributed and made available to the public, or through radio, television, cable television, or other medium of mass communication;

(iv) made on behalf of a government of a foreign country or a foreign political party and disclosed under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

(v) a request for a meeting, a request for the status of an action, or any other similar administrative request, if the request does not include an attempt to influence a covered executive branch official or a covered legislative branch official;

(vi) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act;

(vii) testimony given before a committee, subcommittee, or task force of the Congress, or submitted for inclusion in the public record of a hearing conducted by such committee, subcommittee, or task force;

(viii) information provided in writing in response to an oral or written request by a covered executive branch official or a covered legislative branch official for specific information;

(ix) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of the Congress or an agency;

(x) made in response to a notice in the Federal Register, Commerce Business Daily, or other similar publication soliciting communications from the public and directed to the agency official specifically designated in the notice to receive such communications;

(xi) not possible to report without disclosing information, the unauthorized disclosure of which is prohibited by law;

(xii) made to an official in an agency with regard to—

(I) a judicial proceeding or a criminal or civil law enforcement inquiry, investigation, or proceeding; or

(II) a filing or proceeding that the Government is specifically required by statute or regulation to maintain or conduct on a confidential basis,

if that agency is charged with responsibility for such proceeding, inquiry, investigation, or filing;

(xiii) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or substantially similar provisions;

(xiv) a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;

(xv) a petition for agency action made in writing and required to be a matter of public record pursuant to established agency procedures;

(xvi) made on behalf of an individual with regard to that individual's benefits, employment, or other personal matters involving only that individual, except that this clause does not apply to any communication with—

(I) a covered executive branch official, or

(II) a covered legislative branch official (other than the individual's elected Members of Congress or employees who work under such Members' direct supervision),

with respect to the formulation, modification, or adoption of private legislation for the relief of that individual;

(xvii) a disclosure by an individual that is protected under the amendments made by the Whistleblower Protection Act of 1989, under the Inspector General Act of 1978, or under another provision of law;

(xviii) made by—

(I) a church, its integrated auxiliary, or a convention or association of churches that is exempt from filing a Federal income tax return under paragraph 2(A)(i) of section 6033(a) of the Internal Revenue Code of 1986, or

(II) a religious order that is exempt from filing a Federal income tax return under paragraph (2)(A)(iii) of such section 6033(a); and

(xix) between—

(I) officials of a self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act) that is registered with or established by the Securities and Exchange Commission as required by that Act or a similar organization that is designated by or registered with the Commodities Future Trading Commission as provided under the Commodity Exchange Act; and

(II) the Securities and Exchange Commission or the Commodities Future Trading Commission, respectively;

relating to the regulatory responsibilities of such organization under that Act.

(9) LOBBYING FIRM.—The term ''lobbying firm'' means a person or entity that has 1 or more employees who are lobbyists on behalf of a client other than that person or entity. The term also includes a self-employed individual who is a lobbyist.

(10) LOBBYIST.—The term ''lobbyist'' means any individual who is employed or retained by a client for financial or other compensation for services that include more than one lobbying contact, other than an individual whose lobbying activities constitute less than 20 percent of the time engaged in the services provided by such individual to that client over a six month period.

(11) MEDIA ORGANIZATION.—The term ''media organization'' means a person or entity engaged in disseminating information to the general public through a newspaper, magazine, other publication, radio, television, cable television, or other medium of mass communication.

(12) MEMBER OF CONGRESS.—The term ''Member of Congress'' means a Senator or a Representative in, or Delegate or Resident Commissioner to, the Congress.

(13) ORGANIZATION.—The term ''organization'' means a person or entity other than an individual.

(14) PERSON OR ENTITY.—The term ''person or entity'' means any individual, corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or State or local government.

(15) PUBLIC OFFICIAL.—The term ''public official'' means any elected official, appointed official, or employee of—

(A) a Federal, State, or local unit of government in the United States other than—

(i) a college or university;

(ii) a government-sponsored enterprise (as defined in section 3(8) of the Congressional Budget and Impoundment Control Act of 1974);

(iii) a public utility that provides gas, electricity, water, or communications;

(iv) a guaranty agency (as defined in section 435(j) of the Higher Education Act of 1965 (20 U.S.C. 1085(j))), including any affiliate of such an agency; or

(v) an agency of any State functioning as a student loan secondary market pursuant to section 435(d)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)(1)(F));

(B) a Government corporation (as defined in section 9101 of title 31, United States Code);

(C) an organization of State or local elected or appointed officials other than officials of an entity described in clause (i), (ii), (iii), (iv), or (v) of subparagraph (A);

(D) an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(E) a national or State political party or any organizational unit thereof; or

(F) a national, regional, or local unit of any foreign government.

(16) STATE.—The term ''State'' means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(c) CONSTRUCTION AND EFFECT.—Nothing in this section shall be construed to affect the application of the Internal Revenue laws of the United States.

(d) EXCEPTIONS.—This section shall not apply to organizations described in section 501(c)(4) of the Internal Revenue Code with gross annual revenues of less than $10,000,000, including the amounts of Federal funds received as grants, awards, or loans.

(e) EFFECTIVE DATE.—This section shall become effective on January 1, 1997.

AMENDMENT NO. 2238

Mr. SHELBY offered an amendment (No. 2238) for himself and Mr. KERREY.

Section .

(a) Notwithstanding any other provision of law, of the funds made available to the Department of the Treasury by this or any other act for obligation at any time during the fiscal year ending September 30, 1995 or the fiscal year ending September 30, 1996, not to exceed $500,000 shall be available to the Secretary of the Treasury during the fiscal year ending September 30, 1996 to reimburse the District of Columbia Metropolitan Police Department for personnel costs incurred by the Metropolitan Police Department between May 19, 1995 and September 30, 1995 as a result of the closing to vehicular traffic of Pennsylvania Avenue Northwest and other streets in vicinity of the White House.

(b) The amount of reimbursement shall be determined by the Secretary of the Treasury

and shall be final and not subject to review in any forum.

AMENDMENT NO. 2239

Mr. SHELBY offered an amendment (No. 2239) for Mr. BINGAMAN.

(Purpose: To limit access by minors to cigarettes through prohibiting the sale of tobacco products in vending machines and the distribution of free samples of tobacco products in Federal buildings and property accessible by minors)

At the appropriate place in the bill add the following new section:

SEC. . (a) This section may be cited as the ''Prohibition of Cigarette Sales to Minors in Federal Buildings and Lands Act''.

(b) The Congress finds that—

(1) cigarette smoking and the use of smokeless tobacco products continue to represent major health hazards to the Nation, causing more than 420,000 deaths each year;

(2) cigarette smoking continues to be the single most preventable cause of death and disability in the United States;

(3) tobacco products contain hazardous additives, gases, and other chemical constituents dangerous to health;

(4) the use of tobacco products costs the United States more than $50,000,000,000 in direct health care costs, with more than $21,000,000,000 of these costs being paid by government funds;

(5) tobacco products contain nicotine, a poisonous, addictive drug;

(6) all States prohibit the sale of tobacco products to minors, but enforcement has been ineffective or nonexistent and tobacco products remain one of the least regulated consumer products in the United States;

(7) over the past decade, little or no progress has been made in reducing tobacco use among teenagers and recently, teenage smoking rates appear to be rising;

(8) more than two-thirds of smokers smoke their first cigarette before the age of 14, and 90 percent of adult smokers did so by age 18;

(9) 516,000,000 packs of cigarettes are consumed by minors annually, at least half of which are illegally sold to minors;

(10) reliable studies indicate that tobacco use is a gateway to illicit drug use; and

(11) the Federal Government has a major policy setting role in ensuring that the use of tobacco products among minors is discouraged to the maximum extent possible.

(c) As used in this section—

(1) the term ''Federal agency'' means—

(A) an Executive agency as defined in section 105 of title 5, United States Code; and

(B) each entity specified in subparagraphs (B) through (H) of section 5721(1) of title 5, United States Code;

(2) the term ''Federal building'' means—

(A) any building or other structure owned in whole or in part by the United States or any Federal agency, including any such structure occupied by a Federal agency under a lease agreement; and

(B) includes the real property on which such building is located;

(3) the term ''minor'' means an individual under the age of 18 years; and

(4) the term ''tobacco product'' means cigarettes, cigars, little cigars, pipe tobacco, smokeless tobacco, snuff, and chewing tobacco.

(d)(1) No later than 45 days after the date of the enactment of this Act, the Administrator of General Services and the head of each Federal agency shall promulgate regulations that prohibit—

(A) the sale of tobacco products in vending machines located in or around any Federal building under the jurisdiction of the Administrator or such agency head; and

(B) the distribution of free samples of tobacco products in or around any Federal building under the jurisdiction of the Administrator or such agency head.

(2) The Administrator of General Services or the head of an agency, as appropriate, may designate areas not subject to the provisions of paragraph (1), if such area also prohibits the presence of minors.

(3) The provisions of this subsection shall be carried out—

(A) by the Administrator of General Services for any Federal building which is maintained, leased, or has title of ownership vested in the General Services Administration; or

(B) by the head of a Federal agency for any Federal building which is maintained, leased, or has title of ownership vested in such agency.

(e) No later than 90 days after the date of enactment of this Act, the Administrator of General Services and each head of an agency shall prepare and submit, to the appropriate committees of Congress, a report that shall contain—

(1) verification that the Administrator or such head of an agency is in compliance with this section; and

(2) a detailed list of the location of all tobacco product vending machines located in Federal buildings under the administration of the Administrator or such head of an agency.

(f)(1) No later than 45 days after the date of the enactment of this Act, the Senate Committee on Rules and Administration and the House of Representatives Committee on House Administration, after consultation with the Architect of the Capitol, shall promulgate regulations under the Senate and House of Representatives rulemaking authority that prohibit the sale of tobacco products in vending machines in the Capitol Buildings.

(2) Such committees may designate areas where such prohibition shall not apply, if such area also prohibits the presence of minors.

(3) For the purpose of this section the term ''Capitol Buildings'' shall have the same meaning as such term is defined under section 16(a)(1) of the Act entitled ''An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes'', approved July 31, 1946 (40 U.S.C. 193m(1)).

(g) Nothing in this section shall be construed as restricting the authority of the Administrator of General Services or the head of an agency to limit tobacco product use in or around any Federal building, except as provided under subsection (d)(1).

Mr. BINGAMAN. Mr. President, I rise today to offer an amendment to H.R. 2020. My amendment is a modest one, and it is identical to one accepted by the Senate 2 years ago as an amendment to the fiscal year 1994 appropriations bill for the Treasury Department, Postal Service and General Government. This amendment would ban tobacco vending machines in Federal buildings and on Federal property accessible to children. I am reoffering my amendment for three simple reasons:

First, in 1993, after the Senate passed my amendment to ban tobacco vending machines on Federal property, the conferees failed to retain the legislative language, opting instead for the following statement in the fiscal year 1994 Treasury-Postal Appropriations Conference Report:

''* * * [elimination of the provision] does not signal a lack of concern for the health and safety of minors. The conferees agree that locating cigarette sales vending machines in areas accessible to minors poses a serious problem as their presence increases the availability of products which otherwise may be prohibited from sale to minors. *Therefore, the conferees direct the Administrator to eliminate vending machines in areas which are accessible to minors.*''

Despite this directive, tobacco vending machines remain on Federal property and many are fully accessible to children.

Second, more substantively, vending machines are extremely difficult to monitor. Not surprisingly, they are one of the chief sources of cigarette purchases among children and teenagers.

Third, finally, every State in the country has enacted a law to prohibit the sale or distribution of cigarettes to minors.

Mr. President, I would like to take a few moments to talk about each of the points I have listed.

As I mentioned, the congressional directive contained in the fiscal year 1994 Treasury-Postal Service appropriations bill was issued almost 2 years ago. In those 2 years, more than 2 million children and teens in this country took up smoking. One-third of them—more than 600,000 children—will later die of tobacco-related causes.

Let me repeat that: More than 600,000 children will die because sometime over the past 2 years, they started to smoke. And we cannot even get a few cigarette vending machines out of some Federal buildings.

Mr. President, these statistics are not exaggerations. The facts are well known and widely acknowledged:

First, more than 420,000 people died each year from tobacco-related causes, making cigarette smoking the single most preventable cause of death and disability in the United States.

Second, every day, more than 3,000 children and teenagers start to smoke. More than two-thirds of all adult smokers had their first cigarette before the age of 14, and 90 percent began smoking by age 18.

Third, every year, minors consume 516 million packs of cigarettes, at least half of which are sold illegally to children and teens.

Five hundred-sixteen million packs of cigarettes consumed by minors annually. Three thousand children starting to smoke every day. And every State in this country has a law prohibiting the sale of tobacco products to minors.

Clearly, something is not working. It is time for a new course of action. Some experts argue that the wisest, most effective course of action would be to take the tobacco industry up on its voluntary plan for reducing underage smoking and try to hold the industry to its commitment.

Others argue that we should use this opportunity to give the Food and Drug Administration broader regulatory authority of tobacco products. The President is currently grappling with these tough issues, and we expect an announcement of his decision at any time.

For several years, I have sponsored legislation that would specifically give the FDA the authority to regulate nicotine-containing tobacco products. For a number of years, the Department of Health and Human Services has urged States and localities to take greater responsibility by, among other things, banning cigarette vending machines.

In recent years, other Federal officials, including President Clinton and former President Bush, have joined the Department's appeal to States and localities. In its Healthy People 2000 Report, the Public Health Service encourages Indian Tribal Councils to ''similarly enforce prohibitions of tobacco sales to Indian youth living on reservations'' because Indian nations are sovereign and exempted from State laws.

I agree with the Department's previous advice. I sincerely hope that over the next few days or weeks the President will take a tough stand on the issue of Federal regulation of tobacco products. I hope he will go much farther than this modest bill. At the same time, I would caution the President and my colleagues in the Senate not to forget the powerful message that ''leading by example'' can convey.

Mr. President, over the past several years, while the Federal Government has been urging every political body in the country to ban cigarette vending machines, pack after pack are loaded into—and purchased out of—vending machines every day in Federal buildings. Those buildings include the Senate and House Office Buildings and the Old Executive Office Building, next door to the White House.

It is long past time for the vending machines to go. It is time for the Federal Government to lead by example. I believe that if we expect States, localities, Indian Tribal leaders, schools, parents, and even the tobacco industry itself, to take steps to protect our children from tobacco, then we in the Federal Government should join the effort. We should lead the effort. We can begin with passage of this amendment.

Thank you.

AMENDMENT NO. 2240

Mr. SHELBY offered an amendment (No. 2240) for Mr. BROWN:

At the appropriate place in the bill, insert the following new section:

SEC. . It is the sense of the Senate that the General Services Administration should increase use of direct delivery for high-dollar value supplies and only stock items that are profitable, that after these changes are implemented, the General Services Administration should phase out the supply depots that are no longer economically justifiable or needed.

Mr. BROWN. Mr. President, there is included in this bill a request to look at the policies of the General Services Administration in supplying some 18,000 commonly used products and supplies that are resold to the agencies and various depots of the Federal Government. Here are the numbers.

When the GSA delivers products directly, their markup is 10 percent. When they go through one of the depots though, that is, simply processing through a depot, their markup is 29 percent.

What we urge is that they reexamine their policy and deliver directly where possible. There is a 19 percent net savings to the taxpayer if they follow that procedure.

I yield back, Mr. President.

AMENDMENT NO. 2241

Mr. SHELBY offered an amendment (No. 2241) for himself and Mr. KERREY:

(Purpose: To establish the National Commission on Restructuring the Internal Revenue Service)

At the appropriate place, insert the following new section:

SEC. . NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE.

(a) FINDINGS.—The Congress finds the following:

(1) While the budget for the Internal Revenue Service (hereafter referred to as the ''IRS'') has risen from $2.5 billion in fiscal year 1979 to $7.5 billion in fiscal year 1996, tax returns processing has not become significantly faster, tax collection rates have not significantly increased, and the accuracy and timeliness of taxpayer assistance has not significantly improved.

(2) To date, the Tax Systems Modernization (TSM) program has cost the taxpayers $2.5 billion, with an estimated cost of $8 billion. Despite this investment, modernization efforts were recently described by the GAO as ''chaotic'' and ''ad hoc''.

(3) While the IRS maintains the TSM will increase efficiency and thus revenues, Congress has had to appropriate additional funds in recent years for compliance initiative in order to increase tax revenues.

(4) Because TSM has not been implemented, the IRS continues to rely on paper returns, processing a total of 14 billion pieces of paper every tax season. This results in an extremely inefficient system.

(5) This lack of efficiency reduces the level of customer service and impedes the ability of the IRS to collect revenue.

(6) The present status of the IRS shows the need for the establishment of a Commission which will examine the organization of IRS and recommend actions to expedite the implementation of TSM and improve service to taxpayers.

(b) COMPOSITION OF THE COMMISSION.—

(1) ESTABLISHMENT.—To carry out the purposes of this section, there is established a National Commission on Restructuring the Internal Revenue Service (in this section referred to as the ''Commission'').

(2) COMPOSITION.—The Commission shall be composed of twelve members, as follows:

(A) Four members appointed by the President, two from the executive branch of the Government and two from private life.

(B) Two members appointed by the Majority Leader of the Senate, one from Members of the Senate and one from private life.

(C) Two members appointed by the Minority Leader of the Senate, one from Members of the Senate and one from private life.

(D) Two members appointed by the Speaker of the House of Represtatives, one from Members of the House of Representatives and one from private life.

(E) Two members appointed by the Minority Leader of the House of Representatives, one from Members of the House of Representatives and one from private life.

The Commissioner of the Internal Revenue Service shall be an ex officio member of the Commission.

(3) CHAIRMAN.—The Commission shall elect a Chairman from among its members.

(4) MEETING; QUORUM, VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the Chairman or a majority of its members. Seven members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(5) APPOINTMENT; INITIAL MEETING.—

(A) APPOINTMENT.—It is the sense of the Congress that members of the Committee should be appointed not more than 60 days after the date of the enactment of this section.

(B) INITIAL MEETING.—If, after 60 days from the date of the enactment of this section, seven or more members of the Commission have been appointed, members who have been appointed may meet and select a Chairman who thereafter shall have the authority to begin the operations of the Commission, including the hiring of staff.

(c) FUNCTIONS OF COMMISSION.—

(1) IN GENERAL.—The functions of the Commission shall be—

(A) to conduct, for a period of one year from the date of its first meeting, the review described in paragraph (2), and

(B) to submit to the Congress a final report of the results of the review, including recommendations for restructuring the IRS.

(2) REVIEW.—The Commission shall review—

(A) the present practices of the IRS, especially with respect to—

(i) its organizational structure;

(ii) its paper processing and return processing activities;

(iii) its infrastructure; and

(iv) the collection process;

(B) requirements for improvement in the following areas:

(i) making returns processing ''paperless'';

(ii) modernizing IRS operations;

(iii) improving the collections process without major personnel increases or increased funding;

(iv) improving taxpayer accounts management;

(v) improving the accuracy of information requested by taxpayers in order to file their returns; and

(vi) changing the culture of the IRS to make the organization more efficient, productive, and customer-oriented;

(C) whether the IRS could be replaced with a quasi-governmental agency with tangible incentives for internally managing its programs and activities and for modernizing its activities, and

(D) whether the IRS could perform other collection, information, and financial service functions of the Federal Government.

(d) POWERS OF THE COMMISSIONER.—

(1) IN GENERAL.—(A) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this section—

(i) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths, and

(ii) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents.

as the Commission or such designated subcommittee or designated member may deem advisable.

(b) Subpoenas issued under subparagraph (A)(ii) may be issued under the signature of the Chairman of the Commission, the chairman of any designated subcommittee, or any designated member, and may be served by

any person designated by such Chairman, subcommittee chairman, or member. The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

(2) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this section.

(3) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this section. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

(4) ASSISTANCE FROM FEDERAL AGENCIES.—(A) The Secretary of State is authorized on a reimbursable or nonreimbursable basis to provided the Commission with administrative services, funds, facilities, staff, and other support services for the performance of the Commission's functions.

(B) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(C) In addition to the assistance set forth in subparagraph (A) and (B), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may deem advisable and as may be authorized by law.

(5) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(e) STAFF OF THE COMMISSION.—

(1) IN GENERAL.—The Chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to person occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(2) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(f) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION.—(A) Except as provided in subparagraph (B), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(B) Members of the Commission who are officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

(2) TRAVEL EXPENSES.—While way from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(g) FINAL REPORT OF COMMISSION; TERMINATION.—

(1) FINAL REPORT.—Not later than one year after the date of the first meeting of the Commission, the Commission shall submit to the Congress its final report, as described in subsection (c)(2).

(2) TERMINATION.—(A) The Commission, and all the authorities of this section, shall terminate on the date which is 60 days after the date on which a final report is required to be transmitted under paragraph (1).

(B) The Commission may use the 60-day period referred to in subparagraph (A) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its final report and disseminating that report.

Mr. KERREY. Mr. President, I am offering an amendment today to restructure the IRS. Senator SHELBY and I closely examined the IRS during creation of the Treasury-Postal Service fiscal year 1996 budget, and during this examination, I made the following observations.

IRS funding has increased from $2 billion in 1979 to $7.5 billion in fiscal year 1995, and fiscal year 1996 funding for the IRS is projected to increase by $800 million.

Because of growing entitlement spending, discretionary spending will become increasingly limited. The IRS budget comprises 70 percent of the Treasury-Postal Service Appropriations Subcommittee allocation, and the committee has expressed its concern that both the IRS and other important accounts will be substantially cut because of future budgetary constraints. Due to increasing entitlement spending, Congress simply will not have the funds in fiscal year 1997 and beyond to increase the budget of the IRS.

Despite an increase of $5 billion in the IRS' budget since 1979, tax returns processing has not become significantly faster, tax collection rates have not significantly increased, and taxpayer assistance activities have not significantly improved.

The IRS, aware of inefficient computer systems that impede their ability to collect revenue, has asked for almost $2.5 billion since 1979 for tax systems modernization [TSM]. This funding was intended to update the IRS computer systems so that the IRS could achieve its vision of a highly efficient, virtually paper-free work environment.

The desired outcomes of TSM have not been achieved, and IRS' ability to properly plan and manage this $7.5 billion tax systems modernization program has been repeatedly questioned by the General Accounting Office and the Congress. GAO recently described TSM as ''ad hoc'' and ''chaotic.''

The failure to successfully implement TSM has occurred for a number of reasons. The GAO attributes this failure to ''pervasive management and technical weaknesses'' in the IRS. Two specific possibilities that explain the failure of TSM:

First, the IRS employs some 115,000 personnel and the current organizational structure seems to breed a culture which is averse to change, and the IRS has not made efforts to provide incentives to change this culture;

Second, the IRS does not have a comprehensive business strategy to plan, build, and operate its information systems. Notably absent is a cost-benefit analysis and performance measure of systems.

A key element of a successful TSM is taxpayer conversion to electronic filing. Because the IRS has not sufficiently encouraged the use of electronic returns, the IRS remains overwhelmed with paper returns. It processes 200 million paper returns per year, or 14 billion pieces of paper, and this number continues to grow. The dependence on paper returns contributes substantially to the IRS' inefficiency in processing returns, and the IRS often cannot retrieve documents from the over 1.2 billion tax returns in storage.

According to GAO, because the IRS lacks a comprehensive business strategy to encourage electronic submissions, only 17 million electronic returns are expected in fiscal year 1995, a far cry from the goal of 80 million electronic returns by fiscal year 2001. Electronic returns are a crucial part of the conversion to a modern systems.

Originally, the IRS claimed that investing in TSM would increase revenues because the increased efficiency would allow resources to be diverted to compliance initiatives. But in order to continue increasing revenue, Congress has provided additional increases for the IRS totaling $1.3 billion since 1990 for enhanced revenue compliance initiatives. Increases in revenue collection have resulted from hiring of additional call collectors, revenue officers, agents, and examination audit personnel rather that redistributed resources due to modernization. Additionally, despite these revenue compliance initiatives, audit coverage rates have declined.

The failure of the IRS to implement TSM and their increased attention to compliance initiatives results in an agency that pays very little attention to taxpayer service. If people have the facts, they will pay the tax. Consequently, taxpayer confidence in the IRS's ability to provide accurate and timely information in response to their requests has continued to decline over the past 10 years.

Fully modernized systems would substantially increase revenues through compliance initiatives because IRS workers could instantly access taxpayer information and identify accounts receivable, and in addition, information for audits and fraud identification would be readily accessible, Further, the Congress believes that voluntary compliance would increase if IRS employees could assist taxpayers with accurate and timely information on their accounts. A 7-percent increase in voluntary compliance is estimated to increase revenues by as much as $40 billion a year.

With the successful completion of modernization, the IRS could expand its functions and perform other services that would benefit the public, in areas such as the collection of delinquent child support payments and student loans. The IRS should soon have the capability to fulfill other financial services functions besides revenue collection for the Federal Government.

IRS brings in $1.2 trillion per year in tax revenue. It is an important Federal agency with the potential to be a quasi-Government agency with profit incentives while still protecting taxpayer privacy.

Many changes come with modernization efforts and increased technological capability. While the Congress acknowledges the efforts the IRS has made to correct the problems identified, both the IRS and the taxpayers would benefit if restructuring of the IRS took place for the sake of expediently implementing TSM and better serving the taxpayer.

AMENDMENT NO. 2242

Mr. SHELBY offered an amendment (No. 2242) for himself and Mr. KERREY.

At the end of Title V, add the following new section:

SEC. 2. Section 5542 of title 5, United States Code is amended by adding the following new subsection at the end:

''(e) Notwithstanding subsection (d)(1) of this section, all hours of overtime work scheduled in advance of the administrative workweek shall be compensated under subsection (a) if that work involves duties as authorized by section 3056(a) of title 18 United States Code and if the investigator performs, on that same day, at least 2 hours of overtime work not scheduled in advance of the administrative workweek.''

Mr. SHELBY. Mr. President, this amendment makes a technical correction to the 1995 Law Enforcement Availability Pay Act. The Pay Act, which was included as a separate section in the Fiscal Year 1995 Treasury Appropriations Act, commonly referred to as LEAP, contained a provision which amended section 5542 of title 5. This provision requires that the first 2 hours of scheduled overtime work by criminal investigators be calculated against availability pay hours, authorized under the act.

The issue relating to the calculation of work hours for scheduled overtime compensation has been an issue of contention for certain agencies and criminal investigators alike. The current section, as written, is overly restrictive and inflexible and, thus, increases the potential for litigation.

The provision, as stated in a letter received from the Federal Law Enforcement Officers Association, is unfair and does not adequately reflect the intent of Congress. The author of this legislation, Senator DENNIS DECONCINI, attempted to clarify congressional intent in a December 1994 floor statement.

Despite this clarification by the amendment's sponsor, personnel regulations have gone unchanged.

Flexibility is needed for the unusual circumstances surrounding Secret Service specific physical security assignments which will become extraordinarily demanding during the upcoming Presidential campagin and the United Nations General Assembly's 50th anniversary. In light of these upcoming demands it is imperative that flexibility to agency management and fairness to the agents be provided, as was originally intended by Congress. This amendment only applies to the unique circumstances surrounding Secret Service physical protection activities.

The Pay Act, resulted in over $40 million in savings in fiscal year 1995 to Federal law enforcement agencies. It also prevented hundreds of millions of dollars from being spent on litigation by the Federal Government.

It was endorsed by Federal law enforcement agencies, the Office of Management and Budget, and respected law enforcement associations.

In order to ensure that this legislation does what it was intended to do, I urge the adoption of the amendment.

AMENDMENT NO. 2243

Mr. SHELBY offered an amendment (No. 2243) for Mrs. HUTCHISON.

(Purpose: To require the Administrator of the General Services Administration to report to Congress on border station leasing arrangements)

''SEC. —. REPORT ON FEASIBILITY OF LEASING OF BORDER STATIONS.

''(a) The Administrator of the General Services Administration shall, within six months of enactment of this legislation, report to Congress on the feasibility of leasing agreements with State and local governments and private sponsors for the construction of border stations on the borders of the United States with Canada and Mexico whereby:

''(1) lease payments shall not exceed 30 years for payment of the purchase price and interest;

''(2) the obligation of the United States under such an agreement shall be limited to the current fiscal year for which payments are due without regard to section 3328(a)(1)(B) of title 31, United States Code;

''(3) an agreement entered into under such provisions shall provide for the title to the property and facilities to vest in the United States on or before the expiration of the contract term, on fulfillment of the terms and conditions of the agreement.''

Mrs. HUTCHISON. Mr. President, with the passage of NAFTA, cities and towns along the border are increasingly interested in expanding the opportunities for trade and economic growth. An essential factor in this growth is the presence of new or expanded border stations at new river or land border crossings. These stations house agents of the U.S. Customs Service, the Immigration and Naturalization Service, and the Department of Agriculture. New or expanded facilities are essential in encouraging trade and in meeting the objectives and dreams of NAFTA.

The normal procedure for the construction of border stations is for the General Services Administration to build and own them. The rationale is that these buildings are long-term investments of the Federal Government and Federal ownership is the most cost-effective form of ownership. Up to now the funding for these projects has come through two channels. One is the congressionally authorized Southwest Border Station Capital Improvement Program started in 1988. It has funded improvements along the southern border. The other is for the U.S. Customs Service, the INS, the Department of Agriculture to provide GSA with a list annually of desired border station projects. They are then included in GSA's capital budget. Both methods were successful prior to the passage of NAFTA in meeting the need for border station facilities in a manner that, if not always as timely as desired by State and local governments and private sponsors, did provide funding.

Three events have changed the situation: First, increased demand for new border crossings. The passage of NAFTA has increased the importance of trade with Mexico and Canada as a source of jobs and income. This has caused towns and cities on both sides for the border to seek additional border crossings in order to accommodate expected future traffic.

Second, reduced Federal funding for construction. Budget cuts are reducing the funds available for new construction, including border stations. GSA is under pressure to reduce construction projects by hundreds of millions of dollars.

Third, reduced Federal flexibility to meet the demand for new stations. Because of budget scoring rules introduced under the Omnibus Budget Reconciliation Act of 1990, GSA cannot economically lease a border station. If a local government or sponsor is willing to build and lease the facility to GSA for 20 years, GSA under the new scoring rules must provide all the money up front for the stream of payments over the 20-year period. This makes the leasing alternative as expensive as new construction in a time of reduced budgets. GSA cannot spread the cost over 20 years, even though they can lease the border station. No homeowner would be able to afford a mortgage if these rules applied. This is particularly frustrating to local sponsors since many are willing to lease the stations and then give them to GSA after the lease term.

REALITIES AND REMEDIES

NAFTA is a reality—the demand for new crossing will not diminish, but increase.

Federal budget reduction is a reality—the availability of Federal funds for border stations is not increasing, but diminishing.

The budget scoring of leasing transactions for border stations is the consequence of much broader issues that Congress and the administration were dealing with that had nothing to do with border stations.

Changing the scoring rules for border stations resolves the problem.

Under this language, the Administrator of General Services will report on leasing arrangements whereby the GSA can enter into lease with State and local governments, as well as private sponsors, for the construction of border stations for a period of up to 30 years. The language provides that such a report will acknowledge that at the end of the lease term the Federal Government owns the border stations.

AMENDMENT NO. 2244

Mr. SHELBY offered an amendment (No. 2244) for Mr. BINGAMAN.

At the appropriate place, insert the following:

SEC. . ENERGY SAVINGS AT FEDERAL FACILITIES.

(a) REDUCTION IN FACILITIES ENERGY COSTS.—

(1) IN GENERAL.—The head of each agency for which funds are made available under this Act shall take all actions necessary to achieve during fiscal year 1996 a 5 percent reduction, from fiscal year 1995 levels, in the energy costs of the facilities used by the agency.

(2) COOPERATION BY GENERAL SERVICES ADMINISTRATION.—In the case of facilities under the administrative jurisdiction of the General Services Administration and occupied by another agency and for which the Administrator of General Services delegates operation and maintenance to the head of the agency, the Administrator shall assist the head of the agency in achieving the reduction in the energy costs of the facilities required by paragraph (1) by entering into contracts to promote energy savings and by other means.

(b) USE OF COST SAVINGS—An amount equal to the amount of cost savings realized by an agency under subsection (a) shall remain available for obligation through the end of fiscal year 1997, without further authorization or appropriation, as follows:

(1) CONSERVATION MEASURES.—Fifty percent of the amount shall remain available for the implementation of additional energy conservation measures and for water conservation measures at such facilities used by the agency as are designated by the head of the agency.

(2) OTHER PURPOSES.—Fifty percent of the amount shall remain available for use by the agency for such purposes as are designated by the head of the agency, consistent with applicable law.

(c) REPORT.—

(1) IN GENERAL.—Not later than December 31, 1996, the head of each agency described in subsection (a) shall submit a report to Congress specifying the results of the actions taken under subsection (a) and providing any recommendations concerning how to further reduce energy costs and energy consumption in the future.

(2) CONTENTS.—Each report shall—

(A) specify the total energy costs of the facilities used by the agency;

(B) identify the reductions achieved; and

(C) specify the actions that resulted in the reductions.

AMENDMENT NO. 2245

Mr. SHELBY offered an amendment (No. 2245) for Mr. HATCH, for himself, and Mr. BIDEN.

On page 3, strike lines 1 through 24.

On page 31, between lines 20 and 21, insert the following:

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to title I of Public law 100–690; not to exceed $8,000 for official reception and representation expenses; *$28,500,000*, of which $20,500,000, to remain available until expended, shall be available to the Counter-Drug Technology Assessment Center for counternarcotics research and development projects and shall be available for transfer to other Federal departments or agencies: *Provided*, That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office: *Provided further*, That not later than 60 days after the date of enactment of this Act, the Director of the Office of National Drug Control Policy shall report to the Committees on the Judiciary of the Senate and the House of Representatives on the results of an independent audit of the security and travel expenses of the Office during the period beginning on January 21, 1993, and ending on June 30, 1995: *Provided further*, That the Director of the Office of National Drug Control Policy shall, at the direction of the President, convene a Cabinet Council on Drug Strategy Implementation to be chaired by the Director of the Office of National Drug Control Policy: *Provided further*, That the Cabinet Council on Drug Strategy Implementation shall include, but is not limited to, the Attorney General, the Secretary of the Department of the Treasury, the Secretary of the Department of Health and Human Services, the Secretary of the Department of Defense, the Secretary of the Department of Housing and Urban Development, the Secretary of the Department of Education, the Secretary of the Department of State, and the Secretary of the Department of Transportation: *Provided further*, That the Cabinet Council on Drug Strategy Implementation shall convene on no less than a quarterly basis and provide reports on no less than a quarterly basis to the Appropriations Committees and the Judiciary Committees of the House of Representatives and the Senate on the progress of the implementation of the elements of the national drug control strategy within the jurisdiction of each member of the Counsel, including a particular emphasis on the implementation of strategies to combat drug abuse among children: Provided further, That the funds appropriated for the necessary expenses of the Office of National Drug Control Policy may not be obligated until the President reports to the Appropriations Committees of the House of Representatives and the Senate that the President has directed the Office of National Drug Control Policy to convene the Cabinet Council on Drug Strategy Implementation: *Provided further*, That, on a quarterly basis beginning ninety days after enactment of this Act, the funds appropriated for the necessary expenses of the Office of National Drug Control Policy may not be obligated unless the Cabinet Council on Drug Strategy Implementation has provided the quarterly reports specified herein to the Appropriations Committees and the Judiciary Committees of the House of Representatives and the Senate.

On page 32, between lines 23 and 24, insert the following:

FEDERAL DRUG CONTROL PROGRAMS

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

For necessary expenses of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas Program, $110,000,000 for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, of which no less than $55,000,000 shall be transferred to State and local entities for drug control activities; and of which up to $55,000,000 may be transferred to Federal agencies and departments at a rate to be determined by the Director: *Provided*, That the funds made available under this head shall be obligated within 90 days of the date of enactment of this Act.

On page 50, line 14, strike ''$118,449,000'' and insert ''$113,827,000''.

On page 57, line 9, strike ''$96,384,000'' and insert ''$93,106,000''.

Mr. HATCH. Mr. President, I rise today to propose an amendment, on behalf of myself and Senator BIDEN, which will restore funding for the Office of National Drug Control Policy, better known as the ''drug czar's office.''

The amendment funds the drug czar's modest budget—$9.3 million—without cutting a single dollar from law enforcement.

The issue this amendment presents to the Senate is whether, in the absence of any Presidential leadership in the drug war, can our Nation afford to eliminate the drug czar's office? Certainly not.

The success of the war against drugs rests with the Command in Chief. Sadly, we have not had strong Presidential leadership in this anti-drug fight from President Clinton.

Through the 1980's and into the 1990's we saw dramatic reductions in casual drug use brought about through increased penalties, strong Presidential leadership, and a clear national anti-drug message. Casual drug use dropped by more than half between 1977 and 1992.

Under President Clinton's leadership, however, we are losing ground. Over the past 2 years, almost every available indicator shows that these gains have either stopped or been reversed.

The most recent edition of the National High School Survey reported a second year of sizable increases in drug use among our Nation's 8th, 10th, and 12th graders. Use of marijuana, LSD, and other drugs is on the rise, and young people are less worried about the dangers of drug use.

Last year's National Household Survey on Drug Abuse showed an increase in drug use after consistent declines—in many cases dating as far back as 1979.

More than 2 years ago, one well-known columnist described President Clinton's leadership role in developing and promoting a strong anti-drug policy as: ''No leadership. No role. No

alerting. No policy.'' [A.M. Rosenthal, N.Y. Times, March 26, 1993]. Sadly, what was true in 1993 is still true today.

President Clinton has abandoned many of the drug control efforts undertaken by his immediate predecessors. He has abandoned the bully pulpit to divisive voices.

President Clinton himself rarely speaks out against drug abuse—he has not given a major speech on the subject in more than a year and a half—and he offers little, if any, moral support or leadership to those fighting the drug war in America or abroad. His former Surgeon General, for example, repeatedly called for consideration of drug legalization.

President Clinton has also cut Federal efforts to keep drugs from flowing into our cities and States.

Last year, President Clinton ordered a massive reduction in Defense Department support for interdiction efforts that have been preventing bulk shipments of drugs from reaching American streets.

The administration proposed deep cuts to the drug control budgets of the Defense Department, Customs, and the Coast Guard. Cocaine seizures plummeted. U.S. Customs cocaine seizures in the transit zone dropped 70 percent; and Coast Guard cocaine seizures are off by more than 70 percent.

The administration also accepted a one-third cut in resources to attack the cocaine trade in the source and transit countries of South America.

Domestic marijuana eradication efforts led by the Federal Government have been substantially reduced. And finally, the Clinton administration has injured cooperative efforts with source country governments, such as when it ordered the United States military to stop providing radar tracking of drug-trafficking aircraft to Columbia and Peru.

Having gutted our Federal efforts to stop drugs from arriving here, President Clinton has hamstrung efforts to deal effectively with them once they hit our streets. Upon taking office, President Clinton promoted the drug czar to Cabinet level, but then slashed the drug czar's staff by 80 percent.

The President allowed the DEA to lose 198 drug agents over 2 years. The President also proposed a fiscal year 1994 budget that would have cut 621 further drug enforcement positions from the FBI, the DEA, the INS, Customs, and the Coast Guard.

The Clinton administration claimed it was implementing a so-called controlled shift in Federal drug policy. Instead, President Clinton appears to have adopted a reckless abdication drug policy.

This lack of leadership surrendered for a time much of our previous international intelligence capability to the drug cartels; it retreats on tough law enforcement efforts; subjects Federal law enforcement to unprecedented personnel reductions; and weakens Federal prosecution of drug offenders.

Mr. President, this failed Presidential record is why we need to preserve the drug czar's office. Congress needs to be able to hold this President accountable for being invisible on the drug issue.

Some may wonder why a fiscal conservative like myself would be advocating more money for any Federal office. I am not known as one who believes in preserving bureaucracy.

So, then, why am I sponsoring this amendment?

Because, Mr. President, we must not give the American people the impression that this Congress condones President Clinton's abdication of responsibility.

Perhaps A.M. Rosenthal put it best when he wrote in yesterday's New York Times that:

> Mr. Clinton's leadership has sometimes seemed to us anti-drug types as ranging from absent to lackadaisical. But for Congress to hobble the war by wiping out its coordinator seems a strange way of inspiring the President or the country, [New York Times, August 4, 1995].

Mr. President, drugs are killing our country. They are contributing to a wide range of devastating effects on all Americans, particularly our children and youth. Drugs contribute to crime, the break-up of marriages and families, lower productivity in the workplace, and many other societal problems.

If President Clinton does not take the drug issue seriously, someone has to. Today, Mr. President, that someone is, I hope, each one of us.

If the drug office is dismantled, and responsibility is diluted among the 50-plus departments and agencies involved in drug control, then the President will be able to evade accountability.

No one will be in charge, no one will be responsible, and instead of the current lack of aggressiveness—which by the way can be fixed if the White House wants to fix it—we will have institutionalized drift.

Even William Bennett, hardly a friend of government spending or close ally of the Clinton administration, has conveyed to me that he supports keeping the office open.

Obviously, Lee Brown and I have a major differences about what is and what isn't an effective drug strategy. At the same time, I want to emphasize that those differences are differences of policy and approach. Notwithstanding our differences, at least Director Brown is the one person in this White House who seems to care about the drug issue. I don't believe we should punish the administration's poor policies by eliminating the office of its only Presidential coordinator.

Let me draw an analogy. Last week, an overwhelming majority of the Senate went on record as being opposed to the Clinton administration's failed policy of lack of leadership in Bosnia.

Yet, although the Senate differed with the President's policy, no one seriously suggested eliminating the National Security Council, which has been formulating administration policy. A move to cut the NSC would have been called shortsighted.

Why then is such a proposal to eliminate the Office of National Drug Control Policy and less shortsighted when it comes to our Nation's drug policy?

To those who think the drug czar's office needs to be reorganized, and who are concerned at reports of excessive travel spending, I share your concerns.

The Senate Judiciary Committee will be looking at changes to the drug czar's staffing and mission, and the pending Hatch-Biden amendment will require an independent audit of the drug czar's travel spending and security budget.

If we are to succeed in the drug war, we need Presidential leadership. In the absence of such leadership, we need a drug czar all the more.

President Clinton has failed to stand behind his drug czar. Congress should not reward him for doing so by eliminating this office.

I urge my colleagues to support this amendment.

Mr. BIDEN. Mr President, the drug office provides the accountability and single point of contact necessary for Congress to exercise oversight of Federal drug strategy.

The drug strategy and the drug budget provides the only single document that details our national drug strategy.

When he was Director, William Bennett testified before the Senate Judiciary Committee in February 1990:

> [A] year ago [before drug office was law], if you had asked for a comprehensive picture of national drug policy, you had to go to over 30 different agencies. Not anymore. William Bennett, testimony, February 2, 1990.

Also, this is not a debate about the drug strategy. This is a debate about whether we have a drug strategy.

I disagreed with elements of the strategy proposed by Director Bennett, Director Martinez, and Acting Director Walters. But, if we did not have a drug strategy, we could never have had a drug policy debate.

To illustrate this point, I would point out that there are 85 departments, agencies, offices, and bureaus that make up the Federal antidrug effort. The drug director is the only person who is dedicated full time to bringing any order to this effort.

This year the Federal Government will spend $13.3 billion fighting against drugs. The President proposes that we spend $14.6 billion next year. I do not want to debate the specifics of the drug strategy.

My point is that with so much money being spent, we ought to be able to debate how we are going to spend these dollars. And, we can only debate if there is a policy for us to discuss. And there is only a drug policy if we have a drug strategy.

This amendment serves one central purpose: To make sure that we have a full-time general in command of our war on drugs.

Although drugs have dropped off of the media's radar screen for the moment, we cannot be lulled into a sense of complacency on this issue. Drug-related violence still shatters the night in cities, towns, and rural hamlets all across the country; hard-core addicts roam the streets in as great numbers as ever; and the recent surveys by the National Institute on Drug Abuse tell us that teenagers may be forgetting the lessons we have taught them over the past few years: Use of marijuana, LSD, and inhalants is on the rise among our young people.

This is no time to eliminate the drug office—we must redouble our efforts. We must bolster, not obstruct our Nation's ability to develop and mount an all-out attack on the drug scourge.

I am gratified that the Senate has worked in a bipartisan fashion to continue—and bolster—the Office of National Drug Control Policy.

TO PRESERVE THE OFFICE OF NATIONAL DRUG CONTROL POLICY

Mr. KENNEDY. I strongly oppose the provision in this bill that would eliminate the Office of National Drug Control Policy, and in support of the Hatch-Biden amendment to restore most of the funding for this office.

I am pleased that the managers have agreed to accept this important improvement in the bill.

Despite considerable progress over the past decade, drug abuse is still rampant in the United States, and continues to have catastrophic social consequences. Drug abuse hurts worker productivity, increases health care costs, and has burdened the Nation's criminal justice system to the breaking point. It remains a major concern of parents and community leaders throughout the country.

Let's remember why we authorized appointment of a drug czar in the fist place. In 1988, we passed comprehensive antidrug legislation. We enacted tougher sentences for drug crimes, broadened drug interdiction efforts, and increased funding for treatment and prevention.

We also recognized that throwing money at the drug problem was not the answer. Instead, we needed a coordinated national strategy to wage the drug war. We wanted to be tough on drugs, but we also wanted to be smart on drugs. That's why the 1988 bill created the Office of National Drug Control Policy, known as the drug czar's Office.

The drug czar has not been able to close every open-air drug market. He has not eliminated every waiting list for drug treatment. He has not cut off the flow of drugs from South America. But he has helped to focus the attention of the country, and his fellow Cabinet members, on the impact of drug abuse. And he has helped to marshal and prioritize Federal resources to wage a more effective battle against drugs.

The pending bill would turn back the clock and eliminate the drug czar's office. I disagree with that decision, and I am especially disturbed at the lack of consideration accompanying it.

There have been no hearings in the Judiciary Committee. Indeed the committee is united in support of the Hatch-Biden amendment to preserve the Office.

The report accompanying this bill contains a bare two paragraphs of explanation: the appropriations subcommittee says that ''[d]rugs and drug-related violence remain the scourge of our Nation. The committee is very concerned that the administration has moved the war on drugs from a top priority, and that is reflected by this Office's invisibility. The committee believes that the funding provided to operate this Office can be far better utilized on the front lines and has taken action accordingly.''

The logic of that argument escapes me. If the subcommittee believes that the drug czar has been insufficiently visible, why eliminate his office? If drugs are the scourge of the Nation, why eliminate the Office that coordinates the Federal antidrug effort? The $9 million used to fund the Office is less than one-tenth of 1 percent of the antidrug budget, and adding that sum to the front-line effort won't make a bit of difference.

But eliminating the Office would gravely undermine the goal of coordination and send precisely the wrong message to parents and teenagers. Our allies around the world who argue that the United States needs to do more, not less, to reduce its demand for drugs would be shocked if we took such action.

In contrast to the sketchy treatment of this subject in the Senate report, the report of the House subcommittee contains substantial criticism of the current drug czar, Lee Brown, for focusing too much attention on prevention and treatment efforts. That, of course, has been the real strength of the current drug czar. Dr. Brown has emerged as a skilled advocate for demand-reduction efforts both within and outside the administration.

This drug czar doesn't travel around the country holding press conferences every day, like some earlier occupants of his office. But Dr. Brown has spent every single day in office fighting for the proposition that we need more drug treatment and antidrug education in this country, not less. He has justifiably taken Congress to task when we have failed to meet the targets in the administration's antidrug budget. I, for one, respect him for that.

Under the stewardship of Dr. Brown, the Federal antidrug effort has enjoyed notable successes in recent years. In New York, Los Angeles, Houston, Baltimore, and other cities, several drug trafficking and money laundering organizations have been exposed and dismantled. The Southwest border has been strengthened.

The drug czar's office has been instrumental in persuading Colombia—the source of 80 percent of the cocaine that reaches our shores—to take a more aggressive stand against the cocaine cartels. The Office deserves neither the credit for every success, nor the blame for every failure. But it has worked well, and it is accomplishing the central task of reducing duplication and overlapping Federal antidrug programs.

This is no time to abandon our effort. The Federal Government must send a clear message to families and communities that it is strongly committed to a national drug control policy.

As the most recent high school senior survey demonstrates, the war on drugs is far from won: In 1994, 45 percent of all high school seniors reported having used an illegal drug at least once; the percentage of high school seniors who reported using an illegal drug within the past year rose to 35 percent, up nearly 5 percent from 1993; 3.6 percent of eighth graders had used cocaine at least once; 20 percent of eighth graders had used inhalants at least once.

In my view, these statistics make the case for a more balanced drug strategy that emphasizes drug abuse prevention. They argue for expanding the mandate and authority of the drug czar, in order to help wage a more effective battle against illegal drugs. But surely these statistics provide no support at all for those who seek to eliminate the drug czar's office. That route is nothing short of a surrender in the war on drugs, an admission of failure that all of us should reject.

I welcome adoption of the Hatch-Biden amendment.

THE ELIMINATION OF THE OFFICE OF NATIONAL CONTROL POLICY

Mr. MACK. Mr. President, why are we here today considering the elimination of the Office of National Drug Control Policy [ONDCP]? It is not that they have worked themselves out of a job. Indeed, all indications suggest that drug usage and availability have reversed their course and are now on the rise.

Frankly, the performance of this office—or rather lack thereof—has led us to this point. Their silence on the scourge of drugs, coupled with their diminished support of interdiction activities, has sent a clear message to the drug cartels and to the American people. That message is that this administration is apathetic with respect to the issue of drug trafficking and drug use.

Under this administration, every passing year has witnessed additional cuts in overall interdiction funding. According to numbers provided by the Office of National Drug Control Policy, interdiction funding has been cut by approximately $700 million since 1991. This amounts to more than a 25-percent reduction.

Moreover, the administration's source country strategy has diverted scarce assets and diminished our capabilities in transit and border interdiction activities. While the strategy of source country interdiction is conceptually sound, the reality is that it

leaves us susceptible to the decisions of sovereign nations on whether or not to cooperate with the United States.

In a letter sent to President Clinton in January of this year I, along with Senators DOLE and HATCH, expressed our concern over this source country emphasis at the expense of our transit and border interdiction capabilities. Shortly thereafter the President delivered to the Congress his budget which once again contained less funding for drug interdiction activities. It appears the President missed the message.

I am unconvinced that the Office of National Drug Control Strategy is doing all it can to support the agencies involved in interdiction activities. Based on the statistics I've seen and on the information I've acquired from various law enforcement officials, I would suggest ONDCP has not done enough. Not enough in budgetary support and not enough in verbal advocacy.

Reliable groups who gather drug-related data have independently verified that drug usage is rising. Indeed, a variety of variables that these groups analyze indicate the United States is failing in its interdiction efforts. For instance, cocaine and heroin emergency room admissions have been rising since 1992—Drug Abuse Warning Network [DAWN]. Drug usage among high school students, 8th to 12th grade, has also been rising over this same period—monitoring the future study. Finally, the data also shows that as interdiction funding has dropped, so to has the price of cocaine. Cocaine is now more affordable that it has been at any time over the last 6 years—DAWN.

Last year, the Commandant of the Coast Guard was tasked with coordinating and representing all law enforcement agencies involved in drug interdiction to the Office of National Drug Control Policy. The Commandant informed Lee Brown, Director of ONDCP, of the various agencies' dissatisfaction over their interdiction budgets. It would appear that the concerns of the people in the field and the mission they are asked to perform are just not a priority for this administration.

While created with the laudable goal of coordinating the many agencies involved throughout the Government in fighting the scourge of drugs through interdiction, education, and treatment, ONDCP has fallen short of its responsibilities—especially in the interdiction effort.

The elimination of this office should not be viewed as a signal that the Congress has given up on drug interdiction, indeed just the opposite is the case. The elimination of this office should, in no uncertain terms, signal the administration that not enough is being done and that their support of interdiction activities has been inadequate.

I believe President Clinton would send a strong signal to the American people by increasing his support of interdiction activities.

AMENDMENT NO. 2245, AS MODIFIED

Mr. SHELBY offered an amendment (No. 2245) as modified, for Mr. HATCH, for himself and Mr. BIDEN.

AMENDMENT NO. 2246

Mr. SHELBY offered an amendment (No. 2246) for Mr. COVERDELL.

On page 2, line 21, strike ''$105,929,000'' and insert ''$110,929,000, of which $5,000,000 shall be transferred to States covered by the National Voter Registration Act of 1993, to be expended by such States for costs associated with the implementation of the National Voter Registration Act of 1993, with such funds disbursed to such States on the basis of the number of registered voters in each State on July 1, 1995, in relation to the number of registered voters in all States on such date'': *Provided* that no further funds in addition to the $5,000,000 so transferred, may be transferred by the Secretary to the States for costs associated with the implementation of the National Voter Registration Act of 1993 during Fiscal Year 1996.

On page 46, line 12, strike ''$2,329,000,000'' and insert ''$2,324,000,000''.

AMENDMENT NO. 2247

Mr. SHELBY (for Mr. BROWN, for himself and Mr. KERREY) offered an amendment (No. 2247) as follows:

(Purpose: To limit the amount of leave that Senior Executive Service employees may accumulate to 60 days)

At the appropriate place in the bill, insert the following:

SEC. . (a) Section 6304(f) of title 5, United States Code, is amended—

(1) in paragraph (2) by striking ''described in paragraph (1)'' and inserting ''for an individual described subparagraphs (B) through (E) of paragraph (1)''; and

(2) by adding at the end the following:

''(3) For purposes of applying any limitation on accumulation under this section with respect to any annual leave for an individual described in paragraph (1)(A)—

''(A) '30 days' in subsection (a) shall be deemed to read '60 days'; and

''(B) '45 days' in subsection (b) shall be deemed to read '60 days'.''.

(b)(1) The amendments made by subsection (a) shall take effect January 1, 1996.

(2) Any individual serving in a position in the Senior Executive Service on December 31, 1995 may retain any annual leave accrued as of that date until the leave is used by that individual.

Mr. BROWN. Mr. President, the amendment that Senator KERREY and I have sponsored on the executive service leave changes the amount of leave one can accrue and in effect be paid for at a later date.

Most Federal employees right now fall under a circumstance where they can accrue 30 days. That is, you can accrue up to 30 days, but after 30 days, if you accrue more than that, you do not get it. You do not get paid for it. But currently Senior Executive Service people get special treatment. Instead of being limited to the 30 days that everybody else gets, they get 90 days. Thus, the reason for the amendment that we have sponsored and will adopt. It moves it down to 60 days.

Mr. President, my own feeling is that they ought to be treated like everyone else. They ought to be limited to 30-days. But movement from 90 days to 60 days is movement in the right direction. I do intend, though, in future pieces of legislation to address this issue again, and my hope is we will eventually move this down to the same treatment everyone else gets—30 days.

I should be quite clear; the overtime already accumulated by personnel would remain with the employee until used. In other words, it is not retroactive and the amendment would not affect overtime accrued by Senior Foreign Service personnel, Defense Intelligence Senior Management Executive Service, the Senior Cryptological Executive Service, and the FBI and the DEA Senior Executive Service.

Mr. President, we ought to be thinking about consistent rules for everyone in this area, and it is an area I think is worth pursuing.

AMENDMENT NO. 2248

Mr. SHELBY offered an amendment (No. 2248) for Mr. LAUTENBERG.

At the appropriate place, insert the following:

SEC. . TRANSFER OF CERTAIN FEDERAL PROPERTY IN NEW JERSEY.

The first section of the Act entitled ''An Act transferring certain Federal property to the city of Hoboken, New Jersey'', approved September 27, 1982 (Public Law 97–268; 96 Stat. 1140), is amended—

(1) in subsection (a), by adding ''and'' at the end; and

(2) by striking ''Stat. 220), and'' in subsection (b) and all that follows through ''New Jersey; concurrent with'' and inserting the following: ''Stat. 220);

concurrent with''.

AMENDMENT NO. 2249

Mr. SHELBY offered an amendment (No. 2249) for Mr. GRASSLEY, for himself, and Mr. HEFLIN, Mr. ROTH, Mr. LEVIN, Mr. KOHL, Mr. THURMOND, and Mr. GLENN.

On page 33, insert between lines 1 and 2 the following:

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established under subchapter V of chapter 5 of title 5, United States Code, including not to exceed $1,000 for official reception and representation expenses, $1,800,000.

On page 35, line 22, strike out ''$5,087,819,000,'' and insert in lieu thereof ''$5,086,019,000,''.

On page 46, line 12, strike out ''$2,329,000,000,'' and insert in lieu thereof ''$2,327,200,000,''.

On page 48, line 12, strike out ''$5,087,819,000,'' and insert in lieu thereof ''$5,086,019,000,''.

Mr. GRASSLEY. Unfortunately, Mr. President, the Administrative Conference of the United States has been zeroed out by the House and Senate Appropriations Committee. In the absence of this amendment, there would be no funding at all for the Conference. The Administrative Conference is the only permanent, independent watchdog over the excesses and waste in regard to agency rules and rulemaking. It is a very small agency with a very important role in the Government. It is charged with the responsibility of identifying and recommending improvements to the administrative procedures

of Federal agencies, a function that has only become more important.

Administrative process and procedure is the central function of the Federal Government. The Conference's sole purpose is to objectively and fairly develop improvements to this administrative process.

There are some that argue that the valuable work that ACUS does can be done equally as well by other agencies. This is not true, however, as ACUS is unique in its ability to provide objective, fair, nonpartisan,, nonideological improvements to the efficiency of government.

The Subcommittee on Administrative Oversight and the Courts, which I chair, recently held a hearing on the reauthorization of ACUS. In a letter to the subcommittee, Supreme Court Justice Scalia, a former Conference Chairman and present member, noted the benefits of ACUS: ''The Conference seeks to combine the efforts of scholars, practitioners, and agency officials to improve the efficiency and fairness of the thousands of varieties of Federal agency procedures. In my judgment, it is an effective mechanism for achieving that goal, which demands change and improvement in obscure areas where bureaucratic inertia and closed-mindedness often prevail.'' By the way, Supreme Court Justice Breyer is also a member.

To delegate ACUS' important responsibilities to the Department of Justice, as some have suggested, would be to have the fox guarding the hen house. We have seen in the recent regulatory reform debate how partisan and nonobjective the Justice Department can be. ACUS is an agency that is not likely to make a lot of friends because many of its recommendations force agencies to be more efficient and more accountable. This is all the more reason for it to continue.

ACUS is not an ideological or a partisan agency. In testimony before the Administrative Oversight and the Courts Subcommittee, Judge Loren Smith, Chief Judge of the U.S. Court of Federal Claims said: ''With a government as large and complex as ours has become; there must be a place where the administrative process can be analyzed from a relatively policy neutral perspective.'' To entrust the responsibility of oversight to a partisan agency would be foolish.

Mr. President, it is wise to invest a small amount of money to maintain a permanent, independent watchdog over the fairness, efficiency, and effectiveness of the detailed workings of the administrative process. The return on the money invested here justifies its small budget. In a hearing before the Subcommittee on Administrative Oversight and the Courts, Jim Miller, the former head of the Office of Management and Budget under President Reagan, said: ''As you know I am a fierce advocate of downsizing the Federal Government and reducing the number of agencies and programs. The way to do this is to pare back those operations that generate the least bang for the taxpayers' buck. I submit that ACUS is not one of these.'' Mr. President, the Conference's value lies in its ability to streamline and save money. Its value far, far exceeds its costs.

And, Mr. President, our amendment is budget neutral since the small amount of funding for ACUS will be taken from the General Services Administration account. Therefore, this amendment will not add to the Federal deficit.

Some have mistakenly argued that ACUS doesn't do anything meaningfull. Well, these arguments come from those who do not have to deal with the complexity and burdens of the regulatory process.

Just a few of the major accomplishments of ACUS include the following:

First, regulatory reform: In the comprehensive regulatory reform legislation S. 343, that the Senate has been considering, the Conference was relied upon for their expertise in this area, and a number of ACUS' recommendations were made part of the bill. And when the legislation was before the Subcommittee on Administrative Oversight and the Courts, which I chair, ACUS recommendations were relied upon.

Second, alternative dispute resolution: ACUS has explored alternatives to costly litigation such as mediation and alternative dispute resolution. By adopting the Conference's recommendations, agencies have saved millions of dollars of taxpayer's money. I will soon be introducing a permanent extension of the Agency Dispute Resolution Act which is based on ACUS' recommendations.

Third, simplying Government contracting: Through a number of recommendations, ACUS has succeeded in streamlining the Federal contracting process, a procurement system which accounts for $200 billion in expenditures each year. This was accomplished through amending the jurisdictional requirement in certification of Federal contracts. The potential for further savings here are enormous.

Fourth, negotiated rulemaking: OMB has utilized ACUS as a reg neg resource center for agencies undertaking negotiated rulemaking, a cutting edge reform which allows for enormous improvement in Government. This is accomplished by revolutionizing the way which agencies come up with rules. Under this reform, parties who would be affected sit down with the agency and discuss the ramifications of proposed regulations, and hopefully, come up with a negotiated agreement.

Fifth, equal access to justice: The Conference played a key role in enacting the Equal Access to Justice Act. ACUS was assigned by Congress the responsibility to ensure executive branch compliance. While there was some institutional hostility to the changes, the model rules that ACUS had drawn up, were eventually adopted by all agencies. The Conference continues its work on this issue, most notably in its recent recommendation for streamlining attorney's fee litigation.

Sixth, Contract Disputes Act: The Conference recommended changes to the Contract Dispute Act. This legislation has worked well over these last 3 years, eliminating an enormous amount of needless litigation.

The Administrative Conference is not your typical agency. It is small, it has no natural constituency, and it is vital to the success of any governmental reform efforts. Its budget is small, and it saves much more than it costs. I must repeat the words of Chief Judge Smith from his testimony:

> I argue for the reauthorization of the Administrative Conference not because it is good for the Conference, or its able chair, but rather because it is good for America. It will help make this huge Federal Government a little more fair for our citizens, be they small business people, farmers, workers, children, property owners, conservationists, or taxpayers.

Mr. President, we in the Congress need all the help we can get in keeping an eye on what many view as an out-of-control Federal bureaucracy. Overall, the manager of the bill, Senator SHELBY has done an excellent job in crafting a responsible bill that helps put us on the road to a balanced budget. I support his efforts on many tough decisions he had to make regarding this bill.

But, on this one very small item, I just think that we are literally being penny wise and pound foolish. So, I urge my colleagues to join in support of this effort for a more efficient and more accountable Government.

Mr. HEFLIN. Mr. President, I rise today as a cosponsor of an amendment offered by my friend and colleague Senator GRASSLEY to restore funding for the Administrative Conference of the United States.

The Judiciary Subcommittee on Administrative Oversight and Courts, which is chaired by Senator GRASSLEY, and upon which I serve as ranking member has just concluded a hearing on Wednesday, August 2, 1995, relative to the Conference's reauthorization. At that hearing a panel of distinguished witnesses testified on behalf of the continued authorization for this small, but vital independent agency whose purpose is to promote the efficiency, adequacy, and fairness by which Federal agencies conduct regulatory programs, administer grants and benefits, and perform related government functions.

The witnesses who testified before our subcommittee were the Hon. Thomasina Rogers, chairwoman of the Conference, the Hon. Loren Smith, chief judge of the Court of Federal Claims and a former chairman of the Conference, Thomas Susman, a prominent Washington lawyer and former staff member of the Judiciary Committee, and James Miller III, former Director of the Office of Management and Budget under President Ronald Reagan. That is quite a cross-section of

individuals and reflect the broadbased, non-ideological support that the Conference enjoys by the legal and academic community across the nation.

We are living in a time of retrenchment, when the Federal Government is cutting back and trying to do more with less. The question we must ask ourselves as policy makers is ''does eliminating the Conference make good common sense''? I believe the answer is ''no'' and will elaborate today on why it is good policy to continue the valuable work this agency performs on behalf of the American taxpayer.

Former OMB Director Jim Miller put it succinctly at the hearing when he asked: ''Does the Conference produce value for money''? That is ''putting the hay down where the goats can eat it,'' as we say back in Alabama.

First let me share some background with my colleagues who may not be familiar with the work that the Conference does. As I have mentioned, the Conference seeks to improve the fairness, adequacy, and efficiency of the regulatory process with a unique combination of public and private cooperation between government officials and private citizens who volunteer their time and expertise. The Conference has leveraged its rather modest $1.8 million appropriation with hundreds of thousands of dollars of estimated donated time from private citizens to conduct the necessary work to advise the executive, legislative, and judicial branches of the Federal Government.

The Conference was established by law in 1964 to make recommendations on needed improvements to the regulatory process and to serve as sort of a clearinghouse for all of the Federal agencies in this regard. We in Congress have given the agency additional statutory duties over the years under the Administrative Dispute Resolution Act, the Negotiated Rulemaking Act, and the recently enacted Congressional Accountability Act, and the proposed Comprehensive Regulatory Reform Act.

Let me give you a concrete example. Under the Administrative Dispute Resolution Act, the Conference has assisted in carrying out the act's goals of cutting down on unnecessary Government litigation when cheaper and quicker alternatives could be used to the benefit of the Government and the taxpayer. The Conference instituted a computerized roster that now contains the names of hundreds of neutral mediators who are available to assist agencies in resolving their problems.

The Conference has also sponsored an initiative which allows agencies to use each other's employees as an alternate source of low cost, high quality mediators. And importantly, the Conference organized a series of interagency working groups bringing together people from dozens of agencies to work cooperatively on projects no one agency would likely undertake on its own. This is the point I am trying to make—the Conference is a clearinghouse for all of our Federal agencies with regard to improving the administrative process of the Federal Government.

Let us look at another concrete example of how the Conference works on behalf of the taxpayer to say him time and money. The Conference recently cosponsored with the Office of Federal Procurement Policy a program in which agencies agreed to work toward a partnership with private sector companies to reduce the number of contract claims filed under the Contract Disputes Act. This was achieved by using alternative dispute resolution techniques, and 24 agencies signed a pledge committing them to enhanced use of ADR techniques.

Other savings to the taxpayer were presented at the subcommittee hearing. The Federal Deposit Insurance Corporation, relying on a Conference recommendation, began a pilot mediation program that saved more than $9 million in legal fees in the first 18 months. The U.S. Information Agency used ADR techniques to settle its largest contract claim—$1 million in interest charges alone were saved. A pilot project by the Department of Labor, which worked closely with the Conference, reduced the cost of litigation in enforcement cases resolved by mediation by up to 17 percent and expedited the resolution of those disputes by 6 months. Finally, the Army Corps of Engineers reports that its use of ADR techniques has reduced its contract claims from more than 1,000 in 1988 to slightly more than 300 in 1992.

I have perhaps gone on too long for my colleagues in outlining some of the concrete results, but just these alone answer former OMB director Jim Miller's question: ''Does the Conference give value for money''? The short answer is ''yes'' it does.

In closing I would like to enter into the CONGRESSIONAL RECORD a copy of a letter written to the Hon. RICHARD SHELBY, chairman of the Senate Appropriations Subcommittee on Treasury, Postal Service, and General Government and to the Hon. ROBERT KERREY, ranking member of that subcommittee, which supports continued funding for the Conference. The letter is signed by numerous private sector members of the Conference including private practitioners, public interest groups, law professors, and a State Supreme court justice.

Let me read from it a brief excerpt.

The Administrative Conference may be one of the most economically efficient uses of taxpayer dollars in the government. Its present budget is $1.8 million. Its work in ADR alone has been the catalyst for tens of millions of dollars of savings by government agencies and the private sector. It should be allowed to continue this important cost-saving work.

Mr. President, that succinctly states why I am cosponsoring this amendment to restore the modest funding to this small, but vital nonpartisan independent agency. It does deliver value for money. It should continue its service to the American people.

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

JULY 20, 1995.

Hon. RICHARD C. SHELBY,
Chairman, Subcommittee on Treasury, Postal Service and General Government, Senate Committee on Appropriations, Hart Senate Office Building, Washington, DC.

Hon. J. ROBERT KERREY,
Ranking Member, Subcommittee on Treasury, Postal Service and General Government, Senate Committee on Appropriations, Hart Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN AND SENATOR KERREY: We, the undersigned private-sector members of the Administrative Conference, are writing to urge you to continue to support funding for the Administrative Conference of the United States (ACUS).

Created in 1964, ACUS is uniquely bipartisan and a special blend of public and private input. By teaming government officials with private citizens who volunteer their time and expertise, ACUS leverages its small appropriation into hundreds of thousands of dollars of donated time to conduct basic research and give advice and assistance to the Congress, the President, federal agencies, and the federal judiciary on difficult issues of administrative law, regulation and rulemaking, and fairness and efficiency in government procedures. In recent years ACUS has been a major architect and proponent of government use of alternative dispute resolution (ADR), which replaces costly and time-consuming litigation with various consensual techniques that save money for both the government and private sector and enhance the public's participation in the governmental process. Indeed, ACUS is now the most important repository of expertise and information about ADR. Because ACUS' sole goal is the improvement of the regulatory process, and its approach is nonpartisan and nonideological, its recommendations have an exceptionally high rate of acceptance.'

Congress uses ACUS as a recognized source of impartial expertise. In enacting its very first piece of legislation this session, the *Congressional Accountability Act of 1995*, Public Law 1054–1. Congress gave the Administrative Conference the statutory responsibility for examining and making recommendations regarding the implementation of the numerous health, safety and labor statutes that will now apply to three congressional agencies—the Library of Congress, the General Accounting Office, and the Government Printing Office.

The Dole regulatory reform bill currently under Senate consideration, S.343, as well as the bill unanimously reported out of the Government Affairs Committee, S. 291, and the recently introduced Glenn bill, S. 1001, include important new oversight responsibilities for ACUS. In selecting ACUS to undertake these new responsibilities, the Governmental Affairs Committee observed:

Because ACUS is comprised of respected experts and practitioners representing a wide range of perspectives and interests, and has a record of developing unbiased, practical solutions to regulatory problems, the Committee believes that this agency is well suited to producing the studies and recommendations needed to fulfill the intent of section 5 [of the bill.]. Report of the Senate Committee on Governmental Affairs, S. Rep. No. 104–88, p. 57 (May 25, 1995).

The Administrative Conference may be one of the most economically efficient users of taxpayers dollars in the government. Its present budget is $1.8 million. Its work in ADR alone has been the catalyst for tens of millions of dollars of savings by government agencies and the private sector. It should be

allowed to continue this important cost-saving work. It has developed a program to complement current Administration and Congressional initiatives and address the details that must be resolved if regulatory reform and reinvention efforts are to be implemented successfully. Even if its job were solely to monitor and improve regulatory changes that may emerge from this Congress, that would be reason enough to retain it.

In short, we urge you to support continuous funding for ACUS.

Sincerely,

Joseph A. Morris, Esquire, Morris, Rathman & De La Rosa, Chicago, IL.

Richard E. Wiley, Esquire, Wiley, Rein & Fielding, Washington, DC.

David C. Vladeck, Esquire, Director, Public Citizen Litigation Group, Washington, DC.

Dr. James C. Miller, III, Counsellor, Citizens for a Sound Economy, Washington, DC.

Justice Marian P. Opala, Supreme Court of Oklahoma, Oklahoma City, OK.

Warren Belmar, Esquire, Partner, Fullbright & Jaworski, Washington, DC.

Thomas M. Susman, Esquire, Ropes & Gray, Washington, DC.

Paul D. Kamenar, Esq., Executive Legal Director, Washington Legal Foundation, Washington, DC.

Edward F. Benavidez, Esquire, Benavidez Law Firm, Albuquerque, NM.

Arthur E. Bonfield, Professor of Law and Associate Dean for Research, College of Law, The University of Iowa, Iowa City, IA.

Marshall J. Breger, Visiting Professor, Catholic University of America, School of law, Washington, DC.

Dr. Thomas D. Hopkins, Arthur J. Gosnell Professor, Rochester Institute of Technology, Rochester, NY.

Robert A. Anthony, Professor, George Mason University School of Law, Arlington, VA.

Caryl S. Bernstein, Esquire, Senior Counsel, Shaw, Pittman, Potts & Trowbridge, Washington, DC.

Elliot Bredhoff, Esquire, Bredhoff & Kaiser, Washington, DC.

Clark Byse, Professor Emeritus, Harvard Law School, Cambridge, MA.

Ronald A. Cass, Dean, Boston University School of Law, Boston, MA.

Ernest Gellhorn, Professor of Law, George Mason University, Arlington, VA.

Sandra J. Hale, Esquire, President, Enterprise Management International, Minneapolis, MN.

Robert M. Kaufman, Esquire, Partner, Proskaner, Rose, Goetz & Mendelsohn, New York, NY.

Randolph J. May, Esquire, Sutherland, Asbill & Brennan, Washington, DC.

William R. Neale, Esquire, King, DeVanlt, Alexander & Capehart, Indianapolis, IN.

Philip A. Fleming, Esquire, Partner, Crowell & Moring, Washington, DC.

Walter Gellhorn, Professor Emertius, Columbia University School of Law, New York, NY.

Robert A. Katzmann, Walsh Professor American Government and Professor of Law, Georgetown University, Washington, DC.

Richard J. Leighton, Esquire, Keller & Heckman, Washington, DC.

Alan B. Morrison, Esquire, Public Citizen Litigation Group, Washington, DC.

Owen Olpin, Esquire, Senior Partner, O'Melveny & Myewrs, Los Angeles, CA.

Max D. Paglin, Esquire, Golden-Jubilee Commission on Telecommunications, Washington, DC.

Reuben B. Robertson III. Esquire, Ingersoll & Bloch, Chartered, Washington, DC.

Harold L. Russell, Esquire, Smith, Gambrell & Russell, Atlanta, GA.

Peter L. Strauss, Professor, Columbia University School of Law, New York, NY.

Steven G. Gallagher, Esquire, Senior Vice President, American Arbitration Association, Washington, DC.

Lawrence B. Hagel, Esquire, Deputy General Counsel, Paralyzed Veterans of America, Washington, DC.

Jaime Ramon, McKenna & Cimeo, L.L.P., Dallas, TX.

Victor G. Rosenblum, Professor, Northwestern University School of Law, Chicago, IL.

Girandeau A. Spam, Professor, Georgetown University Law Center, Washington, DC.

James E. Wesner, Esquire, University General Counsel, University of Cincinnati, Cincinnati, OH.

Edward L. Weidenfeld, Esquire, Weidenfeld & Rooney, P.C., Washington, DC.

David G. Hawkins, Esquire, National Resources Defense Council, Washington, DC.

Betty Jo Christian, Esquire, Steptoe & Johnson, Washington, DC.

Janet E. Belkin, Esquire, Chair, Section on Administrative Law & Regulatory Practice, American Bar Association.

Brian C. Griffin, Esquire, Griffin & Griffin, Oklahoma, OK.

Jonathan Rose, Esquire, Professor, Arizona State University, Tempe, AZ.

Mr. LEVIN. Mr. President, I rise today to urge my colleagues to restore funding to the Administrative Conference of the United States.

The Administrative Conference, or ACUS, is a small agency in the executive branch with an important mission and a very broad scope. It is charged with the responsibility of identifying and recommending improvements to the administrative procedures of our Federal agencies, and for more than 25 years ACUS has commendably carried out that responsibility.

The backbone of our Federal agencies is the administrative process. The administrative process includes the issuance of regulations, the adjudication of individual claims for benefits, the award of licenses, and the debarment of fraudulent and nonperforming contractors. There's not much that a Federal agency does that doesn't involve administrative process.

It is understandable, then, that when Vice President GORE went looking for key elements to reform the way our Federal agencies carry out their responsibilities, he focused in on the administrative process. When he did so, he saw the work of ACUS as an important asset to achieving real progress. Streamlining the administrative process is the main goal of the National Performance Review, and ACUS is the key vehicle the administration intends to use to reach that goal. The bill we are now considering would undermine the cause of regulatory reform, because it fails to provide any funding for ACUS.

Let us look quickly at some of the specific tasks that we in Congress have directed ACUS to take on. The Regulatory Negotiation Act, which I authored, gives ACUS a key role in encouraging and facilitating agency use of regulatory negotiation. Regulatory negotiation is a fairly new approach to developing regulations that brings the affected parties into the process earlier and attempts to achieve by consensus what we may never be able to achieve through the normal, often adversarial, rulemaking process. It may not be the right approach in every case, but where it fits it has proven to be very beneficial: cutting costs, improving enforcement, and producing more cost-effective regulations. Were ACUS to be eliminated, we would risk losing the progress we have made over the last few years to get agencies to rely more on regulatory negotiation.

Similarly, ACUS has been assigned a key role in the implementation of the Alternative Dispute Resolution Act. When used appropriately, ADR is a proven time and money saver. The ADR Act encourages agencies to avoid costly and protracted litigation by using arbitration, mediation, and other alternative dispute resolution techniques. ACUS is responsible under the ADR Act for facilitating the use of ADR in the Federal agencies, and they have been quite successful. Were we to allow ACUS to go unfunded, the center would fall out of the ADR effort, and much of the progress we have tried to achieve would be lost.

ACUS is presently evaluating conflict management in the Fish and wildlife Service's implementation of the Endangered Species Act; agency practices regarding sale and distribution of Government assets such as broadcast frequency licenses, oil and gas leases; Department of Justice control over agency litigation; the use of audited industry self-regulation; techniques for expedited rulemaking; and many more. Each of these has the potential to greatly improve the operations of Federal agencies.

Here in the Senate, we are still finding important roles for ACUS even while we are talking about eliminating it. Section 8 of the Dole-Johnston substitute to S. 343, the regulatory reform bill would direct ACUS to evaluate the agencies' compliance with that bill's risk-assessment requirements. Congress relies on ACUS for crosscutting projects such as these because of its unparalleled expertise regarding the administrative process.

While these tasks could be performed by someone other than ACUS, this points out the most valuable aspect of ACUS. ACUS is a small, free-standing agency that is free of partisan wrangling. Its research and recommendations are supposed to be without political favoritism, an so they have been. But because of ACUS's expertise and prestige, it is able to bring together many of the best minds in the fields of administrative law and Government operations from the private sector, academia, and Government to work together in the public interest. Law professors, the private bar, judges, and agency officials serve together on ACUS panels, providing their services free of charge. ACUS's ability to leverage its small amount of money into such a sizable substantive gain makes it unique. The Nation could not expect to find a more economical source of the

services ACUS provides, and allowing ACUS to go unfunded for even 1 year would erode its stature and severely damage this unique arrangement.

Administrative process is not glamorous stuff, but if you think back on the major issues debated here this session, its importance is clear. Many of us have drawn on ACUS's expertise when considering the issues of unfunded mandates, the regulatory moratorium, regulatory reform, lobbying disclosure, telecommunications. The ability of ACUS's staff to quickly and accurately answer an extraordinary range of questions about how the Federal administrative agencies operate is extraordinary. This, combined with the many important roles ACUS plays in improving the operation of those Federal administrative agencies, offers compelling justification for restoring adequate funding to ACUS.

Mr. President, I congratulate the Senator from Iowa for offering this amendment and I urge my colleagues to support it.

Mr. GLENN. Mr. President, I strongly support this amendment to restore funding for the Administrative Conference of the United States.

The Administrative Conference is a small agency that provides independent, nonpartisan advice and assistance to Congress and Federal agencies on how to make Government procedures more efficient, flexible, and open.

ACUS, as the Conference is sometimes called, is a unique public-private partnership. It consists of members from Government, the academic community, and the private sector, who develop consensus-based recommendations for improved agency procedures. It also has a small career staff that works with agencies on implementing recommended reforms, and that assists congressional offices and agencies on issues of administrative law and practice.

In this era of budget reduction and smaller government, the Administrative Conference is especially valuable. There are several compelling reasons for this.

First, ACUS studies problems and makes recommendations that save the Government lots of money. For example, the Conference has testified that the Social Security Administration adopted an ACUS recommendation to simplify the Social Security appeals process. From following just this one ACUS recommendation, the Social Security Administration reports that it will save $85 million annually.

A second example is the use of alternative dispute resolution techniques, or ADR, which means mediation and other methods of settling cases and avoiding costly litigation. The Administrative Conference is the Government's central resource on the use of alternative dispute resolution. Data from five agencies show that their use of these ADR methods, which ACUS has been promoting for a decade, saved $13.8 million in 1994.

James C. Miller, who was budget director under President Reagan and is a staunch budget-cutter, has testified that it would be a mistake for Congress to zero out the Administrative Conference, because ''ACUS generates far more value to the American people'' than its yearly budget. On this point, Jim Miller and I agree completely. The Conference's budget is only $1.8 million dollars—an amount that is repaid many times over in reduced litigation costs and improved Government efficiency.

A second reason why the Conference is especially valuable now, is that we are in the midst of revamping the Government's administrative and regulatory procedures for the first time in 50 years. Such a time is when we most need the expert, impartial advice and assistance of the Conference. For example, there are now two leading regulatory reform bills in the Senate—S. 343, which is sponsored by the distinguished majority leader, and S. 1001, which I introduced. Both of these bills incorporate key recommendations of the Administrative Conference. I know that, on both sides of the aisle, Senate staff working on these bills have turned for advice repeatedly to the Conference staff. Both of these bills also include explicit requirements for the Administrative Conference to review how the legislative reforms work out in practice, and to recommend any needed corrections.

Third, over the past year the Conference has focused and marshaled its energies to support the current transition to a smaller, more efficient, more responsible Government. ACUS continues its very valuable support for Government use of negotiation, mediation, and other alternatives to costly litigation. These ADR techniques foster flexible and open decisionmaking, encourage results that are acceptable to the parties, reduce the amount of litigation clogging our courts—as well as saving the Government and the private sector money.

The Conference is also concentrating its research-and-development efforts on such regulatory techniques as audited self-regulation and enhanced waiver authority. These innovative techniques are designed to be more flexible and responsive than the traditional regulatory approach of one-size-fits-all.

Finally, I want to dispel any misperception that the Administrative Conference is redundant—that other organizations in the Government or in the private sector could do the same job. No other entity is designed to do what the Administrative Conference does.

Certainly, we in Congress get plenty of advice on how to reform agency processes and procedures—maybe too much advice. But most of this advice comes from industries, or regulatory agencies, or advocacy groups, or ''thinks tanks,'' or party caucuses—which have vested interests or political agendas.

Unlike all of these groups, the Administrative Conference's only agenda is to foster greater efficiency and fairness in Government. Its recommendations must be practical and unbiased, in order to pass muster with a membership drawn from both practitioners and academics from both political parties and from all points on the political spectrum. Furthermore, only ACUS has a mandate to follow through and help agencies to implement recommendations that are adopted.

This is one agency that actually saves the Government more money than it costs. Based on the Administrative Conference's track record of success, this unique institution should be preserved.

For these reasons, I urge my colleagues to support this amendment and to reinstate funding for the Administrative Conference.

Mr. ROTH. Mr. President, I rise to support the amendment of Senator GRASSLEY to restore funding for the Administrative Conference of the United States. Because I am, and have been, a strong proponent of reducing the size of government, let me take a moment to explain why I think we should restore life to this tiny agency.

We have reached the point where, now more than ever, there is widespread consensus that the administrative process must be reformed and streamlined. The Administrative Conference is the only Government agency whose sole mission and expertise is directed to improving administrative procedure. And the Administrator Conference is a unique source of nonpartisan advice and assistance to Congress and the agencies on how to make the regulatory process more efficient, more flexible, and more rational. The supporters of ACUS comprise a virtual ''Who's Who'' of administrative law from across the political spectrum. Indeed, ACUS is especially effective in carrying out its mission because it achieves a unique synergy of expertise from government, the private sector, academia, and the public interest community.

As we all know, results matter, and ACUS has had notable success in reducing the inefficiency, ineffectiveness, and delay in the regulatory process. These successes repay ACUS' small budget—$1.8 million—many times over. To paraphrase S. 343, the benefits clearly justify the costs. For example, ACUS has produced massive savings in money, time, and agency resources by implementing alternative dispute resolution.

Data from five agencies show that the use of alternative dispute resolution has saved $13.8 million for just these few agencies in 1994. With ACUS' help, the use of alternative dispute resolution is expanding rapidly. It has been estimated that a recently adopted ACUS proposal to change the appeals

process saves the Social Security administrative process $85 each year. It would be penny-wise and pound-foolish to let the Administrative Conference expire.

Furthermore, it is now—when we are proposing the most comprehensive changes to the Administrative Procedure Act since it was written 50 years ago—that we need the advice and assistance of the Administrative Conference more than ever.

As small as ACUS is, it has provided important support for the movement toward regulatory reform and for alternatives to the litigation morass that burdens our Nation. Many ACUS recommendations have been incorporated into the regulatory reform proposals we are considering, including S. 343. Indeed, section 8 of S. 343 provides for ACUS to study and advise Congress on the operation of the risk assessment requirements and the operation of the Administrative Procedure Act. My regulatory reform bill, S. 291, contained a similar provision. So did the Glenn bill. As complex and far reaching as the current regulatory reform proposals are, we will need the kind of independent expertise that ACUS provides if we want to carry out regulatory reform.

Because I want to reform the regulatory process and to make government more efficient, I support Senator GRASSLEY's amendment to fund the Administrative Conference. I urge my colleagues to support this worthy effort.

AMENDMENT NO. 2250

Mr. SHELBY offered an amendment (No. 2250) for Ms. MIKULSKI:

At the appropriate place in the bill, insert the following new section:

SEC. . Service performed during the period January 1, 1984, through December 31, 1986, which would, if performed after that period, be considered service as a law enforcement officer, as defined in section 8401(17)(A)(i)(II) and (B) of title 5, United States Code, shall be deemed service as a law enforcement officer for the purposes of chapter 84 of such title.

Ms. MIKULSKI. I rise today in support of my amendment to chapter 84 of title 5, United States Code, which corrects a technical error in existing law. The error which I refer to results in some Federal law enforcement personnel who began duty during an interim period when the Federal employee retirement system was being changed being denied the benefits they deserve.

From January 1, 1984, to December 31, 1986, certain Federal law enforcement personnel were hired and placed under an interim retirement system. The Civil Service Retirement System [CSRS] was not open to newly hired employees and the new retirement system, the Federal Employees Retirement System [FERS], was not yet in effect. When the Federal Employee Retirement System went into effect, this group of law enforcement personnel became covered under the FERS law enforcement provisions.

However, during this transitional period, these law enforcement officers were denied law enforcement credit because they were never classified as law enforcement personnel. This amendment corrects the existing language so this group of law enforcement personnel will not be required to unfairly work up to an additional 3 years to meet eligibility requirements under the FERS law enforcement provision. Our Federal law enforcement personnel work long, hard, and dangerous duty in service of this country. It is only fair that we ensure that each and every Federal law enforcement employee receives the retirement benefits they deserve.

AMENDMENT NO. 2251

Mr. SHELBY offered an amendment (No. 2251) for Mr. BROWN:

The General Services Administration and the Federal Aviation Administration should review and reform current personnel rules and labor agreements regarding federal assistance when relocating because of a change of duty station.

The Senate is concerned about reports that, under FAA and GSA rules, employees at the Denver, Colorado, ATCT and TRACON were permitted to claim personal housing relocation allowances in connection with their transfer from FAA facilities at Stapleton Field to the new Denver International Airport, even in some cases where an employee's new home was farther from the new job site than the employee's former home.

The FAA should immediately investigate this misuse of public funds at Denver International Airport and reform their personnel rules to end this kind of abuse.

Mr. BROWN. Mr. President, with reference to this amendment on the Denver International Airport, under a previous policy memorandum—to be specific, between the FAA and the NATCA—there was an agreement to waive regulations that apply to the payment for the movement of workers. The old rules indicated there would be payment for employees' movement if, indeed, an airport was moved over 10 miles. The new Denver airport is 17 miles from the old site. So it came under the old regulations. However, the new regulations make it clear that compensation is not to be given unless the airport is relocated 35 miles or more and if a controller moves 30 minutes closer to the new duty station.

Thus, the Denver International Airport employees would have received compensation—or at least some of them could have—under the old regulations. But they did not qualify for the compensation under the new regulations. Nevertheless, on April 8, 1993, there was a memo of understanding reached where they waived the application of these new regulations. In other words, they waived the current regulations and made employees eligible for moving expenses even though the airport was only moved 17 miles.

The impact has been enormous. Four workers received a total of dollars $85,000 for this small move, even though they moved further away from their workplace. In other words, they moved, but their new home was further away from the new airport than their old home had been from the old airport. In other words, we paid them when they actually chose to move further away.

A total of 38 FAA workers have been paid now $528,000 in moving costs, an average of $14,000, even though under the new regulations they would not qualify for anything. The FAA has set aside another $2.07 million to reimburse over 100 workers still eligible to submit expenses before February 1997. The largest single reimbursement was for $61,281 to an air traffic controller who moved from one address in Englewood, CO, to another address in Englewood, CO.

It is quite clear that the taxpayers have been ripped off and with the complicity of the people who signed the new memo waiving the regulation, thus the amendment calling for the study and review.

Mr. President, I hope the people responsible for this kind of treatment of the taxpayers will receive appropriate discipline from their superiors.

Mr. SHELBY. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments (Nos. 2232 through 2251) were agreed to, en bloc.

Mr. DOMENICI. Mr. President, I rise in strong support of the conference agreement on H.R. 2020, the Treasury, Postal Service, and General Government appropriations bill for 1996.

This bill provides new budget authority of $23.0 billion and new outlays of $20.6 billion to finance operations of the Department of the Treasury; including the Internal Revenue Service, U.S. Customs Service, Bureau of Alcohol, Tobacco, and Firearms, and the Financial Management Service; as well as the Executive Office of the President, the Office of Personnel management, and other agencies that perform central Government functions.

I congratulate the chairman and ranking member for producing a bill that is within the subcommittee's 602(b) allocation. When outlays from prior-year budget authority and other adjustments are taken into account, the bill totals $22.8 billion in budget authority and $23.1 billion in outlays. The total bill is at the Senate subcommittee's 602(b) nondefense allocation for budget authority and under its allocation for outlays by $32 million. The subcommittee is also under its Violent Crime Reduction Trust Fund allocation by $2 million in budget authority and $1 million in outlays.

I would also like to thank that subcommittee for including funding to complete construction of the Federal courthouse in Albuquerque, NM.

I ask Members of the Senate to refrain from offering amendments which would cause the subcommittee to exceed its budget allocation and urge the speedy adoption of this bill.

I ask unanimous consent that the spending totals for the Senate reported bill be printed in the RECORD.

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

TREASURY-POSTAL SUBCOMMITTEE

[Spending totals—Senate-reported bill; fiscal year 1996, in millions of dollars]

	Budget authority	Outlays
Nondefense discretionary:		
Outlays from prior-year BA and other actions completed	.....	2,778
H.R. 2020, as reported to the Senate	11,187	8,747
Scorekeeping adjustment	.....	.....
Subtotal nondefense discretionary	11,187	11,525
Violent crime reduction trust fund:		
Outlays from prior-year BA and other actions completed	.....	8
H.R. 2020, as reported to the Senate	76	61
Scorekeeping adjustment	.....	.....
Subtotal violent crime reduction trust fund	76	69
Mandatory:		
Outlays from prior-year BA and other actions completed	127	130
H.R. 2020, as reported to the Senate	11,763	11,756
Adjustment to conform mandatory programs with Budget Resolution assumptions	−334	−333
Subtotal mandatory	11,555	11,553
Adjusted bill total	22,818	23,147
Senate Subcommittee 602(b) allocation:		
Defense discretionary	.....	.....
Nondefense discretionary	11,187	11,557
Violent crime reduction trust fund	78	70
Mandatory	11,555	11,553
Total allocation	22,820	23,180
Adjusted bill total compared to Senate Subcommittee 602(b) allocation:		
Defense discretionary	.....	.....
Nondefense discretionary	.....	−32
Violent crime reduction trust fund	−3	−1
Mandatory	.....	.....
Total allocation	−3	−33

Note: Details may not add to totals due to rounding. Total adjusted for consistency with current scorekeeping conventions.

Mr. SIMON. In December 1994, as part of the National Performance Review, the administration announced that the Office of Personnel Management [OPM] would privatize its investigative branch, the Office of Federal Investigations [OFI]. OPM intends to complete the transition by January 1996.

For over 40 years, the OFI has been responsible for conducting background investigations for potential employees of various agencies within the Federal Government, including the Department of Energy, the Department of Justice, and the Treasury Department. Overall, OFI conducts about 40 percent of all Federal background investigations for positions ranging from bureaucratic jobs to high ranking positions requiring substantial security clearances. In my view, shifting this responsibility to the private sector raises a host of extremely important questions which need to be addressed before we proceed.

First, we must ensure that our national security is not in any way jeopardized by a move to privatization. Currently, OFI does background checks on individuals that will ultimately have access to top secret information, such as nuclear weapons systems. We need to ask ourselves if this is the type of matter that we want a private sector employee to have access to. If the answer is yes, certainly we need to carefully review the safeguards needed to ensure that our national interests remain secure.

The ability of private firms to maintain the privacy of sensitive records is another area that needs to be closely addressed. A private contractor would potentially have the ability to amass large quantities of personal information on Government employees. Although OPM has suggested that they would have the ability to keep records private, I have not heard specific measures that could be taken to guarantee this. Serious study must be given to what measures can and should be taken to protect privacy.

We must also ensure that quality investigations will continue to be conducted. The Federal Government currently uses private investigators for a very small fraction of background checks. The only experience with private investigators on a large scale produced numerous investigations that were not up to standard, or, even in a fraction of cases, were falsified. This must not happen again. What safeguards can and should OPM put in place to ensure that quality is maintained?

It is also important to ask ourselves if private investigators will be able to provide the best available information to Government agencies. Will they have difficulty obtaining vital information from law enforcement agencies? In a preliminary study, the General Accounting Office [GAO] has determined that law enforcement officials may be reluctant to give out sensitive information to private investigators. This issue deserves further study.

My comments are not meant to imply that private contractors cannot perform top quality investigations while also ensuring privacy and protecting out national security. It is certainly conceivable that they could. However, before a decision of this magnitude is made, it is crucial that we all have the best possible information. If further study shows that private investigators can successfully take over this important function, then I might support the transition. However, until these questions are answered, I believe the best course of action is a cautious one.

I understand that the Senate Treasury and Postal Appropriations report requires that a cost-benefit analysis be conducted to determine the feasibility of moving to privatization, and that the House report mandates a similar study. In addition, Congressman MICA has requested that the GAO conduct an ongoing study into potential problems with the privatization effort. I would ask that my questions and concerns be raised as part of these studies.

Mr. SHELBY. While I appreciate the concerns of the Senator from Illinois, I think the move to privatization is a good one. The administration and the subcommittee have carefully reviewed the privatization issue. In February, OPM conducted a feasibility study and recently contracted out with another firm to present a business plan. That plan should address the steps OMP will take to ensure continued oversight of this important function.

However, my colleague from Illinois has raised several important points that I believe should be addressed. I will work to include language in the conference report that would require the GAO to study the questions raised by Senator SIMON, including the potential impact on the quality of investigations, privacy issues, and national security concerns. I believe that before OPM moves to privatization, Congress should have the opportunity to review both the OPM and GAO reports on these issues.

Mr. KERREY. I share the views of the chairman, and will work to ensure that the concerns of the Senator from Illinois are addressed in the conference report as well. They are indeed important issues that deserve further study.

Mr. SIMON. I thank both of my colleagues for their leadership on this issue. I appreciate their willingness to ensure that my concerns are addressed, and look forward the results of further study.

BRECKENRIDGE POST OFFICE

Mr. CAMPBELL. Would the Senator from Alabama yield a few moments at this time to enter into a brief colloquy?

Mr. SHELBY. I would be happy to yield to the distinguished Senator from Colorado.

Mr. CAMPBELL. I thank the Senator.

As the Senator may recall, the House report on the Treasury/Postal appropriations bill notes that committee's concerns about the failure of the Postal Service to complete the planning and the construction on the new post office in Breckenridge, CO.

The planning stage was originally to be finished in fiscal year 1995 so that the new post office could be completed in fiscal year 1996. This issue was not addressed in the Senate report.

Breckenridge, CO, is not being adequately served by the Postal Service at this time because of the need for better facilities. I would ask the Senator from Alabama, then, if he would work with me to encourage the conferees to adopt the House's comments on the building of the Breckenridge Post Office in the conference committee report.

Mr. SHELBY. I look forward to working with the Senator on this matter. I know how important efficient postal service is to rural communities.

Mr. CAMPBELL. I thank the distinguished Senator from Alabama for his consideration and I yield the floor.

''GUNS FOR FELONS''

Mr. LAUTENBERG. Mr. President, I am very pleased that this legislation includes a provision that Senator SIMON and I requested that would block funding for a program that allows convicted felons to regain their ability to possess firearms.

As a general matter, Mr. President, Federal law prohibits any person convicted of a felony from possessing firearms. However, under what I call a guns for felons loophole, convicted felons can apply to the Bureau of Alcohol, Tobacco and Firearms to get a waiver.

After receiving an application, ATF performs a broad-based field investigation and background check. If the Bureau believes that the applicant does not pose a threat to public safety, it can grant an exemption from the Federal ban.

Mr. President, Senator SIMON and I have been able to block funding for this program for the past few years. However, between 1981 and 1991, ATF granted 5,600 waivers. Many of these required a substantial amount of scarce time and resources. ATF investigations often lasted weeks, and included interviews with family, friends, and the police.

In the late 1980's, the cost of processing and investigating these petitions worked out to about $10,000 for each waiver granted.

What happened when convicted felons got their firearms rights back? Well, some apparently went back to their violent ways. Those granted relief subsequently were rearrested for crimes ranging from attempted murder to rape, kidnaping, and child molestation.

Mr. President, the ATF guns for felons loophole is an outrageous waste of taxpayer dollars. It also is a poor use of scarce ATF resources. ATF agents have better things to do than conduct background investigations so that felons can get a gun.

Mr. President, we ought to eliminate this ridiculous program permanently. Senator SIMON and I have introduced legislation to do so. Meanwhile, though, we at least should block funding for the program in appropriations bills. I am very pleased that the Appropriations Committee agreed with us this year.

Mr. President, there is broad support for closing the guns for felons loophole. The Fraternal Order of Police, the National Association of Police Organizations, and the International Brotherhood of Police Officers all have testified in favor of terminating the ATF program.

In conclusion, Mr. President, firearm violence has reached epidemic proportions. We have a responsibility to the victims and prospective victims to take all reasonable steps to keep this violence to a minimum. Keeping firearms away from convicted felons is the least these innocent Americans should be able to expect.

FEDERAL PROPERTY MANAGEMENT

Mr. COHEN. Mr. President, my efforts to correct longstanding problems related to Federal property management, particularly in the courthouse construction program, are already well documented in the public record. During the last few years, I have supported a number of amendments to eliminate wasteful spending for construction projects that were not needed or not cost-effective and I've introduced legislation to reform the way the Federal Government manages its office space.

Over the years, the General Accounting Office [GAO] and General Services Administration [GSA] Inspector General reports have highlighted recurring problems at GSA in managing the Federal Government's real estate portfolio and have shown a pattern of wasteful spending. Long standing problems have significantly impaired GSA's ability to meet the Federal Government's property needs in a cost-effective and businesslike manner.

Despite GSA Administrator Roger Johnson's efforts to reform GSA and reorganize the Public Buildings Service [PBS], I remain convinced that PBS fails to adequately meet Federal space needs in a cost-effective manner and continues to construct buildings that are not needed and that we can ill afford. Earlier this month, GAO testified before the Environment and Public Works Subcommittee on Transportation and Infrastructure that the Federal Government continues to spend billions of dollars more than is necessary to acquire and manage Federal office space. Congress has also contributed to the problem as it has too often funded construction projects which have not gone through the normal authorization process.

In today's climate of downsizing Government and budgetary cuts, funding for any Federal building project must be carefully assessed to ensure the best and maximum use of scarce Federal resources. Last month, I wrote to my colleagues on the Treasury, Postal Appropriations and General Government Subcommittee urging them not to obligate funds for any unauthorized Federal buildings or unauthorized courthouse construction projects; to reassess the need to spend $1 billion, as the President requested, on new construction; to closely scrutinize whether planned funding levels for projects already in the pipeline are economical and realistic in view of current budget constraints; and to assess repair and alteration funding levels.

I am pleased with the language in the fiscal year 1996 Treasury Postal appropriations bill which is currently before the Senate. The bill reduces Federal construction funding and notes that no funds available in the bill will be used for unauthorized projects. I commend Senators SHELBY and KERREY for their leadership in this important area.

I am also pleased with the language in the bill that prohibits the submission of a fiscal year 1997 budget for the construction of U.S. courthouse, unless the facilities meet the construction standards developed by the GSA, the Office of Management and Budget, and the Judicial Conference and reflect the priorities established in the Judicial Conference's 5-year construction plan.

Mr. President, the current courthouse construction program lacks a strategic plan and fails to prioritize projects to ensure that scarce Federal resources are spent where they are most needed. As a result, Congress must make the tough funding decisions to protect the taxpayer's interests and prevent wasteful spending. The Appropriations Committee report notes that the committee has been frustrated by the courts unwillingness to establish a priority list for construction and continued insistence that all projects are of an equal priority.

I share the committee's frustration over the courthouse construction program. GAO has testified that the Federal judiciary overestimated courthouse construction space needs for the next decade by more than 3 million square feet which, if authorized, could waste up to $1.1 billion. Last year, a Governmental Affairs Committee hearing showed that, in addition to continuing to build unneeded Federal courthouses, we are wasting additional millions on extravagant courthouse features such as top of the line marble, custom lighting, and private kitchenettes. As a result of the hearing, I, along with a number of my colleagues, wrote GAO requesting an audit of the courthouse construction program. The audit is still ongoing and is expected to be completed later this year.

As Congress looks for ways to address the Federal budget deficit, we must ensure that Government programs and agencies are operating in the most cost-effective manner possible. Again, I commend Senators SHELBY and KERREY for their leadership in putting an end to funding unauthorized construction projects.

Mr. MOYNIHAN. Mr. President, I want to record my considerable concerns about this appropriations bill. The amount appropriated for Treasury is inadequate, specifically as it regards IRS enforcement efforts. The amount appropriated by the Senate for enforcement represents a decrease of $705 million from the amount appropriated last year. This is even lower than the amount appropriated for enforcement by our colleagues in the House.

Over half of the decrease in enforcement funds is attributable to the IRS Taxpayer Compliance Initiative that was first established last year. The Compliance Initiative funds should be made available now, to enable the IRS to realize the full benefits of its recent technological improvements. Specific enforcement efforts that will be jeopardized if these funds are not forthcoming include the collection of $30 billion in delinquent accounts; increased audit coverage; improved information reporting by Federal employees; and improved enforcement of international tax provisions including the transfer pricing laws.

Thanks to prior appropriations for the Tax Systems Modernization Program, the IRS has improved its technology to the point that it is within reach of benefiting from that significant investment of taxpayer dollars.

Denying funds for the Compliance Initiative means turning our backs on what the IRS estimates is $9.2 billion, over 5 years, that would come, not from any tax increase, but from collecting taxes that are owed but are presently going unpaid.

Very simply, providing the IRS with adequate funding for their Compliance Initiative would reduce the deficit, without a tax increase. We know that these expenditures would yield increased revenues in excess of the amount spent. The IRS estimates that the return on these expenditures would approach $5 for every $1 spent. Viewing the appropriation of funds for this purpose as the same as all other spending is shortsighted.

COMMENDING THE PROVIDENCE ATF AND URGING ADEQUATE STAFFING LEVELS

Mr. PELL. Mr. President, as the Senate considers the Treasury, Postal, and General Government appropriations bill today, I wish to bring to the Senate's attention the often-overlooked good work that the local offices of the Bureau of Alcohol, Tobacco, and Firearms [BATF] provide to our country. I do so partly because of the recent scrutiny directed at the BATF here in the Congress and partly in response to a letter I recently received from the U.S. attorney for Rhode Island, Sheldon Whitehouse, who wrote to me to indicate his concern over the need for adequately staffing the Providence, RI office of the BATF.

The Bureau of Alcohol, Tobacco, and Firearms is charged with enforcing and administering Federal firearms and explosives laws, as well as those laws covering the production, use, and distribution of alcohol and tobacco products. Over the years, the Bureau has been an essential partner in our crime fighting efforts in these areas and, in particular, the BATF office in Providence, RI has distinguished itself in its work even given its small size.

Indeed, to quote from the letter I received from U.S. Attorney Whitehouse, the Providence office—

> Has been extremely effective for its size, particularly at fighting the kind of crime that presents the most violent threat to Rhode Islanders; guns, drugs, and gangs. Recent ATF investigations have led to the Federal arrests and convictions of some of the largest dealers of assault weapons and crack cocaine in Newport, and numerous Providence area armed career criminals.

The problem, Mr. President, is that adequate staffing of the Providence office of the BATF is being seriously threatened. Only a year ago, the Providence operated with a small, tight crew of just six agents. Today, there are currently four agents and by the end of the year there will be just three agents. The danger is that without adequate appropriations, the office will not be able to replace the full complement of six agents. This would be a tragic loss to Federal law enforcement in Rhode Island and one that in our zeal to squeeze savings out of the Federal budget would be unwise and potentially dangerous. I highlight three recent cases handled by the Providence BATF to illustrate my point.

Just recently, Tonomy Hill was a troubled housing project in Newport, RI. Following an undercover investigation by the BATF, an illicit drug trafficking and illegal firearms operation based at Tonomy Hill and involving two drug kingpins and 33 associates from as far away as Philadelphia and New York was exposed. In the end, the ring leaders and 33 associates were prosecuted and convicted on both State and Federal charges.

In another case, in July 1993, Michael Sadd of Wakefield, RI was robbed at gunpoint and then murdered. Through joint cooperation with local law enforcement, ATF agents successfully completed an undercover operation whereby the suspected murderer was found, taken into custody, and currently is awaiting trial.

Finally, in 1991, it was becoming increasingly apparent that Rhode Island's gun laws were being thwarted by the proliferation of illegal firearms on the streets. The ATF conducted an investigation and it was discovered that a local Rhode Islander was working with a purchaser in Arizona to provide a supply of illegal firearms to the local black market, smuggled into the State and registered under bogus serial numbers. The case ended with the Arizona purchaser in prison and pending charges against his accomplice in Rhode Island.

These examples show that the ATF presence is much-needed in Rhode Island, especially as our State and local law enforcement agencies face cutbacks and budget shortfalls. In the troubled times facing our streets and neighborhoods, we must commit adequate resources at all levels to address the ever increasing menace of violent crime. I realize the difficult times our country faces in finding a way to solve our budget deficit. Nevertheless, in the establishment of priorities, I hope that adequate attention will be given to maintaining law enforcement.

With regard to the legislation at hand, I hope that given the Bureau of Alcohol, Tobacco, and Firearms good work in Rhode Island that a requisite level of funding will be appropriated and insisted upon during a conference with the House of Representatives to assure that adequate field office staffing is maintained not only in Rhode Island but throughout the country. I welcome the opportunity to work with my colleagues to help achieve this result.

CUSTOMS PORT OF ENTRY

Mr. PRESSLER. Mr. President, I intended to offer an amendment that reflects my growing frustration with the Treasury Department's unwarranted unwillingness to grant the State of South Dakota's application to obtain official designation as a U.S. Customs port of entry. Specifically, the amendment would have required the U.S. Customs Service to state for the record to the Congress that the State of South Dakota in fact qualifies for the designation as a port of entry under existing laws and regulations.

Mr. President, South Dakota is the only State without a Customs port of entry. The State has been working with Customs and Treasury officials for more than a year on this matter. There is no disputing the fact that South Dakota has met all the necessary criteria set forth by the U.S. Customs Service for port of entry designation:

The Greater Sioux Falls area has a population in excess of 300,000 within the immediate service area.

The Greater Sioux Falls area is serviced by three major modes of transportation—air, rail, and highway.

The potential Customs workload will exceed the requirement of 2,500 consumption entries per year with no more than half of this number derived from any one business.

The State of South Dakota and the city of Sioux Falls have committed to optimal use of electronic data input.

Facilities for Customs—provided without cost to the Federal Government—will be provided and meet the specifications of the U.S. Customs Service.

Unfortunately, even though South Dakota has met all the baseline requirements needed to be designated full port status, Customs initially proposed that the State accept a lesser user fee status. This recommendation is unacceptable. First, as I have just stated, South Dakota more than meets all necessary requirements for port of entry designation. In fact, our population base and number of potential customs entries actually exceeds the standards set by the U.S. Customs Bureau. Therefore, I am convinced anything short of full port designation would unnecessarily and unfairly hinder international trade opportunities for South Dakota businesses.

Second, the Customs Service has been inconsistent in applying its own criteria when making port designation determinations. The U.S. Customs Commissioner admitted that 35 to 40 percent of the existing 301 ports of entry do not meet the workload measurement criteria that Customs requires for a new port of entry applicant. The amendment I intended to offer would have required the Customs Service to report the exact number of existing ports which do not meet minimal designation requirements. I also have learned that because of budgetary constraints, Customs will not approve any new port applications this year, regardless of the merits of the applicant, and the fact that the added costs for the new port are minimal.

Mr. President, we have more than 100 ports that have a status that they could not qualify for if they applied today. Allowing these ports to retain their status while denying South Dakota its rightful designation defies common sense. It is a wasteful use of taxpayer dollars. It is wrong, plain and simple.

Not only is it highly inefficient for the Federal Government to continue funding over 100 inefficient ports, but it is also highly unfair and counterproductive to a State's plans for economic development if the Federal Government denies a port of entry designation even if the State qualifies for it.

Clearly this issue is one of fairness—fairness to the taxpayers and business men and women of South Dakota. The administration advocated the passage of GATT and NAFTA as a way to increase international trade opportunities. South Dakota, the only State in the country without a Customs presence, is precluded from capitalizing on new trade opportunities because a port designation is required before the State can become a Foreign Trade Zone [FTZ]. South Dakota businesses are moving out of the State because of a lack of an FTZ.

The refusal to grant South Dakota's port of entry application denies a major agricultural exporter and burgeoning economy the opportunity to compete on a level playing field with the rest of the Nation.

Mr. President, the State of South Dakota is right now working with me and my colleagues of the South Dakota delegation to try to convince the Customs Service and the Treasury Department to grant the status our State rightly deserves. It is my understanding a positive resolution is imminent. I certainly hope so because my patience is being put to the test. In the hope of reaching a renegotiated solution soon, I will not offer this amendment—an amendment that is more a reflection of my clear and growing frustration with this blatant unfairness being dealt to the people of South Dakota. I certainly hope I will not have to pursue this option in the near future. South Dakota deserves its rightful place on the world economic stage. South Dakota deserves a port of entry. We qualify for it. We have earned it. It is long overdue.

Mr. SHELBY. Mr. President, I know of no other amendments. Does the Senator from Nebraska?

Mr. KERREY. No other amendments.

Mr. President, just one final statement. Earlier, I had praised all my staff except for the staff person who wrote up my document asking me to thank the staff, and I would like to now thank Patty Lynch, chief staff person for myself and the Appropriations Committee, for her fine work on this bill.

Mr. SHELBY. Mr. President, I would also like to take this opportunity to thank Senator KERREY for working with me on this bill. We have a good relationship. We have worked hard on the bill, and I think we have accomplished much.

I also wish to thank Patty Lynch, who has worked with our staff day in, day out. I thank Chuck Parkinson who has put in hours and hours of work, and also my legislative director, Stewart Hall.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 2020), as amended, was passed.

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

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

The motion to lay on the table was agreed to.

Mr. SHELBY. Mr. President, I ask unanimous consent that the Senate insist on its amendments to H.R. 2020, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

There being no objection, the Presiding Officer (Mr. INHOFE) appointed Mr. SHELBY, Mr. JEFFORDS, Mr. GREGG, Mr. KERREY, Ms. MIKULSKI, Mr. HATFIELD, and Mr. BYRD conferees on the part of the Senate.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (H.R. 1026) to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Brown Amendment No. 2125, to clarify restrictions on assistance to Pakistan.

Mr. DOLE. Mr. President, I know the managers are not right here right now, but we are back on the DOD authorization bill, which we I guess terminated last night about midnight. There are 20 some amendments that I understand have been cleared throughout the day and there will be Senators here in a few moments to start taking up those amendments. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

WELFARE REFORM

Mr. SANTORUM. Mr. President, I rise to congratulate our leader, the chairman of the Finance Committee, Senator PACKWOOD and others, who just went above and beyond the call of duty to bring together, I believe, a consensus welfare reform package here on the Republican side.

The leader, in a few minutes, is going to lay down that package for us to begin debate next week. Second to our efforts to balance the budget, I think this is the next most important issue that we can deal with in the Senate and one that I think is at the top of the minds of not only the people of the United States who pay for the welfare system but the people in it.

I think this is a bill that addresses the concerns of both those who are in the system and those who are paying for the system. The people who are paying for the system are going to get more results, more value, for their tax dollars that they are contributing, and more people are going to be helped into productive mainstream life in America. That is a value to the people who are paying and, obviously, a tremendous value to the people who find themselves dependent on welfare.

What the leader has done, I think, is truly extraordinary. In a very difficult arena where we are trying to give authority back to the States, you run into problems such as, What is fair? How much do you give? And to what State based on what formula? We were able to, through the tremendous work of the Senator from Texas, Senator HUTCHISON, overcome that and come up with a formula that I think works for everyone. It does not disadvantage any State and provides growth opportunities for those States who are really up against it with burgeoning populations of not only the overall population but of the poor in our country.

We have been able to handle the tough problems of how we are going to get work requirements and how many requirements. How many do we turn over to the States and how much do we retain here? In that partnership we seek to establish how much do we allow the States to innovate and how much do we want to oversee and require?

And I think the leader's proposals, again, struck the proper balance of a true partnership, not one that the current administration would have you believe is a partnership where we will make all the decisions. You come to us when you want to change anything, and we will tell you if we think it is OK to do that, in everything you do. That is not a partnership, no more than a student asking the teacher for permission to go to the bathroom. If the teacher says, ''No you've got to go back to your seat.'' It is the same thing. If the State wants to improvise, and the President says, ''No, you have to go back to your seat,'' that is not a partnership. To call that a partnership is absurd.

What we do is truly give authority, truly give discretion and give dollars, in some cases with strings, other cases