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Senate

The Senate met at 11 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

O God, our Father, this is a new day. Banish all the gloom and darkness of worry and fear. Set us free to praise and worship You in joy and gladness. May we neither gloat over yesterday's successes nor be grim over yesterday's defeats. Help us make a fresh start and give ourselves fully to the challenges and opportunities of this day.

Grant us a vibrant enthusiasm so that we can accept each responsibility with delight and care for each person with affirmation. We know that life is an accumulation of days lived fully for Your glory or wasted on anxious care. Fill our minds with Your spirit so that we can think creatively; transform our attitudes so we can reflect Your patience and peace; brighten our countenance so that we will radiate Your joy; infuse strengths into our bodies so that we will have resiliency for the pressures of whatever the day will bring.

We look ahead to the decisions we will have to make today, and our deepest longing is that we will not miss Your best for us or our Nation. We dedicate this day to trust You all the way. Through our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, is recognized.

Mr. LOTT. Thank you very much, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, this morning, the Senate will resume consideration of H.R. 3756, the Treasury-Postal appropriations bill. I understand there are two pending amendments, and I hope we may dispose of those amendments in short order and continue to make progress on the bill.

It is my intention to complete action on the Treasury-Postal appropriations bill this evening. That will certainly take cooperation—it always does—across the aisles. We need to help the managers by coming on over and offering amendments. Amendments are, in fact, needed so that we can be able to complete action at a reasonable hour tonight so we can then go tomorrow to the Chemical Weapons Convention.

If we do not get the Treasury-Postal Service appropriations bill completed this evening, then I am going to have to weigh exactly what we do with regard to the Chemical Weapons Convention. We made a commitment to do that. I intend to do that, but in order to do that, we are going to have to get this bill done. We are going to have to have some cooperation with that.

In accordance with the consent agreement reached on June 28, I do anticipate beginning the consideration of Executive Calendar No. 12, which is the Chemical Weapons Convention. We hope to be able to complete that in 1 day, instead of going all day tomorrow and going over until Friday. Again, with cooperation of the Members, we would like to see if we can complete that tomorrow, because we do have a Jewish holiday on Friday. We will not have any votes after 12 o'clock for sure, but if we could complete work on the CWC by tomorrow night, then Members will have more time to get to their homes to celebrate this special date for our Jewish Members.

We will probably have a 1-hour closed session at the end of the debate on the

Chemical Weapons Convention, because it appears that some of the information Senators really need to have will not be declassified. If it is not declassified by noon tomorrow, we will give Members, I believe 4 hours notice is required under the rules. We will convene in the Old Senate Chamber, and then we will go to votes right after that.

Again, I urge all Senators to come to the floor if they have amendments. The smart thing to do would be to not offer a lot more amendments. Let's just go ahead and pass the Treasury-Postal appropriations bill and be done with it. Would that be all right with the chairman?

Mr. SHELBY. That will be fine.

Mr. LOTT. So go to third reading as soon as you can.

Mr. SHELBY. In 5 minutes.

Mr. LOTT. I yield the floor.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1997

The PRESIDING OFFICER (Mr. BROWN). Under the previous order, the Senate will resume consideration of H.R. 3756, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3756) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies for the fiscal year ending September 30, 1997, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Wyden/Kennedy amendment No. 5206 (to committee amendment beginning on page 16, line 16, through page 17, line 2) to prohibit the restriction of certain types of medical communications between a health care provider and a patient.

Dorgan amendment No. 5223 (to committee amendment beginning on page 16, line 16, through page 17, line 2) to amend the Internal Revenue Code of 1986 to end deferral for

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



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United States shareholders on income of controlled foreign corporations attributable to property imported into the United States.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

AMENDMENT NO. 5206

Mr. SHELBY. Mr. President, I ask for the yeas and nays on the Wyden amendment.

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

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. SHELBY. 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. 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.

PRIVILEGE OF THE FLOOR

Mr. SHELBY. Mr. President, I ask unanimous consent that privilege of the floor be granted to Paul Irving, staff of Treasury, Post Office.

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

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

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

AMENDMENT NO. 5223

Mr. DORGAN. Mr. President, I believe that the amendment which I offered yesterday is the pending business before the Senate. Is that correct?

The PRESIDING OFFICER. The Senator is correct. The pending question is the Dorgan amendment No. 5223.

Mr. DORGAN. Mr. President, it is kind of an upside-down world out there. You look at the news from day to day. A few weeks ago we all listened to the news and discovered that, if you were roughly 7 feet tall and had basketball skills, you could sign a contract for \$100 million. One 7-foot-2-inch athlete signed a contract for \$115 million to play basketball for 7 years. That would employ, by the way, about 4,000 elementary school teachers for a year, that \$115 million; but in our economy it is one very good basketball player. Sounds a little confusing to me that that represents the value system, but that is the system.

This morning in the paper there is an article that says credit card companies are going to end the free ride. They are going to start charging a fee for those who pay off their credit card bills. Isn't

that interesting? They are going to charge a fee for those who pay their credit card bills off in full every month. Why? Because if you are paying off your credit card bill and settling your balance, they are not making money off you. So the result is they will charge a fee for that. Sound kind of like a screwball idea? It does to me.

Or how about this screwball idea. Have a provision in America's Tax Code that says to a corporation, we will give you a special little deal. We know that you are here in America. We know that you built a plant here. You hired a bunch of workers. You have made a product here for 30 years. You make profits here. But we will give you a special little deal. If you will simply shut your American plant down, fire all those workers, get rid of all that in America, and move the whole system to a foreign tax haven, open a new factory overseas, hire new foreign workers, make exactly the same product you were making in America, and then ship the product from that foreign tax haven country into America and make your profit that way, we will give you a deal. We will give you a tax break if you will do that. Close your American plant, produce overseas instead, and we will give you a tax break. Sound like a screwball idea? It is current tax law.

I have an amendment that is pending before the Senate that will lose today. We voted on this before, 52-47. I lost a year ago. We are going to vote again today, and no doubt I will lose again today. Why? Because anyone standing in this Chamber feels comfortable going home telling their folks who sent them here that it was "my priority to decide to keep a tax provision that says let's reward people who move American jobs overseas"? No. That is not why. There is not one person who can find one good reason to have this in current tax law. Not one.

I do not stand here asking for 10 reasons why this ought to be repealed. I would like to find one sober American who can explain to me one reason why this ought to be kept in American tax law. At the very least our tax law ought to be export-neutral with respect to jobs.

Mr. KERREY. I wonder if the Senator will yield?

Mr. DORGAN. I am glad to yield.

Mr. KERREY. The Senator and I, I guess a month ago, discussed a long article that was in the New York Times, in the business section of the New York Times, describing a U.S. corporation, actually a multinational corporation, described by the operator, with \$9 billion for the revenue total as reported in the paper, and \$2 billion for net income as reported by the paper. And the tax rate was down to 3 or 4 percent.

One particular transaction that was under examination was shipping all the income to the Dutch Antilles so they would not have to pay any capital gains tax. When the CEO of the company, the owner of the company, was asked the question, "Well, don't you

feel bad about not paying any taxes in the United States of America?" his answer was, "That's what multinational corporations are for."

Is that the sort of thing that the Senator believes that the U.S. taxpayers, basically the taxpayers of the United States are subsidizing, because they are paying the taxes? If somebody does not pay tax—if I forgive you all of your taxes and say, "Senator DORGAN, you don't have to pay any taxes at all, somebody else is going to pick up the tax for it, somebody else is going to be subsidizing your reduction in tax"—in this case, what you are describing is a situation where not only am I subsidizing the fact that you are not paying any taxes, not only am I paying more and you are paying less, but I am paying more and you are paying less and you are moving operations abroad.

Mr. DORGAN. What I have not mentioned in discussion, because it is slightly different but probably an even more important discussion, is that 73 percent of foreign corporations doing business in America pay zero in Federal income taxes to this country—not a little, or not much, they pay zero. Mr. President, 73 percent of foreign corporations doing business in America—and those names everyone would understand and recognize instantly; they are the names on the products people are buying in this country—they do hundreds of billions of dollars of business in this country every year, and 73 percent of them pay zero in taxes to our country.

A slightly different issue but in the same general family of tax problems, in addition to the strainer through which all of this flows and through which these corporations can come in, earn billions of dollars and pay zero taxes in our country, in addition to that, we actually have a provision in this Tax Code that says, by the way, if you are an American company and you are having to compete against a foreign corporation coming into our country—what is the solution? Move your jobs, leave our country, produce in Sri Lanka, Bangladesh, Malaysia, Singapore, produce elsewhere. Hire foreign workers. Not only can you get a tax break, you can get lower wages over there. You can hire somebody for 14 cents an hour, a quarter an hour, 50 cents an hour, \$1 an hour. You do not have to worry about pumping effluents into the air, dumping chemicals into the water. You can hire kids and work them 14 hours a day. Move your jobs and go overseas, our Tax Code says to companies, and then ship the product back here and compete with someone who stayed here.

I represent a State not unlike the Senator from Nebraska. North Dakota is slightly smaller in population. I toured a little manufacturing facility recently with 55 workers. They are wonderful workers who love their jobs. It is a great little company, struggling and not making a lot of money, but making it in a small community in

North Dakota. They do not have the opportunity to decide, "I think we will move our production, we will move our manufacturing to Singapore." They do not have that opportunity. They do not have that luxury. They are just working every day, doing the best they can, trying to make a profit.

Assume that some other company makes the same products that compete with this little company. One of them was an arrowhead on arrows used in archery that are sold in stores around this country, little steel arrowheads for hunting and target practice. Assume another company makes that same product to compete with this little North Dakota company and they decide, "I think we will make them overseas." Our Tax Code says, "Well, good for you, good decision." In fact, we will reward you for making that decision. Any money you make, any income you make, as long as you do not repatriate it, keep it over there, invest it over there, you never have to pay American income taxes. Our Tax Code says, "Yes, jump on the bandwagon. Move jobs overseas."

The fact is, our manufacturing job base is diminished. It used to be 24 percent in 1979. Now it is down close to a 15 percent manufacturing job base.

The Senator from South Carolina said yesterday, and I agree with him, no country will long remain a strong world economic power unless it retains a strong manufacturing base. The Senator from South Carolina went far afield yesterday talking about a wide range of trade issues. There is nothing wrong with that because that is also part of the global discussion. But this is a very simple, modest amendment. We are not talking rocket science here. I am not talking about global strategies, the global economy, or international trade. I am talking about a simple proposition: Should this country, under any condition, decide that in its Tax Code it should subsidize moving U.S. jobs overseas? If this Congress cannot stand up and take the first small baby step in deciding that we should no longer subsidize moving jobs overseas, then Lord help a legislative body that cannot make that fundamental, small decision on behalf of a country.

The Senator from South Carolina, in discussing trade yesterday, talked about protectionist, and "protectionist" has a very specific meaning for a lot of people debating the global economy. Should anyone in this Chamber, at least when it comes to this issue, this simple little tax provision that now rewards those who move American jobs overseas, should anyone in this Chamber deny they are interested in protecting America's jobs, deny their interest in standing up for this country's manufacturing base? No, I am not suggesting putting up barriers, but I am suggesting deciding we will put an end to an insidious, perverse tax provision that rewards those who do the wrong things moving American jobs overseas.

Mr. KERREY. Will the Senator yield?

Mr. DORGAN. I am happy to yield to the Senator.

Mr. KERREY. The opponents are not up here to engage in a discussion.

One of the arguments I have heard against the Senator's amendment is that it is effectively a tariff. I wonder if the Senator could pretend I am an opponent of the amendment and talk to the American people a bit about this issue of whether or not the change in Tax Code that you are proposing would result in a tariff?

Mr. DORGAN. That is an absolutely absurd contention. It makes no sense at all for someone to say, "Well, this is a tariff." This has nothing to do with tariffs, nothing to do with international trade.

I would love to offer, incidentally, some amendments on trade, but I shall not. This has to do, simply, with a tax subsidy that now tilts the playing field and says to a company, "If you move those jobs from Akron, from Toledo, from Bismarck, from Lincoln, to some tax-haven company, we will reward you." How much is the reward? Well, I come from a town, as I said yesterday, of 300 people, a high school class of nine, a wonderful community in southwestern North Dakota. The reward here is not giant in the context of our Federal budget. It is \$2.2 billion in 7 years.

Now, that may not sound like much to people here who would chair a Budget Committee, for example. Go to my hometown and talk about \$2.2 billion that the Federal Government asks other Americans to pay effectively as a subsidy to companies who would move their jobs overseas, and then see what kind of reaction you get from people who think with a bit of common sense.

Now, how does this perversity occur in the Tax Code? This is called deferral, a fairly common concept in tax law. It has been there a long while. There also are many antideferral provisions in the Tax Code. In fact, the Senate voted a couple of decades ago to eliminate all deferral altogether. Deferral means a U.S. company does business overseas, makes profits and, therefore, does not have to pay tax on their profits because they can defer it indefinitely—in fact, until and unless they bring the money back to the United States.

The Senate at one point voted to eliminate all deferral. The House of Representatives, when I served in the House, voted to eliminate a narrow portion of deferral, which is exactly what I am proposing we do. Eliminate deferral when a company moves their jobs to tax havens overseas, produces a product with those jobs and ships the products back into our country to compete against other companies whose jobs and production are here.

Again, this is not rocket science. I am not proposing something that is hard to understand. I expect in the next couple of hours I will lose. I expect those who are now concerned about this and who do not want to de-

bate it apparently on the floor of the Senate are strategizing how they will offer something that prevents an up-or-down vote on this. They will either offer to table it, or they will offer some other device, and they will try to ricochet the vote because the last thing in the world they want to do is deal with this.

We have organizations in this town formed and financed by the largest corporations in America and the world whose job it is to protect this tax subsidy—2.2 billion dollars' worth. So you have all kinds of lobbyists across this town who have done an enormous amount of work here in the Senate to make sure that this will not pass. That is the way the system works.

However, in my judgment, it is not much of a system that allows us to ever make an excuse for a Tax Code that on behalf of the American people says our interest is served by paying those who diminish America's economic strength, who move America's economic production abroad.

Let me make a couple of other brief points. I do not propose to object if a U.S. corporation decides that it is going to compete in Japan or Korea or Europe, and in order to do that, because Japan is locating its production facilities in Thailand or Indonesia, the U.S. corporation says, "Well, I will open up a plant in Indonesia to produce products to be sold in Korea." I would prefer they not do that. I prefer they put those jobs in North Dakota, as a matter of fact, or in Colorado. But if they decide they have to have offshore production to compete with others with offshore production, fine, I am not interrupting that. My amendment says, however, if you are going to create offshore production facilities to create products to ship back into America to compete against American firms, then you are going to obey the same tax laws. You can't defer anything. If you make a profit, you pay taxes on the profit. You made the profit by making a product and selling it in the American marketplace. So you pay the same tax that the American producer pays, who stayed here and produced here. That is all my amendment says. It is very narrow.

Now, the second point I want to make is this: Some say—and they will say it with gusto, if only they will come out and debate this amendment—and I fully understand why they don't want to debate this amendment—but they would say, "You don't understand; we are dealing with a global economy. You don't have the foggiest understanding of what on Earth is going on in this world. If you did, you would not offer this nonsense and you would not talk the way you do about the trade deficit."

Well, the global economy has changed. Our economy in the United States has changed our economic circumstances. That is certainly true. We for 75 years fought in this country about some fundamental issues—minimum wage, safe workplaces, pollution,

environmental standards, issues with respect to child labor—and we came to some conclusions on all of them. Then some economic enterprises—the largest in the world, in fact—found a way to pole vault over all of those issues and say: You don't understand. Those fights did not mean anything. We can hire kids—oh, not in America, but we can hire kids and we can go to other countries and hire 14-year-olds, and we can work them 14 hours a day and pay them 14 cents an hour, and they can make whatever they make, and we can ship that back to the United States, and we can sell it in supermarkets and in the discount stores. We can do that in the name of profit because it is part of the global economy.

Well, that might be the way they have described the global economy, but it is not fair competition. Free trade ought to mean fair trade. This is not fair competition. Those who describe the global economy as working in that way are describing a system that is now being discussed in the Philadelphia Inquirer. I think they are doing 10 or so segments that are wonderful segments on this entire issue. The one in Monday's newspaper deals with exporting jobs again. It describes a couple—Lynn and Ed Tevis—who worked for a company for 20 years and were discarded like a wrench that was used up. Human capital now is like a wrench or a hammer or a pair of pliers. When they are done with it, they throw it away. They are told: We are sorry. You worked for us 20 years. This job is now in Singapore, or this job is now in Bangladesh. Your job with us is over.

That is what is happening in this country.

My suggestion is not that we decide that we are not part of the global economy. We are. My suggestion is that we decide, as a country, what the rules are for access to our marketplace. Is there a rule about accessing America's marketplace with labor from 14-year-olds who are paid 14 cents an hour? Is there or isn't there? If there is, let's start enforcing it. Should there be a rule that at least the American taxpayers should be assured that the Tax Code is not subsidizing the movement overseas of American jobs? Should there be that assurance made to the American taxpayer? The only way we will give them that assurance is to step up now and vote.

The desk I sit at in the U.S. Senate was a desk that was occupied at one point by a man named La Follette from Wisconsin, Senator La Follette. For those that don't know the tradition of the Senate, the tradition has always been to carve your name inside the desk drawer of the Senate desk. It has been a longstanding tradition in the Senate. If you pull out the desk drawer, the bottom drawer—the only drawer in the desk—you will find a list of names of Senators who sat in that desk.

I was told a story by Senator BYRD, who is the preeminent historian of the

U.S. Senate, about Senator La Follette. He was once speaking from this desk many, many decades ago, I believe he said, in a filibuster. He ordered down for a turkey sandwich and a glass of eggnog. Senator BYRD, as he told the story, said that the eggnog was delivered at this desk to Senator La Follette, and he was trying to take a sip of eggnog as he was speaking. He took a mouth full of this eggnog and spit it out and hollered, "It's poison, it's poison." Some days later, back then, they got the analysis of the eggnog and discovered, indeed, there had been poison put in that poor Senator's eggnog. So I have not had an urge to filibuster from this desk since the recitation of that wonderful story about another occupant of this desk, Senator La Follette. I did not ever hear the conclusion of that story, whether they found out who laced the eggnog. But I am not ordering eggnog today, and I am not intending to filibuster. I do expect that there are a whole lot of folks in this town—hired by enterprises that will benefit from this \$2.2 billion—who think this is real poison. Oh, they think this is awful. God forbid that we should pass something like this amendment. What an awful thing to do. Senator DORGAN just doesn't understand.

Well, the point is, I do understand. What we are doing is fundamentally wrong. What we are doing weakens this country. What we are doing in our Tax Code says to multinational corporations that you can make a choice about where to put your jobs, and you can put them elsewhere, move them out of America, because jobs are not the issue. Well, jobs are the issue. Good jobs that pay well and provide real security for American workers are the issue. American workers are not tools. They are part of a group of people who help make these companies the great companies they are.

I am going to finish with one short story. Just after Christmas this past year, I was on an airplane, Northwest Airlines, traveling from North Dakota back to Washington, DC. I read a story in the Minneapolis Star Tribune that brought tears to my eyes. It was a story about a businessman and his wife. I believe his name was Mr. Nagle. He was a fellow who started a company in the early 1980's and was incredibly successful, made an enormous amount of money. It was a very simple idea. The company's name is Rollerblade, which many Americans will recognize. He began, as I recall, in a circumstance where hockey players wanted something to practice skating on when it wasn't wintertime up in our part of the country, Minnesota and North Dakota. So there was invented something that was the early version of what we now know as "Rollerblades." The Rollerblade company, I believe, was probably the pioneering company. This fellow ran the company and he turned this tiny little company into something extraordinary. It grew and blossomed and prospered and made enormous

profits. What a wonderful success story for this fellow and his workers and his corporation. Then he sold Rollerblade Corp. He and his wife moved to Florida. I was on the plane that morning after the Christmas season, and I read the story about what this fellow had done. Just before Christmas, this company, that had some nearly 300 employees in the company out in the manufacturing plants making rollerblades and in the production, control, finance, and various places, these employees began to receive Christmas greetings from this fellow and his wife, who used to own their company but who had sold it a couple of months previous. As these employees opened up their Christmas greetings at home, they discovered a Christmas card and a check from this man and his wife.

The check equaled a certain amount of money multiplied times the months that each of those employees had worked for that company. Some checks were as much as \$20,000 to the people out on the manufacturing line.

But there is more. This fellow not only sent them a check, but he told them that he had prepaid the taxes on the checks. So this was theirs. The taxes were paid, and he was sending this money to them because he ran a very successful company, sold it, made an enormous amount of money. And he said, "I know that part of the reason, a major reason, this company succeeded was because you people worked for it. You people that made those rollerblades, those skates out on the manufacturing line, made this company what it was. I made a lot of money as a result, and I want to share some of that with you now that I have left this company."

Out of the blue, a check for \$20,000 with the tax prepaid. I got back to Washington, DC, after I read that story. I called him down in Florida. I said, "You know, at a time when so many in American business believe that workers have no value, they are just wrenches and tools and things that you either hire or throw away at will, it is so nice to see someone who once again believes that part of what made that company successful were the men and women who worked for that company."

It was such a wonderful story. That ought not to be the exception. One would hope that would be the rule in our country. But this man is such an exceptional man. Everyone else does it differently. Everyone else now says people do not matter; they are expendable; get rid of them. For the jobs in Kansas City, "If you can put more money in Bangladesh, move it to Bangladesh. It does not matter."

Here is a picture of two people. And I have lots and lots of pictures that I will not show today. Lynn and Ed Tevis moved 1,200 miles for a company they had worked 12 to 14 years for already. They downsized and moved 1,200 miles. Two years later they downsized again,

and said, "You are done. It is all over; nothing more." It is just human capital that is expendable.

My point is this: I do not believe the U.S. Senate can make decisions about jobs for international businesses and for U.S. corporations. But I believe that this Senate can make decisions about whether our Tax Code rewards those people who do the wrong things about jobs. I do believe our Tax Code could stand on the side of American businesses who stay here and have jobs here and compete here. When we find that our Tax Code says to others, "Go away, ship your products back, and we will give you a competitive advantage over the people who stayed here," I believe that our Tax Code can be changed to decide that is unfair, and that we will not allow that to happen anymore.

I offered this yesterday. The Senator from South Carolina spoke. I assume that we will have someone come and procedurally offer a motion to try to avoid the debate on this. I would love to have the debate. I would love to find one person who will give me one reason that we ought to reward anyone with tax breaks that move jobs overseas; just one. I am not asking for a dozen. I am not asking for the impossible. One person give me one reason; just come, stand, and give me one reason. The last time we had someone come and say, "Well, we will hold hearings on this. This is not the place. This is not the time. This is not the way." They will come today again. They will say, "This is not the place. This is not the time. This is not the way to hold hearings."

I have heard all of that before. Just give me one reason that this country ought to have a Tax Code that says we encourage moving American jobs abroad. If anyone can do that, alert me that you are coming so we can spend a little time visiting about it, and I would love to have the American people hear the other side of this debate.

I have spoken twice now at some length. The American people have not had the advantage of having someone else come, and stand up and say, "Count me in. My name is X, Y, and Z, and I believe we ought to have in our Tax Code an incentive to move jobs overseas." Is there anyone who will do that? Anyone?

Well, I doubt it. But it is now in current law, and we must take it out at some point. A lot of folks don't want it taken out. Those are the folks who will benefit by the \$2.2 billion. That is the way the political system works. But if we keep prodding, agitating, one of these days we are going to get this Congress to do the right thing.

I tried to break the cement in the driveway one day, and it reminded me that it is a lot like legislating. If you take a 16-pound mallet and try to break cement in a driveway, you wind up hitting the driveway as hard as you can with this giant mallet, and nothing happens. You hit it again, and nothing happens. You hit it again, and nothing happens. About the 15th time you hit

this big slab of cement, the whole darned thing collapses.

That is the way legislative activity is as well. You don't always get it the first time. You don't always see a discernible result. But one of these days we will change this provision in the tax law. It is not the biggest issue in the world. But it is something that ought to be changed, and something this Congress ought to remedy. This will not be the end of the debate.

But I appreciate the indulgence of the Presiding Officer, and I appreciate also the patience of the Senator from South Carolina.

I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, let me try to answer why there will not be one come and join the debate. It is easily understood. It is the result, of course, of our affirmative action policy after World War II of trying to rebuild the industrialized nations. It spread capitalism in Europe, and out into the Pacific rim. And our affirmative action policy called for various things to induce American investment overseas. We put in, as you can find in the early morning news now on the front of the business page, the Overseas Private Investment Corporation, subject to assault because it is no longer needed. It was needed at that time. Industry had to be ensured against expropriation and the loss of their investment overseas.

So we passed the Overseas Private Investment Corporation [OPIC]. Then we found that we could subsidize, give inducements by way of actual subsidy for export overseas, with the Export-Import Bank. And we put in various tax deferrals.

The reason the distinguished Senator from North Dakota in our amendment is not going to win, as he says, today as you can only look at the Republican screen at Channel 2. And it says new taxes. Once it is labeled as new taxes, that crowd will run in the other direction because we live in this symbolic poster world of true-false, up-down, "I am for the families, and against taxes; I am for jobs, and against crime." And that is all you get out of them—is symbolic nonsense. So they will not really get to the guts of the issue.

It is not a new tax. It just says those who are paying taxes for production here should be on an equal footing and not penalized with American investment and corporations overseas for producing overseas. We are trying to cut out that deferral.

As a result of our affirmative action policy and spreading capitalism after World War II—I am not debunking it, or regretting it. It has worked. The Marshall plan is one of the great success stories of all history by way of people taxing themselves. They think. They didn't have pollsters running around loose in the late 1940's to get these children to come to the U.S. Sen-

ate—true-false. Just look at the polls. I will go back home, and, "I am against taxes." In fact, only 17 percent of the people in one poll taken at that time, Gallop, said at that particular time—that only 17 percent favored the Marshall plan. But we had division as they all talked to. Everybody wants to use the buzzwords, and they come on with their little 20-second sound bite, and said, "we have the vision." There is not any vision in any of this stuff going on about gay marriages and everything else. They are not national problems whatever. When you get to a real national problem, as it is about the economic security—and I emphasize "economic security"—you can find the Senators want it.

I would amend the idea of just jobs because jobs appeals to the polls. You are for jobs, or against jobs. And it makes it just a little political nuance of a campaign. The truth is the security of the United States of America is an issue here with respect to this particular amendment. The passage of the amendment is not going to ensure the security. It is going to begin as a wake-up call, and a trend backward.

I have described that the success of the United States, the strengths that we have as a nation, the security that we have as a nation, rests, as it were, on the three-legged stool: The one leg, the values of a nation. That leg is strong, and unchallenged. We sacrificed to feed the hungry in Somalia.

We sacrificed to build democracy in Haiti. We sacrificed to build peace in Bosnia. Everyone the world around as we travel knows the great contributions and sacrifices made by American taxpayers for its values.

The second leg is that, Mr. President, of course, of our military strength. That is unquestioned.

But that third leg, that economic leg, without which we cannot foster values or protect ourselves militarily—and I emphasize in World War II we won on account of Rosie the Riveter; our industrial might overwhelmed Hitler; there is not any question about that—has become somewhat fractured and enfeebled, if you might, as a result of the affirmative action.

Now, what was the affirmative action? As I said, not only the subsidies, the insurance, the deferrals, but get out of here, just scatter, let us get industry, get American investment abroad and spread capitalism. As I say, it has not only been successful but it has become unfairly competitive.

When I say unfairly competitive, I mean that the other competitors in the Pacific rim do not practice free trade. Oh, they use the rhetoric of free trade, but I can tell you here and now, try to get into some of the markets. Our textile industry tried to get into Korea. They have got to get a vote of the Korean textile folks before they can come into Korea. Try to get into Japan. Oh, they talk a little here about Motorola is doing a little bit; Intel will come in a little bit. But really in trying to open

up the markets, we have had a dismal record over some 50 years trying to get into the country that we saved that does not practice free trade. Come on. Everybody knows that.

(Mr. ASHCROFT assumed the chair.)

Mr. HOLLINGS. What happens is that now we are confronted—and that is why you do not find them in the Chamber—with the opposition. You might call them the enemy here, the fifth column in this economic war. Let us start and list the soldiers in that particular opposition or enemy, that fifth column.

The soldiers in that fifth column begin, of course, with the State Department. The State Department had an affirmative action of sacrificing the industrial might for friends. Fortunately, Secretary Christopher has changed that. Secretary Brown changed that to some extent. And we are beginning to change that. But that is the way it started. That was the best of diplomacy: "Oh, don't worry; we are fat, rich and happy back in America." We have seen it over the 30 years I have served in the Senate.

We started with these corporations that we induced overseas as nationals that became multinationals. They found out that they could produce more economically, make a profit for their stockholders, and as a natural development the nationals became multinationals.

And the banks—Chase Manhattan, First Citicorp, all the big banks as of 1973—I remember back in the 1970's we found out that our large American banks were making the majority of their profits outside of the United States, so they were not really American banks. They were multinationals or had their, let us say, loyalty and nationalism, profitwise at least, outside of the United States, certainly not in the United States of America.

So you have the State Department; you have the multinationals; you have the banks, and then, of course, with that money they developed the consultants and academia. All the consultants are not paid by those who are coming along talking about jobs and the economic security. You go to any of these conferences, these particular institutes all over this city are just rampant with these consultants who are talking, "Free trade, free trade, free trade," shouting, "Smoot-Hawley, Smoot-Hawley. We are going to end the world and go into a global depression."

And otherwise academia. I do not have that booklet with me. There was a very sharp economist, Miss Jacobsen, who put out the booklet here some 10 years ago showing how academia had been taken over by the foreign entities and the multinationals. You go up east to the Ivy League and find out their investments up there to bring about the thought and get a free ride into dumping their goods back here in the United States and they will not allow us into their markets.

So you have academia; you have consultants; you have the multinationals;

you have the multinational banks and, of course, the State Department. Then when we debated back when I first came here—I will never forget it—and we passed the textile bill—it did not get past the House but we passed one here in the late 1960's, early 1970's—at that particular time we found out the real opposition that gears up the votes in this Chamber. And that is the retailers. In order to bring it to the attention of our colleagues, we went down into the stores here in Washington, DC, and we got a shirt that was manufactured in Taiwan—well, a ladies blouse, I remember correctly, one made in Taiwan for \$32 and the one made in New Jersey was also \$32. We found a catching glove made in Korea at \$42 and one made in Michigan at \$42.

We went down the list. We piled the desk up to show that the retailers were not by way of global competition reducing the price. They were making a bigger profit. So the retailers are really geared up and they call their stores around and everything else of that kind and they intimate to us as politicians, U.S. Senators, and they come in and zoom in on us and we have to be for "free trade, free trade. Let's don't Smoot-Hawley, start a worldwide depression."

So you have then the retailers. Then, of course, you have the Washington lawyers, and none other than now the Reform Party Vice-Presidential nominee, Dr. Pat Choate. In his book "The Agents of Influence," he took one country, the country of Japan, and listed out how they had over 100 Washington firms, lawyers, consultants, paid over \$113 million to represent the people of Japan here in the Capitol, where the 100 Senators, the 435 congressmen, the cumulative salaries of the 535 is \$73.1 million. By way of pay, the people of Japan are better represented here in Washington, DC, than the people of the United States of America. You have a powerful force.

Chair the Commerce Committee, which I have for years and am now the ranking member, and get these trade measures and others to come up, and they zoom in immediately with the Washington lawyers, and I mean powerful ones, Mr. President. They are no more powerful than the Special Trade Representative. Heavens above. We saw my good friend, Bob Strauss, we saw my good friend Bill Brock, all representing the foreigners after they had been the Special Trade Representative. It was like Colin Powell going over to represent Saddam. And what did we have to do? Put a rider in the bill of the Special Trade Representative; they could not do that after 5 years. It caught Mickey Kantor—he was the first one—now Secretary Kantor, the Secretary of Commerce, when he was Special Ambassador Kantor, but we had to finally put it in there to stop that. But we had the best of the best trained, the best of the best friends and influence, ambassadorial rank, coming around, and after you are talking "free trade, free trade, Smoot-Hawley."

I will be glad to yield for a question.

Mr. BROWN. I notice the Senator is the No. 2 sponsor on the bill. Perhaps he might respond to a few questions that I have with regard to it?

Mr. HOLLINGS. Yes, sir.

Mr. BROWN. I notice, reading through the amendment, it gives a special exemption for oil. Everybody is subject to this special tax except the oil companies. Why was the decision made? What is the reasoning for giving the special treatment to oil?

Mr. HOLLINGS. The principal author could respond more accurately, but I am convinced we did that to try to get votes. I hope agriculture—

Mr. BROWN. That is without precedent.

Mr. HOLLINGS. Yes. Agriculture, that crowd there, I will never forget when I went out campaigning in the Presidential race, "Dutch" Reagan's special station in Des Moines, IA, you get on there at 5 o'clock for questions. They said no Democrat would appear. So, you know, if it was for free—I did not have any money—I got on there, and they said, "Senator, you come from a textile State and you want all this protectionism and subsidies and everything else. How do you expect to get a vote out here in agricultural Iowa?"

I said, wait a minute, let me correct the record. No. 1, I happen to be for subsidies. I happen to be for the quotas and the protectionism for agricultural quotas. We have wonderful farm folks, growing soybeans, wheat, corn, everything else in South Carolina. But let me get the record clear. We do not ask for a subsidy for textiles. We do not ask for Export-Import Bank financing. We do not ask for tax deferrals. When I get to that Nebraska corn, when I get to Colorado and these agricultural States, that is the crowd that runs around hollering, "Free trade, free trade, keep subsidizing me, keep deferring me." Because why? Our friend Wayne Andrus has all the news on Sunday. He has "Meet the Press," he has "This Week With David Brinkley," he has even the public television and everything else. All he talks is, "exports, exports, exports," and we come in here like monkeys on a string hollering, "exports, exports, exports." I mean, we have a regular drumbeat.

I would ask the Senator from North Dakota who drafted our amendment, I am sure oil is a matter of national security, and we put in special provisions, as we well know, for oil.

Mr. BROWN. The other question I had—there were several others, as I went through it. I notice the distinguished Senator from North Dakota said, "We encourage moving jobs abroad, and we ought to take that language out of the code."

I have looked through the amendment. I do not find "striking" language, other than striking the end of the period and adding additional language. Is there a section of the code

where we "encourage moving jobs abroad?"

Mr. HOLLINGS. The tax deferral itself, obviously. Oh, yes, that encourages it.

Mr. BROWN. What section is that?

Mr. HOLLINGS. The cost and everything. IBM moved all their research overseas. We are losing not only our jobs in manufacturing, we are losing our research centers and everything else of that kind.

Mr. BROWN. The Senator talked about repealing something out of the law, yet there is nothing repealed in the amendment.

Mr. HOLLINGS. Modifying the deferral itself.

Mr. BROWN. The deferral?

Mr. HOLLINGS. Tax, income made from production overseas. There is a tax deferral for that, and this does away, partially, with that by the amount of products shipped back in and jobs lost. That is the way the amendment is worded.

Mr. BROWN. If I can put this in my own words, and maybe the Senator will correct me, we are not saying there is a section in the code that does that, we are saying it is simply not covered in the code?

Mr. HOLLINGS. We are referring to the tax deferral section.

Mr. BROWN. I do not find any repeal of that tax deferral section in here.

Mr. HOLLINGS. It is a modification of it.

Mr. BROWN. I wonder if there are other countries that have provisions like this. This, in effect, is that it taxes profits on activity outside of the United States, I take it?

Mr. HOLLINGS. Right.

Mr. BROWN. Are there other countries that do a similar thing?

Mr. HOLLINGS. Do they do it? They make sure that they do not make a profit. You ought to come and see how they highball the cost of the parts that they ship through the Port of Charleston, SC, and send up to, let us say, Nissan-Tennessee to make automobiles up there. They get a high cost for the part so Nissan-Tennessee is not even making a profit in Tennessee.

We have tried to correct that one. Oh, they have every gimmick in the book. When you get with these tax lawyers, they know how to get around anything and everything.

Incidentally, I have an article here about Nissan, and Nissan is moving to Mexico. We will get into that on NAFTA. We love to get these foreign investments, but they are just passthroughs now. An expansion of BMW that had come to Spartanburg, SC, is going into Mexico. They will follow the market, which is fine. It is a matter of taking care of your stockholders and profits and that kind of thing. Business is business.

But we have to understand that the business of the U.S. Senate is to look at the overall economy, and when we have these deficits in the balance of trade, over \$1.5 trillion in the past 12

years, come, we have to do something about it.

You will get some who come here, like my distinguished friend from New York, he will get up, "Why, America has always been a great nation on account of commerce. We are a trading nation. Are we going back on our history?"

We were a trading nation of a plus balance of trade, not a minus. Not a minus. What does the record show, heavens above? That thing goes up, up, and away. I think it was in 1992 we finally got it under \$100 billion, only to a \$96.1 billion deficit; in 1993, it was \$132.6 billion; 1994, a \$166.1 billion deficit in the balance of trade—more imports than exports. Not what my friend, Wayne Andrus from Archer-Daniels-Midland—"exports, exports, exports." We have to look at the overall picture.

In 1995, \$174 billion? We are going up, up, and away. We are losing our shirt and enjoying it. We, as Senators, are telling the American people, "We are fat, rich, and happy. Don't worry about your economy. All you have to do is worry about gay marriages. The States are taking care of it."

We come up on the silliest thing. Instead of balancing the budget, we will give you a constitutional amendment so we can run on it. Come on.

Mr. BROWN. The Senator referred to the phenomenon. I think it is the game played sometimes with automobile manufacturers, where they take their profit overseas and overprice the automobile as it comes in here so they do not show any profit in the United States.

Mr. HOLLINGS. They overprice the parts and assemble them here. That is what they are doing.

Mr. BROWN. So, by manipulating the prices, they are avoiding recognizing profit in this country and thus avoid paying taxes in this country?

Mr. HOLLINGS. Oh, yes, that is right.

Mr. BROWN. Doesn't our tax law now give us the tools to go after them when they play those games with prices?

Mr. HOLLINGS. I think our tax law does. But there are some—

Mr. BROWN. It simply does not get done.

Mr. HOLLINGS. In the Treasury Department, it just does not get done. You and I know we need, for example, hundreds more Customs agents. They have told us down at Treasury there are billions of transshipments. We just got China, and there is a case right now of over \$5 billion. It is really a sad case.

In the textile debate, I said, "Wait a minute, I will withdraw this textile bill entirely if we just enforce the law." So you are right. If we enforced our tax laws, if we enforced our trade laws, our customs law, our import duties, we would do a lot to solve this.

If I were king for a day, I would start by abolishing the International Trade Commission. Every time they find in-

jury, a violation of our trade laws, dumping, over at the International Trade Administration, in Commerce, then they have to buck it over to the International Trade Commission, and that crowd constantly bubbles, "free trade, free trade, free trade," and finds against us.

So, the business folks in America say, "Why even bring the case? It takes you 3 or 4 years. You go through all that gauntlet with Washington lawyers and costs, and when you finally get it, you are not going to win anyway?" So they say, "We will just move our production overseas." That is the good reason for the production moving overseas and the loss of jobs here.

But, Mr. President, let me sum up that particular matter of the fifth column, so we will understand it. I would no longer include our State Department, but I could certainly start off with our multinationals, our multinational banks, the consultants, academia, the retailers, the Washington lawyers, and, of course, the Special Trade Representatives, all representing them and heading up these particular entities. When you get all of those coming in giving you a false history—free trade, free trade, Smoot-Hawley, Smoot-Hawley—that is the reason for this particular bill.

The distinguished Senator from North Dakota, I think, used the expression "go far afield." That is my intent, to bring understanding. Unless we can get a grasp of our history and how we built this strong America and what is really the opposition, the fifth column that confronts us, we are not going to get a competitive economic society. We are going to just service the economy and take in wash and serve hamburgers to each other. We will have no manufacturing capabilities. When war comes, we will have no military production. We will have to depend, like Japan, on the gulf war, and that is why you panic. They say, "No, we are going to cut it off to the United States and say no to her and she won't be able to do these things of protecting freedom the world around."

So it is not far afield. This is to break open the door. This particular amendment is a wake-up call, and it is not a spurious one whatsoever. It is current.

I refer, Mr. President, to the article, once again, of our distinguished friend, William Grieder, former editor at the Washington Post and now the editor of Rolling Stone.

I ask unanimous consent the "Ex-Im Files," an article dated August 5, 1996, be printed in the RECORD.

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

THE EX-IM FILES

HOW THE TAXPAYER-FUNDED EXPORT-IMPORT BANK HELPS SHIP JOBS OVERSEAS

(By William Greider)

WASHINGTON, DC.—As the Nation's salesman in chief, Bill Clinton looks like a smashing success. When Clinton came to office, his long-term strategy for restoring

American prosperity had many facets, but the core of the plan could be summarized in one word: exports. The U.S. economy would boom or stagnate, it was assumed, depending on how American goods fared in global markets. So the president mobilized the government in pursuit of sales.

Flying squads of Cabinet officers, sometimes accompanied by corporate CEOs, were dispatched to forage for buyers in foreign capitals from Beijing to Jakarta. The Commerce Department targeted 10 nations—India, Mexico and Brazil among them—as the “big emerging markets.” Trade negotiators hammered on Japan and China to buy more American stuff. And two new agreements were completed—GATT and NAFTA—to reduce foreign tariffs.

U.S. industrial exports have soared in the Clinton years, from \$396 billion during the recessionary trough of 1992 to around \$520 billion last year. And as this administration has said time and again, more exports means more jobs—usually good jobs with higher wages. In his fierce commitment to trade, Clinton is not much different from Ronald Reagan, who (notwithstanding his *laissez faire* pretensions) also played hardball on trade deals and, in some cases, intervened with more effective results. George Bush, too, bargained on behalf of corporate interests and played globe-trotting salesman. Promoting exports and foreign investment is not a new idea; it has enjoyed a bipartisan political consensus for decades.

What does seem to be new in American politics are the thickening doubts among citizens and a rising chorus of critics, informed and uninformed, who question Washington's assumptions about exports. The conventional strategy, the critics argue, may help the multinational companies turn profits, but does it really serve American workers and the broad public interest? The new realities of globalized production play havoc with the old logic of exports-equal-jobs. Sometimes it is the jobs that are exported, too.

This contradiction, usually covered up with platitudes and doublespeak in political debate, becomes powerfully clear when you look closely at the dealings of an obscure federal agency located just across Lafayette Park from the White House: the U.S. Export-Import Bank with only 440 civil servants and a budget of less than \$1 billion—small change as Washington bureaucracies go.

Yet America's most important multinational corporations devote solicitous attention to the Ex-Im Bank. Their lobbyists shepherd its appropriation through Congress every year and defend the agency against occasional attacks. Why? The Ex-Im Bank provides U.S. corporations with hundreds of millions of dollars each year in financial grease that smooths their trade deals in the new global economy.

This year, Ex-Im will pump our \$744 million in taxpayer subsidies to America's export producers, financing the below-market loans and loan guarantees that help U.S. companies sell aircraft, telecommunications equipment, electric power turbines and other products—sometimes even entire factories—to foreign markets. Since the biggest subsidies always go to the largest corporations, skeptics in Congress sometimes refer to Ex-Im as the Bank of Boeing. It might as well be called the Bank of General Electric—or AT&T, IBM, Caterpillar or other leading producers. Ex-Im's senior officers call these firms “the customers.”

But the banker-bureaucrats at Ex-Im see their main mission as fostering American employment. “Our motto is, Jobs through exports,” says James C. Cruse, vice president for policy planning. “Exports are not the end in itself, so we don't care about the company and the company profits.” That was indeed

the purpose when the bank was chartered as a federal agency back in 1945 and the reason it has always enjoyed broad support, including that of organized labor.

At this moment, the tiny agency is under intense pressure from influential U.S. multinationals to change the rules of the game. Specifically, the companies want taxpayer money to subsidize the sale of products that aren't actually manufactured in America. They want subsidies for products that are not really U.S. exports, since companies ship them from their factories abroad to buyers in other foreign countries. If the rules aren't changed, the exporters warn, they will lose major deals in the fierce global competition and may be compelled to move still more of their production offshore.

“Global competitiveness, multinational sourcing and the deindustrialization of the U.S.” wrote Cruse in a policy memo for the bank, “were the three most common factors that exporters cited as reasons to revise Ex-Im Bank's foreign content policy. . . . U.S. companies need multisourcing to be able to compete with foreign companies. Foreign buyers are becoming more sophisticated and they are expressing certain preferences for a particular item to be sourced foreign . . . [and] U.S. suppliers may not always exist for a particular good.”

In plainer language, foreign is usually cheaper—often because the wages are much lower—and sometimes better. As U.S. producers have begun to buy more hardware and machinery overseas, the capacity to make the same components in the United States has diminished or even disappeared. What the companies want in Cruse's bureaucratic parlance, is “broadly based support for foreign-sourced components.”

As the complaints from American firms swelled in the last few years, Ex-Im officials agreed to convene the Foreign Content Policy Review Group to explore how the U.S. financing rules might be relaxed. The review group's members include 11 major exporters (General Electric, AT&T, Boeing, Caterpillar, Raytheon, McDonnell Douglas and others) plus several labor representatives from the AFL-CIO and the machinists' and textile-workers' unions.

The Ex-Im Bank must decide who wins and who loses—a fundamental argument over what is in the national interest, give globalized business. The review group discussions are couched in polite police talk, but they speak directly to the economic anxieties of Americans. If young workers worried about their livelihood could hear what these powerful American companies are saying in private, there would be many more sleepless nights in manufacturing towns across this Nation. The information below is taken from confidential Ex-Im Bank members that were recently leaked to me. What these executives have to say is not reassuring, but it's at least a more accurate vision of the future than anything you are likely to hear from this year's political candidates.

A decade ago the rule was simple: Ex-Im would not underwrite any trade package that was not 100 percent U.S.-made. Then and now Ex-Im scrutinizes the content of very large export projects, item by item, to establish the national origin of subcomponents. Any subcomponents produced offshore must be shipped back to American factories to be incorporated into the final assembly. If Caterpillar sells 10 earthmoving machines to Indonesia all 10 of them have to come out of a U.S. factory to get a U.S. subsidy, even if the axles or engines were made abroad.

By the late 1980s, however, as major manufacturers pursued globalization strategies that moved more of their production offshore, Ex-Im, with labor approval opened the door. In 1987 it agreed to finance deals with

15 percent foreign inside content. Partial financing would also be provided for export deals that involved at least 50 percent U.S. content.

Now the multinationals are back at the table again, demanding still more latitude. The bank's rules, they complain, have created a bureaucratic snarl that threatens U.S. sales. These regulations are oblivious to the complexities of modern trade which multinationals routinely “export” and “import” huge volumes of goods internally—that is among their own fur-flung subsidiaries or foreign joint ventures.

The flavor of the company complaints is revealed in Ex-Im Bank minutes of the review group's first meeting last year, where various company managers sounded off about the new global realities. David Wallbaum, from Caterpillar, urged the bank to be “more flexible in supporting foreign content,” according to the minutes. General Electric's Selig S. Merber said GE needs “access [to] worldwide pricing.” Merber proposed that instead of insisting on American content item by item, Ex-Im look only at the U.S. aggregate.

Lisa DeSoto of Fluor Daniel, one of America's largest construction engineering firms, suggested in a follow-up memo that Ex-Im subsidize “procurement from the NAFTA countries,” Mexico and Canada as if the goods were from the U.S.

But it was Angel Torres, a representative for AT&T, who spoke more bluntly than the others. AT&T's foreign content has grown in the last 10 years because the U.S. is becoming a “service-oriented society,” Torres said, according to the minutes. “AT&T's priority,” he declared, “is to increase the allowable percentage of foreign content.”

When I rang up these corporate managers and some others to ask them to elaborate on their views, all of them ducked my questions. The one exception was David L. Thornton, a manager from Boeing, whose newest jetliner, the 777, actually involves 30 percent foreign content in the manufacturing process (mostly from Japan). It still qualifies for full Ex-Im financing. Thornton explained, because Boeing's original investment in research and development also counts in the sales price. “Our general view of 75 percent is we can live with it for the time being,” Thornton said, “but over time it probably won't be adequate.”

The labor-union representatives, not surprisingly, choked at the ominous implications of such comments—especially the matter-of-fact references to America's de-industrialization. Corporate leaders and politicians, after all, have been celebrating the “comeback” of American manufacturing in the 1990s. Exports are booming, and U.S. competitiveness has supposedly been restored, thanks to the corporate restructurings and downsizings. Stock prices are rising, and shareholders are happy again.

The private corporate view is not so cheery for the employees. A memo from one multinational corporation (its identity whited-out by Ex-Im bureaucrats) made it sound like the demise of American manufacturing is already inevitable. “We believe the current policy does not reflect the de-industrialization of the U.S. economy and the rise of the Western European and Asian capabilities to produce high-tech quality equipment . . .” the memo states. “Location is no longer important in the competitive equation, and where the suppliers of components will be [is] wherever the competitive advantage lies.”

The more that labor heard from the companies, the more hostile it became to any revision. “We have been presented with no credible evidence that current bank policies have cost companies sales, thereby reducing

U.S. employment," the labor representatives fired back in a jointly signed letter in April. "While we understand that global corporations might prefer fewer restrictions—even the provision of financing regardless of the effect on jobs in the United States—that desire simply ignores the very purpose of extending taxpayer-based credit."

If Ex-Im agrees to finance more foreign content, the labor reps asked, won't that simply encourage the multinationals to move still more U.S. jobs overseas, thus accelerating deindustrialization? When I put this question to Ex-Im officials and corporate spokesmen, their answer was a limp assurance that this isn't what the bank or the companies have in mind.

But can anyone trust these assurances? The massive corporate layoffs have sown general suspicions of the companies' national loyalties, and the "outsourcing" of high-wage jobs has already boiled up as a strike issue in major labor-management confrontations. The United Auto Workers shut down General Motors earlier this year over that question. The UAW lost a long, bitter strike at Caterpillar when it demanded wage cutbacks, threatening to relocate production if the union didn't yield. The International Association of Machinists and Aerospace Workers closed down Boeing's assembly lines for two months last fall, demanding a stronger guarantee of job security as Boeing globalizes more of its supplier base.

"Ex-Im financing is corporate welfare with a fig leaf of U.S. jobs, and now they want to take away the fig leaf," says Mark A. Anderson, director of the AFL's task force on trade. "They want to be able to ship stuff from Indonesia to China and use U.S. financing, I said to them, 'You're nuts. If you go ahead with this, you're going to be eaten alive in Congress.'"

George J. Kourpiss, president of the machinists' union whose members make aircraft at Boeing and McDonnell Douglas, and jet engines at GE and Pratt & Whitney, put it more starkly: "The American people aren't financing that bank to take work away from us. If the foreign content gets bigger, then we're using the bank to destroy ourselves."

EXPORTS—JOBS

According to the government's dubious rule of thumb, each \$1 billion in new exports generates 16,000 jobs. By that measure, Bill Clinton's traveling salesman brought home 2 million good jobs. So why is there not greater celebration? The first, most-obvious explanation is imports. Foreign imports soared, too, albeit at a slower rate of growth, and so America's trade deficit with other nations actually doubled in size under Clinton, despite his aggressive corporate strategy. Thus a critic might apply the government's own equation to Clinton's trade deficit and argue that there was actually a net loss of 11 million good jobs.

Bickering over the trade arithmetic, however, does not get to the heart of what's happening and what really bothers people: the specter of continued downsizing among the nation's leading industrial firms. In fact, globalization has created a disturbing anomaly. U.S. exports multiply robustly, yet meanwhile the largest multinationals that do most of the exporting are shrinking dramatically as employers. It's important to note that about half of U.S. manufacturing exports comes from only 100 companies, and 80 percent from some 250 firms, according to Ex-Im's executive vice president, Allan I. Mendelowitz. The top 15 exporters—names like GM, GE, Boeing, IBM—account for nearly one quarter of all U.S. manufactured exports. Yet these same firms are shedding American employers in alarming dimen-

sions. The 15 largest export producers with few exceptions have steadily reduced their U.S. work forces during the past 10 years—some of them quite drastically—even though their export sales nearly doubled.

GE is a prime example because the company is widely emulated in business circles for its tough-minded corporate strategies. In 1985, GE employed 243,000 Americans and 10 years later, only 150,000. GE became stronger, then Executive Vice President Frank P. Doyle said. But, he conceded. We did a lot of violence to the expectations of the American work force.

So, too, did GM, the top U.S. exporter in dollar volume (though the auto companies are not big users of Ex-Im financing). GM has shrunk in U.S. work force from 559,000 to 314,000. IBM shed more than half of its U.S. workers during the past decade (about 132,000 people). By 1995, Big Blue had become a truly global firm—with more employees abroad than at home (116,000 to 111,000). Even Intel, a thriving semiconductor maker, shrank U.S. employment last year from 22,000 to 17,000. Motorola has grown, but its work force is now only 56 percent American.

The top exporters that increased their U.S. employment didn't begin to offset the losses. The bottom line tells the story. The government's great substitute for America's major multinational corporations has not been reciprocated, at least not for American workers. The contradiction is not quite as stark as the statistics make it appear, because the job shrinkage is more complicated than simply shipping jobs offshore. Some companies eliminated masses of employees both at home and abroad. Others, like Boeing, reduced payrolls primarily because global demand weakened in their sectors. Some jobs were wiped out by labor-saving technologies and reorganizations. But virtually all of these companies offloaded major elements of production to lower-cost independent suppliers, both in the U.S. and overseas. If the jobs did not disappear, the wages were downsized.

This dislocation poses an important question, which American politicians have not addressed. Does the success of America's multinationals translate into general prosperity for the country or merely for the companies and their shareholders? The question is a killer for politicians—liberals and conservatives alike—because it challenges three generations of conventional wisdom. That's why most Democrats or Republicans never ask it.

When these facts are mentioned, the exporters retreat to a few trusty justifications. First there is the "half a loaf" argument. Yes, it is unfortunately true that companies must disperse an increasing share of the production jobs abroad, either to reduce costs or to appease the foreign customers. But if this were not done, there might be no export sales at all and, thus, no jobs for Americans. Next, there is the "me, too" argument. All of the other advanced industrial nations have export banks that provide financing subsidies to their multinationals. The export banks in Europe do allow greater foreign content than the U.S.—but only if the goods originate from an allied nation in the European community. France supports German goods and vice versa, just as Michigan supports California. The U.S. Ex-Im Bank, as Mendelowitz has pointed out, actually provides greater risk protection and generally charges lower premiums.

Japan's Ex-Im bank is indeed more flexible than America's, but Japan's industrial system also operates on a very different principle; major Japanese corporations take responsibility for their employees. That understanding creates a mutual trust that allows both the government and the firms to pursue more sophisticated globalization strategies.

Japanese jobs are regularly eliminated when Japan's manufacturing is relocated offshore in Asia or in Europe (and sometimes in the U.S.), but the companies find new jobs for displaced employees and only rarely, reluctantly, lay off anyone.

"The situation that our companies see," Ex-Im's Cruise explains, "is that Japan is willing to finance as much as 50 percent foreign content, and [the companies] say to us, 'You're not competitive.' But an important difference is that the Japanese government doesn't have to worry about the workers because the Japanese companies worry about them. . . . If GE subcontracts work to Indonesia, it tends to lay off a line of workers back in the U.S."

BAIT AND SWITCH

In April 1994, AT&T announced a \$150 trillion joint venture with China's Qingdao Telecommunications to build two new factories, in the Shandong province and in the city of Chengdu, in the Sichuan province, that will manufacture the high-capacity 5ESS switch, the heart of AT&T's advanced telephone systems. AT&T's chairman, Robert Allen, said that it will more than double its Chinese work force over the next two or three years.

Five months later, in September, the Ex-Im Bank in Washington approved the first of \$87.6 million in loan guarantees to underwrite AT&T's export sales to China—switching equipment that will modernize the phone systems in Qingdao and several other cities. AT&T won the contract in head-to-head competition with Canada's Northern Telecom, Germany's Siemens and France's Alcatel Alsthom. The Clinton administration celebrated another big win for the home team.

But who actually won in this deal? A Telecom Publishing Group article provided a different version of what AT&T's victory meant for the United States. "While some equipment for AT&T's network projects in China will be built in this country," the article reported, "the Chinese are demanding that eventually the bulk of the equipment in their system be built in their country, the carrier [AT&T] said."

An AT&T public-affairs vice president, Christopher Padilla, denies this, but then Padilla also denies that AT&T is prodding the Ex-Im Bank to relax its foreign-content rules. Further, he assures me that despite their proximity, there was no explicit quid pro quo and no connection between the two transactions, the taxpayer-financed export sales and AT&T's agreement to build new factories in China.

"It's a reality of the marketplace," Padilla says. "If we tried to pursue a strategy of just making everything in Oklahoma City"—where the 5ESS switch is now manufactured—"we wouldn't have any market share at all."

The White House also led cheers for Boeing because Boeing was also stomping its competitors in the Chinese market. In 1994 alone, Boeing sold 21 737s and seven 757s to various Chinese airlines and obtained nearly \$1 billion in Ex-Im loans to finance the deals. When President Clinton hailed the news, he did not mention that Boeing had agreed to consign selected elements of its production work to Chinese factories. The state-owned aircraft company at Xian, for instance began making tail sections for the 737, work that is normally done at Boeing's plant in Wichita, Kan. The first order for Xian was for 100 sets, but that was just the beginning. In March 1996, a China news agency boasted that Boeing had agreed to buy 1,500 tail sections from Chinese factories, both for the 737 and the 757. The deal was described as "the biggest contract in the history of China's aviation industry."

Unlike AT&T and some others, Boeing is relatively straightforward about acknowledging that it's trading away jobs and technology for foreign sales. China intends to build its own world-class aircraft industry, and Boeing helps by giving China a piece of the action, relocating high-wage production jobs from America to low-wage China, as well as relocating some elements of the advanced technology that made Boeing the world leader in commercial aircraft. Boeing has told its suppliers to do the same. Northrop Grumman, in Texas, is sharing production of 757 tail sections with Chengdu Aircraft, in China.

"What we've done with China," says Lawrence W. Clarkson, Boeing's vice president for international development, "we've done for the same reason we did it with Japan—to gain market access." The two transactions—the export sales and job transfers—are legally separate but typically negotiated in tandem, Clarkson explains. China always insists upon a written acknowledgement of the job commitment in the export sales contract—the same sale to China submitted to the Ex-Im Bank for its financial assistance.

Until recently, the Ex-Im Bank's operative policy on this issue could be described as "don't ask, don't tell": The bank officials didn't ask the companies if they were offloading jobs, and the companies didn't tell them. When I asked various Ex-Im managers if they knew about AT&T's new switch factories in China before they approved AT&T's export financing their answer was no. What about companies like Boeing doing similar deals?

"Yes, we're aware of that," Cruse says. It's not that the companies tell us, but it's not hard to read the newspapers."

After prodding from labor officials, the bank last year began requiring exports to reveal whether they dispersed U.S. jobs or technology in connection with the Ex-Im-financed sales. But the federal agency still approves these deals without weighing the potential impact on future employment. In fact, Ex-Im still pretends that the export sales and corporate decisions to relocate jobs are unrelated transactions, though every company knows otherwise.

The practice of swapping jobs for sales is widespread in global trade—deals are negotiated in secrecy because such practices ostensibly violate trade rules. But everyone knows the game, and most everyone plays it. If Boeing doesn't swap jobs for Chinese sales, then its European competitor Airbus will. If AT&T doesn't move its switch manufacturing to China, then Siemens or Alcatel will (in fact, Alcatel already has). The cliché at Boeing is "60 percent of something is better than 100 percent of nothing."

The trouble is that nothing may be what many American workers wind up with anyway—especially if China eventually becomes a world-class aircraft producers itself. Officials at the Communications Workers of America, which represents AT&T workers, recall that Ma Bell once made all its home telephones in the U.S. and now makes none here.

Is the same migration under way now for the high-tech switches? The AT&T spokesman insists not. Anyway, he adds the assurance that the most valuable input in these switches is the software, not the hardware from the factories, and the design work is still American. This may reassure the techies, but it's not much comfort to those who work on the assembly lines. Besides, AT&T plans to open a branch of Bell Laboratories in China.

The dilemma facing American multinationals is quite real, but the question remains: Why should American taxpayers subsidize export deals contingent on increased

foreign production, or even offloading portions of the American industrial base? Americans are told repeatedly that they cannot exercise any influence over these global firms, but that claim is mistaken. The Ex-Im Bank is an important choke point in the bottom line of these multinationals. Americans should demand that the subsidies be turned off, at least for the largest companies, until the multinationals are willing to provide concrete commitments to their work forces.

The gut issue is not about economics but about national loyalty and mutual trust. "Every meeting we have in the union, we open it with the pledge of allegiance," machinists union president George Kouepias muses, "Maybe the companies should start doing that at their board meetings."

Mr. HOLLINGS. Just referring to the article, if you please, Mr. President, and everyone ought to read this article, it says:

Globalization has created a disturbing anomaly. While U.S. exports grow robustly, the corporations that do most of the exporting are the busiest downsizers.

When they fire everybody, it is a polite word, that is just downsizing so they are becoming more competitive. They are just, by gosh, getting rid of the United States worker and employing the offshore worker.

But I quote this particular sentence:

GE is a prime example because the company is widely emulated in business circles for its tough-minded corporate strategies. In 1985, GE employed 243,000 Americans and 10 years later, only 150,000. GE became stronger, then executive Vice President Frank P. Doyle said. But he conceded. We did a lot of violence to the expectations of the American work force.

Get that sentence, the vice president of GE, when they cut down to 150,000 jobs, so-called downsizing, fired them. I used to have five GE's. I had one at Irmo. I have one still at Greenville which is doing well. I have one which was brought into Florence. It made cellular radios and now MRI's. It has taken the business away from competitors. But the one I had in Charleston has gone to Brazil. We are losing good plants down there, and here is why: "We did a lot of violence to the expectations of the American work force."

Mr. President, I ask that our colleagues refer to the Philadelphia Inquirer of Monday, September 9, Tuesday, September 10, and again today: Endangered Label "Made in the United States."

It is a wonderful article of how we are losing our industrial backbone, how small businesses lose out to foreign competition.

I was asked at the Chicago convention, Mr. President, "Senator, you Democrats, why don't you all do something for small business?"

I said, "Oh, no, that small business crowd is organized by the National Federation of Independent Business." I have won recognition and awards from that group, but, generally speaking, they are not for the small business on this particular score, they are talking about free trade, free trade as retailers to make a bigger profit.

I thank the wonderful Philadelphia Inquirer. This is the headline: "Small

businesses lose out to foreign competition." I want the NFIB to read these series of articles.

Mr. President, referring just to one part, let's start off with the first paragraph:

In early 1980's when stainless steel knives, forks and spoons suddenly surged into the United States from Japan, South Korea and Taiwan in response to lowered tariffs and cutthroat foreign prices, the domestic industry found itself in trouble.

American producers, contending it was unfair competition, appealed to the United States trade commission to impose higher tariffs on imported flatware. The trade commission is an independent Government agency whose main job is to monitor the impact of the imports on the U.S. industries.

If the ITC agrees with the complaint, the presidentially appointed commissioners may recommend that duties be imposed. Even so, there is no assurance that the duties will actually be assessed and, in most cases, they are not. The final decision rests with the White House which historically has refused to impose additional duties.

After 5 months of study, the commission ruled on May 1, 1984, that stainless flatware was "not being imported into the United States in such increased quantities as to be a substantial cause of serious injury or the threat thereof to the domestic industry."

On the contrary, the ITC held that the "economic data on the performance of this industry failed to demonstrate the required degree of serious injury mandated by the statute. Rather, the industry is doing reasonably well."

According to ITC findings, nine companies produced flatware in the United States in 1982. Today—

Now listen, Mr. President—

Today, most of them are either out of business or purchasing flatware from foreign services. Except for two small plants, Oneida, Ltd., in Oneida, New York, there is virtually no stainless steel flatware production in the United States.

I could go down the list of commodities after commodities after commodities, and you can see, Mr. President, where these companies are just moving the strength—it is not just jobs—it is moving the strength of the United States. When they get to national defense, everybody comes out here on the defense authorization bill and votes overwhelmingly on a defense appropriations bill. But right to the point, they forget their history and how we got here and how we were able to maintain and sustain the strength of the greatest superpower.

Mr. President, we are the last remaining superpower. Look at them run all around. The atom bomb, the nuclear bomb cannot be used—should not be used. We do not have the manpower that the People's Republic of China has and others have that are coming along now and are going to build up their military strength. And they do not care anymore about the 6th Fleet coming in to protect them.

The name of the game is the economic warfare, and the great superpower—and if you read Eamonn Fingleton's book—"Blindside" is the title of that book—you will find that within 4 short years, the largest economic power in this world will be the

country of Japan. Already they are a larger manufacturer. Here is a little place not bigger than California, with 125 million compared to our 260 million, and vast resources, with oil and all the natural wealth that we have here, all the talent, all the research and everything else, and they produce more in Japan today, manufacturing, than the United States of America. Economically, their GNP, their productivity, will be greater than that of the United States. Their per capita income, right now they are richer than we are. We cannot get into their markets. We still, as a result of the fifth column, keep saying "free trade, free trade, Smoot-Hawley, Smoot-Hawley." We are losing our shirts. We are losing our shirts.

By the year 2015, the People's Republic of China will come along. They are producing economically. I just visited there in April, and I think they are going capitalistic. I think it will succeed. I hope. And we have our fingers crossed it will succeed.

What do we need to do? We need to really start enforcing our laws on the books. Get rid of the International Trade Commission. You can see the political cabal that comes in any time they appoint a member. They have to swear on the altar of free trade, almighty allegiance, and everything else before they go over there. That is a big part of the fifth column. We have to quit financing.

We have to actually someday repeal that GATT, World Trade Organization. We lost our sovereignty. In the Kodak case, we found out, Mr. President, we found out that we lost our sovereignty because the Japanese said, "Go to the WTO," instead of really enforcing what we said on the floor of the Senate. They said, "Oh, no, we're not going to do away with section 301." The Japanese have said, "You have already done away with it when you signed up."

You get these emerging nations and you see how they vote. Back in April we had these particular human rights violations in the People's Republic of China. We brought it up at the United Nations. The United Nations voted to have a hearing on it. Our friends at the People's Republic went down into Africa; they picked up the emerging nations' votes, and they said human rights was a nonissue. They have not even had a hearing. That is politically how that U.N. crowd works. When are we going to wake up in this land of ours and not understand the fifth column working against the American industrial worker?

So we need more customs agents. And, yes, Mr. President, we need the Dorgan-Hollings measure to cut out these subsidies of tax deferrals for those who are induced with incentives to go abroad and make more money. We need to change our tax laws, a value added tax.

If I manufacturer this desk in the State of South Carolina, I have to pay the income tax, the corporate tax, the

sales tax involved, and everything else, all the taxes, and I ship it to Paris, France. If I manufactured this desk in Paris, France, they put on a value added tax of 15 percent, but when it leaves the port of Le Havre to come here to Washington, they deduct the 15 percent. That is a 15 percent disadvantage to a manufacturer in the United States of America, and we need the money.

The Budget Committee, eight of us, bipartisan, in 1987, voted to get on top of this monster with a value added tax allocated to the deficit and the debt. But these pollster-politicians running around, "I'm against taxes, I'm against taxes, I'm against taxes; I'm going to give you a 15 percent tax cut," when we are broke in the Government. Growth, growth, growth—there is no education in the second kick of a mule.

How do you think this got up to a \$5.23 trillion debt? We never got to \$1 trillion until Ronald Reagan came to town with Kemp-Roth. And he debunked it. Senator Bob Dole debunked it. Howard Baker called it a "riverboat gamble." George Walker Herbert Bush, President Bush, called it "voodoo." But now we have a party running for national office on voodoo. When are we going to learn and sober up?

The Dorgan-Hollings amendment is a wakeup call here to the reality of the greatness of this Nation. Historically, we had this in the very earliest days. David Ricardo in "The Doctrine of Comparative Advantage." They came to Alexander Hamilton and James Madison and Jefferson, because they all joined in with Hamilton. The Brits said, when we won our freedom in this little fledging nation, they said, "Look, you trade with what you produce best, and we'll trade back with what we produce best"—"The Doctrine of Comparative Advantage," economics 101, David Ricardo.

Alexander Hamilton wrote a little booklet, "Reports on Manufacturers." It is over at the Library of Congress. Do not read the entire booklet, but in one word he told the Brits, "Bug off." He said, "We are not going to remain your colony and just ship our agricultural products, our iron, our timber, our coal. We are going to be a Nation-State, and we are going to manufacture, we are going to manufacture and produce our own products."

When they talk of tariffs, the second bill—the first bill had to do with the seal—the second bill that passed this great Congress that we stand in, on July 4, 1789, I say to the Senator from Nebraska, the second bill that we ever passed was a tariff bill of 50 percent on 60 articles going right on down the list. We built the greatness, the economic strength, this economic giant, the United States of America, with protectionism.

We did it with Lincoln when we built the steel mills for the transcontinental railroad. We came to Nebraska under Roosevelt and said, for agriculture, we are going to put in price supports and

protectionism, protective quotas that I support under Roosevelt to rebuild from the darkness of the Depression. With Eisenhower, oil import quotas, we have used protectionism. So do not come here and give me "Smoot-Hawley protectionism. Are you for free trade?" And everybody running around like children, hollering, "There's no free lunch. There's no free trade." I yield the floor.

Mr. MOYNIHAN. Mr. President, under the amendment of my friend from North Dakota, U.S. corporations or individual investors that own 10 percent or more of the stock of a U.S.-controlled foreign corporation would be taxed currently on the foreign corporation's profits when it sells goods back into the United States. Under present law, such profits are not taxed by the United States at the time earned. Instead, taxation is deferred until the foreign corporation's earnings are repatriated, that is, returned to its U.S. shareholders in the form of dividends or gains on the sale of their stock. In many cases, the sole U.S. shareholder of a foreign corporation is the parent corporation. In other cases, several U.S. corporations or investors own the foreign corporation.

The premise underlying this proposal is that plants are being moved abroad for tax reasons. While this is a fair topic for examination, I do not believe this has been established with any certainty, and before the current rules are changed it must be. Investment abroad that is not tax driven is good for the United States. It promotes exports and enhances the competitiveness of our companies.

The evidence suggests that the decision to locate production abroad primarily depends not on tax considerations, but instead on practical business considerations, such as proximity to raw materials, access to distribution channels, lower wage rates, prospects for growth, regulatory climate and other nontax factors. Taxes are certainly taken into account, but they are not the predominant factor, since the bulk of U.S. direct investment in foreign countries is in countries with effective business tax rates in excess of, or comparable to, the United States.

Over 70 percent of assets held by United States-owned foreign manufacturers are held in high-tax jurisdictions, such as Canada, the United Kingdom, Japan, Germany, France, Italy, Belgium, and Australia. In contrast, the two low-tax jurisdictions most often cited as having runaway plants—Ireland and Singapore—have only 4.2 percent of the total assets held by United States-owned foreign manufacturers. Furthermore, excluding Canada, only 7.2 percent of total sales by United States-owned foreign manufacturers were to the United States market in 1990, with over 60 percent to local markets and the remainder to other foreign countries. Finally, according to the Departments of Treasury and Commerce, less than 15 percent

of total imports from U.S. affiliates came from low-tax countries. Thus, the weight of the evidence indicates that, at most, taxes appear to affect investment decisions only where the investor is relatively indifferent between two locations.

Would this amendment be effective in keeping production in the U.S.? It is hard to imagine that it would alter many decisions to locate plants abroad. Those producing goods abroad for the U.S. market would continue to do so for practical reasons, and simply face higher taxes. For example, the proposal would apply to a U.S.-owned company that grows bananas abroad and imports them into the United States, even though there are virtually no producers of bananas in the United States. As a result, the bill would have a negative impact on many businesses that would not be economically viable in the United States, or for which locating production in the United States would be impractical. At the same time, the vast majority of U.S. businesses with foreign subsidiaries would not be greatly affected by the proposal because their foreign operations do not produce for the U.S. market. Over 90 percent of all sales by United States-owned foreign manufacturers located outside of Canada are to foreign markets.

From the standpoint of competitiveness, other countries typically do not require their taxpayers to pay tax currently on the earnings from operations conducted abroad by a foreign subsidiary. U.S.-owned businesses must compete against foreign-owned businesses that are located in low-tax jurisdictions and are not taxed currently by their home countries. It is unlikely that many of our major trading partners would respond to enactment of this amendment by imposing current taxation on their companies.

Administrability of the amendment of the Senator from North Dakota is also a concern. Under the legislation, U.S. shareholders would be taxed currently not only on the profits from imports into the United States, but on the foreign corporation's income from sales to third parties that import the goods into the United States, if it was reasonable to expect that such property would be imported into the United States, or used as a component in other property which would be imported into the United States.

Staff at the Treasury Department and the Joint Committee on Taxation have raised questions about the administrative feasibility of enforcing the provision in the case of foreign corporations selling outside the United States to a third party importer. It would be very difficult for the IRS to identify those sales to third parties triggering taxation because the products are destined for the U.S. market, particularly given that many taxpayers could be expected to restructure their U.S. sales via third parties in an attempt to avoid the provision. Further, the recordkeeping required of taxpayers could be onerous.

Finally, this proposal conflicts with the intent of the Multilateral Agreement on Investment of the Organisation for Economic Co-operation and Development [OECD]. Since 1991, the United States has been working toward a legally binding comprehensive investment agreement in the OECD. In May 1995, the OECD Council finally agreed to negotiate a Multilateral Agreement on Investment. The objective of the United States in those talks is to reach agreement that will set high standards for liberalizing investment rules and increasing investment protection. The idea is to make foreign investing safer for U.S. companies because U.S. investment overseas promotes exports and enhances the competitiveness of our companies. Foreign subsidiaries of U.S. companies are the primary customers for U.S. exports—over one-fourth of U.S. exports go to them each year. Those exports account for more than 2 million of the 8 million U.S. jobs supported by U.S. exports. The proposal before us goes in exactly the opposite direction of our efforts in the OECD.

I am committed to doing everything possible to ensure that the U.S. economy remains strong, that decent jobs are available to those that seek them, and that American workers dislocated by the increasingly global economy are assisted in finding new opportunities. However, I believe the opening of production facilities abroad is often good news, not bad, and that this amendment would not accomplish its stated purpose.

I hope we will not act improvidently on this important matter, and I therefore urge that this amendment not be adopted.

Mr. HATCH. Mr. President, I rise today in opposition to the amendment from the Senator from North Dakota.

Mr. President, this is another one of those amendments that sounds so easy, so simple, and so straightforward, that it seems that every member of this body should be immediately jumping up on his or her feet and agreeing with what the distinguished Senator from North Dakota is saying. I only wish our world were as simple and the problems so easy to solve as the proponents of this amendment would have us believe.

However, today's world is not very simple, especially when we are discussing the world of international business and the tax law. Unfortunately, the assumptions upon which this amendment are based are just plain wrong and the result will be to punish companies for looking out for the best interests of their employees and stockholders.

First, let me make it clear, Mr. President, that I have no doubt that the Senator from North Dakota and his supporters are very sincere in their beliefs about this issue, and that the amendment is well intentioned. However, based on the real world that we live in, the amendment is both unnecessary and will prove to be counterproductive.

As I understand the amendment, it is based on S. 1597, which the Senator from North Dakota introduced this past March. This bill would deny what my friend from North Dakota calls unwarranted tax breaks to U.S. companies that set up manufacturing operations in a foreign country and export goods from those operations back into the United States.

In the floor statement that accompanied the introduction of S. 1597, the Senator from North Dakota implies that a large number of American companies are abandoning U.S. soil and removing their operations, lock, stock, and barrel, to other locations on the globe where they can find cheaper labor and lower taxes. As a result, goes the argument, American jobs are being lost in the process. And, according to the Senator from North Dakota, to add insult to injury, our tax code is rewarding such behavior with special tax breaks.

S. 1597, and the amendment before us, is designed to end what he calls unwarranted tax breaks and punish those supposedly unscrupulous companies that are allegedly taking unfair advantage of the rules to gain profit for themselves at the expense of American workers.

Well, Mr. President, at first blush, who wouldn't be in favor of cracking down on such awful practices and unfair tax breaks?

The only problem is that the scenario set out by the Senator from North Dakota does not reflect what is going on in the real world. It is an oversimplistic solution to a misidentified problem.

In the world as oversimplified by the proponents of this amendment, U.S. companies are abandoning loyal American workers to save a few dollars an hour with cheap overseas labor in tax haven countries. In the real world, Mr. President, this is simply not the case. At least two-thirds of the investment and sales of foreign subsidiaries of U.S. companies are in countries where the average labor cost is higher than in the United States. Moreover, the average tax rate paid by U.S. multinational companies is lower in the United States than it is outside the United States. More than 75 percent of all imports to the United States from U.S.-owned foreign subsidiaries is from developed nations, where taxes typically are either higher than or similar to the U.S. rate.

While it is true that some U.S. companies have set up manufacturing operations in other countries with lower labor costs, they have generally done so in order to stay competitive with other companies in the same industry that have cheaper labor costs.

We live in a global economy, Mr. President. Many products, especially those in the high technology industries, can be as easily assembled in Malaysia as in California. When U.S. companies have taken their low-skill assembly operations overseas, they have done so as a matter of survival. In

other words, any jobs lost to Americans by a move of an assembly plant overseas would most likely have been lost anyway—and probably then some.

Companies that go out of business because they are no longer competitive pay no wages and create no new jobs and pay no taxes. Companies that can successfully compete in the world marketplace most often expand employment, add security to U.S. workers, and contribute to the U.S. tax base.

In the world as oversimplified by the proponents of this amendment, U.S. companies are moving their manufacturing operations to other countries, only to export the majority of the product back to the United States. In the real world, Mr. President, again, this is simply not the case. In 1993, 66 percent of the sales of U.S. foreign subsidiaries were made to customers in the foreign country, 23 percent were made to customers in other foreign countries, and only 11 percent were exported back to the United States.

These data show that one of major real-world answers as to why U.S. companies set up manufacturing operations overseas is to be closer to their customers. Many customers demand a local presence of their supplier. Moreover, as a practical matter, local conditions often dictate that the U.S. company manufacture locally in order to be able to take advantage of the business opportunity in that country. For example, how could U.S. software manufacturers sell their products abroad without local operations to customize and service the software? We have seen the same thing happen in the United States, where foreign automobile manufacturers have moved their operations here in order to be closer to their markets.

Contrary to what the Senator from North Dakota is asserting, there are often a number of benefits to the domestic job market when a U.S.-based multinational company sets up a subsidiary in a foreign country. The 1991 Economic Report of the President notes that “. . . U.S. direct investment abroad stimulates U.S. companies to be more competitive internationally, which can generate U.S. exports and jobs. Equally important, U.S. direct investment abroad allows U.S. firms to allocate their resources more efficiently, thus creating healthier domestic operations, which, in turn, tend to create jobs.”

I would also note, Mr. President, that the overseas business operations of U.S.-based multinational companies contributed a record net surplus of \$130 billion in 1990 to our balance of payments. This number has very likely gone even higher in the years since 1990. In addition, these U.S.-based multinational companies have been responsible for significant employment in the United States. Much of this employment is generated by the foreign operations of these corporations. For example, in most cases, the research and development work that leads to the as-

sembly operations overseas is performed right here in the United States. Let's look again at the software industry, which is very important to my home state of Utah. Additional sales in foreign countries, generated by subsidiaries of U.S. software companies, lead to increased employment in the United States to support those sales and to continue the research necessary to improve those products.

Now, Mr. President, let's discuss just exactly what this amendment would do. At the heart of the so-called tax break that the Senator from North Dakota is trying to partially eliminate is the long-standing tax principle that says a taxpayer doesn't have to pay tax on income until that income is received. One example of this concept that individuals run into every day is the fact that we do not have to pay taxes on unrealized capital gains on property until we sell that property. For instance, if a taxpayer holds 100 shares of stock that he or she bought 20 years ago at \$10 per share, and that stock is now worth \$100 per share, our tax code does not tax that individual until he or she actually sells the stock and realizes the gain.

We have a similar principle in place that applies when a U.S. company sets up a subsidiary in another country. Under the tax law, with some exceptions, the U.S. company does not have to pay tax on the earnings of the foreign subsidiary until the money is actually returned to the U.S. parent. This principle is commonly known as deferral because the tax is deferred until the earnings are repatriated to the United States, much the same as the tax is deferred to an individual on a capital gain until the sale is accomplished and the gain is realized.

What the amendment before us would do is to end deferral to the extent that income is earned on goods shipped back into the United States. What, one might ask, is wrong with this? Wouldn't this be effective in preventing U.S. companies from uprooting their domestic manufacturing operations and moving them overseas?

Mr. President, I submit that there are several major problems with this proposal and that it would not be effective. Indeed, I believe this proposal would be counterproductive and result in fewer U.S. jobs. The amendment goes way beyond the problem being described and applies where there is no indication of alleged abuse. For one thing, there is no provision in the amendment to limit the loss of deferral to those situations where actual U.S. employment has been displaced. Indeed, the amendment doesn't even require that there be a showing of increased foreign investment or reduced U.S. employment. Thus, any U.S. company with existing foreign operations could be penalized, even if no U.S. plants closed and even if the U.S. employment actually increased.

In addition, this amendment would add a great deal of complexity to an al-

ready mind-numbingly complicated part of the Internal Revenue Code. The determination of “imported property income” as required by the amendment would require a whole new set of assumptions and recordkeeping, all of which adds to the huge compliance burden already faced by all taxpayers. Moreover, the Internal Revenue Service would have to add more trained personnel to audit this provision, and this at a time when Congress and the American people are demanding cuts in IRS funding. The provisions in the amendment calling for a new foreign tax credit basket would also add more complexity and unfairness from possible double taxation. The administrative expenses of complying with these provisions could easily outweigh the amount of revenue collected from this amendment.

Finally, Mr. President, this provision is not likely to achieve its goal of retaining U.S. jobs. Many countries with wages lower than those in the United States also have high corporate income tax rates. Loss of deferral in these countries would not result in any extra U.S. tax liability because the U.S. tax would be offset with the foreign tax credit for income taxes paid in the foreign country. Additionally, because this amendment does not affect the major reason that U.S. companies establish foreign subsidiaries, which as I mentioned is to be closer to its customers, this change would only punish companies that try to better compete in a world market. These firms will still take whatever action is necessary to compete globally. But, if the U.S. begins to punish them for being responsive to world competition and for taking advantage of international business opportunities, the result might be that some companies could move all operations out of the United States to reduce the onerous results of this amendment. At the very least, the increased cost of complying with these unnecessary provisions would leave less money available for companies to expand and create more U.S. employment.

In the real world, Mr. President, multinational companies are making business decisions based on a number of economic factors, only one of which is the tax consideration. This amendment tries to simplify a complex world and solve a problem without realizing the real causes of the problem. As a result, the solution doesn't fit and it simply will not work.

As a final note, Mr. President, it is important to note that this amendment does not belong on this bill. As my colleague from North Dakota well knows, this is a tax provision that can only be considered, under the U.S. Constitution, on a revenue measure originating from the House of Representatives. The underlying appropriations bill is not such a measure. Therefore, if the Senate were to make the mistake of passing this measure, the House would undoubtedly exercise its prerogative and send this bill back to the

Senate under the so-called "blue slip" procedure. This, of course, would only delay in getting an important appropriations bill passed.

I urge my colleagues to oppose this perhaps well-intentioned but seriously misguided amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GORTON. Mr. President, this amendment is bad policy from top to bottom. If enacted, it would hurt U.S. companies and destroy jobs. It is, I am afraid, motivated more by political considerations than anything else.

Under generally accepted tax principles in the United States and around the world, income is taxed when it is realized by a taxpayer. When income is earned but not received until some future date—say, for example, income in a pension plan or an individual retirement account—then taxation is normally deferred.

Eliminating or even limiting deferrals would put American companies at a competitive disadvantage in the global marketplace. This amendment does not—as it purports to do—eliminate a privilege; rather, it imposes a penalty, and a severe one at that. It will not increase revenues for the U.S. Treasury. It will, however, hurt American companies that are trying both to run their day-to-day operations and to compete with foreign businesses.

What does this amendment do? It assumes that allowing U.S. multinationals to defer taxes on the income of their foreign subsidiaries is a tax break. That is a false assumption, because deferring only means that taxes are not due until the time that income has actually been received, or in the case of multinationals, repatriated back to the U.S. parent company. This amendment not only taxes income before it is realized, it carries with it the potential to tax income that is never realized at all.

Since none of our trading partners subject their companies to such a burden, our companies would suffer. No other country in the world denies deferral on active business income as extensively as the United States, now, with respect to passive income, for example. According to a 1990 white paper submitted by the International Competition Subcommittee of the American Bar Association Section of Taxation to congressional tax writing committees, France, Germany, Japan, The Netherlands, and others, do not tax domestic parent companies on any earnings of their foreign marketing subsidiaries until such earnings are repatriated. The earnings are deferred without additional tax penalties.

No one can doubt the importance of the global economy to American jobs and American economic strength. If we are to provide good jobs for our citizens, it is important that we stay competitive. Already, current tax rules create a disadvantage for U.S. businesses that operate overseas and compete in foreign markets. Recent data demonstrate that U.S. multinationals are already taxed more heavily on their foreign income than on their domestic income. The current U.S. Tax Code has a strong bias against U.S. multinationals. Its sourcing rules and strict limitations on foreign tax credits expose the foreign investments of U.S. companies to double taxation. It also gives less favorable treatment to foreign affiliates by making them ineligible for the R&D tax credit or accelerated depreciation, and denies them the ability to include losses in the U.S. parent's consolidated income tax return. Current law does not, as the sponsors of this amendment assume, reward U.S. corporations with offshore operations.

Clearly, imposing more taxes on American companies weakens U.S. international competitiveness, hurts American companies and American jobs, and gives our foreign competitors a greater advantage—just the opposite of what the amendment's sponsors say they want.

Not only will this amendment increase direct taxes on U.S. companies, it will also increase regulatory costs associated with compliance and enforcement. The proposal will add enormous complexity to the already onerous and complicated U.S. Tax Code in the area of international taxes. The changes will be difficult for businesses to comply with and virtually impossible for the IRS to administer and enforce. For example, a U.S. multinational may manufacture a component—say, a computer chip—that eventually finds its way into a finished product that is ultimately imported into the United States by a foreign company, without the U.S. multinational's knowledge or consent. The IRS, in this case, would have to trace potentially long chains of unrelated parties that may alter a product or incorporate it into another product in order to enforce the requirements of this proposal. Similarly, businesses would have to employ complicated and tedious procedures to determine if their products could potentially ever be imported back into the United States. That, Mr. President, is just one reason that proposals like this need careful study by the Finance Committee, not an instant debate on the floor.

This amendment means more taxes, more regulations, and more power to the IRS—powers which, I can assure my colleague, the country hardly needs.

Today, U.S. companies face intense competition in both domestic and international markets. Nothing can be worse for our companies struggling to compete in the global economy than to

burden them with more government regulations and taxes.

There are several mistaken premises in this amendment, and I would like briefly to address some of them.

First of all, the amendment's underlying premise is that when American companies open factories, plants and offices overseas, they reduce American jobs. That's simply not true. U.S. firms establish operations abroad primarily in order to penetrate foreign markets and take advantage of foreign business opportunities. In many cases, U.S. manufacturers cannot sell to foreign customers unless they have local plants in those foreign countries. For example, under the Canadian auto pact, United States companies must manufacture in Canada to export into the Canadian market. Without United States operations in Canada, the United States would lose the current \$44 billion of sales in Canada. Were that to happen, the consequences to America would be serious indeed—not only in terms of economic damage, but in terms of lost jobs—American jobs—as well.

Another misperception is that American companies move their operations overseas so that they can procure cheap labor. Again, not so. Most multinational companies' foreign investments are in other industrialized countries where labor costs are often higher than in the United States. In 1993, two-thirds of the assets and sales of United States-controlled foreign corporations were in seven countries: the United Kingdom, Canada, France, Germany, Japan, the Netherlands, and Switzerland. The average annual compensation paid by these corporations in 1993 was \$49,005, 15 percent higher than the average \$42,606 compensation paid in the United States. U.S. firms do not go abroad for cheap labor, they go abroad because their business demands it. For example, industries that rely on natural resources must develop them in the geographic locations in which those resources are found.

This amendment also assumes that overseas operations cost U.S. jobs. Wrong again. American operations overseas produce American exports. Exports support and create American jobs. Consider this: The Department of Commerce has calculated that every \$1 billion dollars in manufactured exports creates—directly—14, 313 manufacturing jobs in the United States. Clearly, U.S. companies that have operations overseas are a benefit to, not a detraction from, American jobs and the American economy.

The amendment incorrectly assumes that U.S. companies invest offshore to export back to the U.S. market. But a look at the facts shows the reverse. In 1993, 66 percent of U.S. multinational sales were within the foreign company of incorporation, 23 percent of sales went to other foreign locations, and only 11 percent represented exports to the United States. If anything, multinationals are boosting the U.S. trade

balance. According to 1993 Commerce Department data, U.S. multinationals decrease the trade deficit by \$11.5 billion per year.

I must say that it's too bad the sponsors suspect the worst motives in our American companies, rather than supporting them as they look for new opportunities to boost the American economy and create new jobs in the United States.

While few would disagree with the stated goals of this amendment—preventing U.S. job loss and encouraging U.S. competitiveness—it is clear that in practice this amendment would have exactly the opposite effect. Let's call a spade a spade. This is not a proposal to stimulate employment or to strengthen America's position in the international arena. It is a protectionist, antitrade measure that attempts to exploit the fears and insecurities that Americans feel today due to the real degree of economic uncertainty. But the American economy is not being hurt by U.S. trade or by U.S. businesses expanding their presence overseas. Rather, trade and overseas investment strengthen and expand our economy.

When American businesses go overseas, it is a sign of American economic strength and expanding opportunities. It means that American companies are competitive throughout the world. We should be happy to see our companies doing so well, instead of fearing international growth. We are the world's economic superpower, and should be encouraging international development and promoting trade, not discouraging it as this amendment does.

The entire argument of the Senator from South Carolina can be summed up by one of his own lines: "This country is going out of business."

If you believe that statement, then support this amendment and every other protectionist idea that comes down the pike. But if you believe, as I do, that we are the most successful and competitive economy in the world and with the most free and fair competition, vote with me and table this amendment.

And one other point in reflection of the Senator from South Carolina: Boeing believes that the Chinese commercial aircraft market over the next 20 years will reach \$185 billion. Obviously, it will go to those suppliers who will allow some of the work to be done in China. As Larry Clarkson, Boeing's top official for international development says: "If we hadn't moved work to China, we wouldn't have gotten orders."

I think he knows more about Boeing's business than the Senator from South Carolina—and Boeing is now hiring—in the United States.

Mr. HOLLINGS. Mr. President, the people of the Republic of China characterize me as the "Senator from Boeing." I realize that the French Airbus was competing with us, and we are proud of Boeing and we are proud of its

products. I am a competitor and I want to see the United States win at all costs.

However, when we debated our textile bills and I passed one vetoed by President Carter, two vetoed by President Reagan, one vetoed by President Bush, get them to pass it, keep knocking on the door, I kept watching our colleagues from the State of Washington who opposed us with the free trade, and how wonderful to have trade overseas, which nobody denies. Everybody believes in trade. Instead of abolishing the Commerce Department, I am standing on this side of the aisle trying to defend commerce and to defend the department and trying to defend trade. But what you have to do is emphasize this flow of imports into the United States and find out why.

Let me read from this article one little paragraph about Boeing. In the article, "The Ex-Im Files," by William Grieder. It was previously printed in the RECORD:

The White House also led cheers for Boeing because Boeing was also stomping its competitors in the Chinese market. In 1994 alone, Boeing sold 21 737s and seven 757s to various Chinese airlines and obtained nearly \$1 billion in Ex-Im loans to finance the deals. When President Clinton hailed the news, he did not mention that Boeing had agreed to consign selected elements of its production work to Chinese factories. The state-owned aircraft company at Xian, for instance began making tail sections for the 737, work that is normally done at Boeing's plant in Wichita, KS. The first order for Xian was for 100 sets, but that was just the beginning. In March 1996, a China news agency boasted that Boeing had agreed to buy 1,500 tail sections from Chinese factories, both for the 737 and the 757. The deal was described as "the biggest contract in the history of China's aviation industry."

Now, Mr. President, one, that is in violation of the Export-Import Bank law. So it is not partisan guilt or liability or misunderstanding. The President of the United States, hailing it under the Export-Import Bank, is for production in the United States, not to finance production in China. You ask what to do, how to wake them up. "Free trade, free trade. It is wonderful for trade and you don't lose jobs and it is good for the economy." Here are the facts. As I warned 25 years ago, or almost 30 years ago, in that debate, I said, wait until it hits you.

Last year, to Mexico we lost 10,000 textile jobs. We said in the NAFTA debate that we were going to lose them. Now we know from NAFTA, we have gone from a plus balance of \$5 billion exports, exports, exports—how about the imports?—to a deficit of \$15 billion. And those who oppose us will admit we have lost at least 300,000 jobs.

Point: Boeing is having it happen to them. If you are going to lose your textiles, you are going to lose your flatware, you are going to lose your steel industry, your manufacturers and industrial strength. You are going to lose one thing we are preeminent in, airplane manufacturing, and finance it in violation of the Export-Import Bank.

Then if we haven't done anything else, I say to the Senator from North Dakota, we have at least awakened them, given them a wakeup call for what is going on, because it's going to happen in Washington and in Wichita, KS, where they make the wonderful planes we are so proud of. But they are going to be losing the jobs. Airbus is taking over. I opposed the Ex-Im contract with Japan. Wait until the Japanese and Chinese start manufacturing aircraft. Then I want to see this crowd here. We will come in coveralls when we can't afford decent clothing, hollering "free trade, free trade, free trade."

This country is going out of business. We need to wake up. These are the kinds of things to debate. Let's take that Dorgan-Hollings amendment and vote it up, and don't say this is an amendment against trade. This is just an amendment to put the foreign manufacturer on the same basis as American manufacturers for American corporations.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. I will not further delay this, with the exception of making two points. I was off the floor. My understanding is that a couple of points were made in opposition to this legislation that I want to respond to. One is that this would prevent an American company from establishing offshore production with which to compete against a foreign company that is producing offshore and selling in some foreign country. This bill doesn't affect that at all. If you are opposed to this bill for that reason, smile; this bill doesn't affect that. This bill only affects U.S. producers who move offshore to produce for the purpose of sending the production back into our country. That is the only purpose.

Second, this would be enormously complex, we are told. A wonderful article was written by Lee Sheppard recently. She says something about that. She wrote:

Complexity never seems to bother corporate tax managers when it flows in their favor, such as in transfer pricing or the design of nonqualified deferred compensation plans. Surely no one wants to add materially to the complexity of America's already complex foreign tax provisions, though no one is seriously suggesting simplifying them in business's favor. The Dorgan bill proposes a destination-based tax liability; other provisions, like the foreign sales corporation provisions, grant destination-based benefits.

My point is that those who stand up and use the corporate arguments being offered around town in ample quantities are using arguments that largely don't apply to this. So, as I said previously, if you believe our Tax Code ought to be neutral on the question of whether you export American jobs, just to make it neutral, then vote for this amendment. If you believe we should continue doing what we are doing, subsidizing the export of jobs, then vote against the amendment, and then let's

have a further discussion at some later point. I hope Members of the Senate will decide to support this.

With that, I yield the floor.

Mr. ROTH. Mr. President, this tax amendment is not appropriate at this time.

This appropriations bill is not a revenue bill. If this amendment passes, this appropriations bill will be potentially subject to a blue slip by the House. A blue slip would in effect kill this bill and the Senate would have to start anew.

Therefore, a tax amendment at this time would unnecessarily jeopardize the appropriations process. Amending an appropriations bill is not the proper way to make fundamental changes to international tax policy.

The international area is a very complex section of the Tax Code. No one is happy when certain companies move abroad and manufacture products that are sold back to the United States.

At the same time, it is important to understand that American companies are players in the global economy and that expansion abroad means more jobs back home. In fact, by 1990, manufactured exports of American companies with operations overseas created over 5 million jobs in the United States.

If we are to continue to provide good jobs for our citizens, it is important that we stay competitive in this emerging global economy by expanding our presence abroad.

American companies with overseas investments have been waging a hard fight, but a successful one to keep exports flowing from the United States.

American companies operating overseas also help the balance of trade for the United States.

According to the Department of Commerce, in 1993, American companies operating overseas helped reduce our trade deficit by \$11.5 billion.

A study by the National Bureau of Economic Research found that manufacturing by foreign affiliates of American companies increases exports from the American parent company located in the United States.

This amendment attacks the tax rule known as deferral and would materially increase the cost to many American companies engaged in business overseas.

This increase in costs will make it more difficult for American companies to compete with foreign manufacturers that are not subject to these additional costs.

This amendment is based on the assumption that if companies don't build plants abroad, they will automatically build plants in the United States. In fact, many companies would probably just decide not to expand at all.

If additional production facilities are not added, American companies would lose economies of scale that help them compete in the global marketplace.

These economies are particularly crucial in the commodities business where price really matters.

American companies would also be hurt in their efforts to expand in foreign markets.

Our companies are motivated to invest abroad in order to penetrate markets otherwise commercially inaccessible to American firms and then expand that market share.

The absence of American companies abroad would limit our ability to sell to foreign customers.

There is a positive relationship between investment abroad and domestic expansion.

Leading American corporations operating in both the United States and abroad have expanded their employment and sales in the United States, their investments in the United States, and their exports from the United States at substantially faster rates than industry generally. During the 1980's, American exporting companies had a better record on employment than the typical large American manufacturing firm.

The contention that American manufacturing companies are harming our economy by shifting jobs abroad and importing cheaper products into the United States simply does not bear up under scrutiny.

Rather, the exact opposite is true. Investment abroad by American exporting companies provides the platform for growth in exports and creates jobs in the United States.

Overall, this amendment would hurt our economy. It would decrease the activities of domestic exporters and decrease jobs in the United States.

This misguided amendment would give foreign-owned companies a huge competitive advantage and help them provide economic and job benefits for their home countries at the expense of the United States.

We do not need to adopt legislation that hurts companies who go abroad for the legitimate purpose of becoming competitive in the international market.

Overall, this area is one of extreme complexity and of greatest importance to our economy and the creation of jobs in America.

The major international tax policy changes which would result from this amendment are within the jurisdiction of the Senate Finance Committee. It would be inappropriate and dangerous for such significant changes to the Tax Code to be made piecemeal on the Senate floor.

As I have stated in the past, the Finance Committee will be holding hearings to look at the international area and the kind of issues that are raised by this amendment.

For these reasons, I must respectfully oppose this amendment.

Mr. SHELBY. Mr. President, the chairman of the Senate Finance Committee is opposed to the amendment of the Senator from North Dakota. In his statement, he raises several important points that I want to share with you right now. The most important is that

this amendment, the Dorgan amendment, if accepted, would potentially subject the entire bill, including funding for drug enforcement, law enforcement, to a blue slip. This would effectively kill the entire bill and, with it, funding for critical priorities such as the drug czar, drug enforcement, Customs, border guards, ATF, Secret Service, White House, IRS, civil service pensions, and so forth.

The Senator from North Dakota raises an important issue, and it ought to be debated and considered by the appropriate committee at the appropriate time. I don't believe this is the right time. It is misplaced here and it threatens to jeopardize our entire bill today. I note that the House, for the record, has blue-slipped less blatant attempts to raise revenues and change tax policy. Some of you will recall that 2 years ago the Senate adopted an amendment with regard to taxes on diesel fuel. It passed overwhelmingly here in this body, and it had strong support in the House at that time, including from the then-chairman of the Ways and Means Committee. Yet, because of the constitutional issue, he chose to utilize the blue-slip procedure over there and the Treasury bill was sent back to the Senate. In effect, had the Senate not adopted separate legislation striking that provision, the House would have had to begin the process of drafting and moving the necessary appropriations bill all over again.

I don't believe that is what we want to happen here. I don't believe we can afford such a procedure. Our Nation's law enforcement people, Mr. President, cannot afford such a procedure. Our Nation's drug policy and funding for that policy cannot afford such a procedure. This country's civil servants, who rely on this bill every year to fund their pensions and disabilities, cannot afford such a procedure here. I cannot stress enough this afternoon the important funding in this bill—and most of you are aware of this—which this amendment would jeopardize.

Mr. KERREY. Mr. President, I have cosponsored and voted for this amendment in the past, but the fact this is a tax issue put on an appropriation bill has caused me some concern. The Senator from Alabama, the chairman, is quite right. In this instance, as a consequence of the revenue issue, we risk having this whole thing sent back over to us. Otherwise, I would be supporting the Senator from North Dakota without any reservations. I urge colleagues to consider the procedural issue here and, when Senator SHELBY of Alabama so moves, keep this concern in mind.

Mr. SHELBY. Mr. President, to reassert this amendment raises constitutional questions with regard to raising revenue, which we are all familiar with. For these reasons I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama to lay on the table the amendment of the Senator from North Dakota. On this question, the yeas and nays were ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness in the family.

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

The result was announced—yeas 58, nays 41, as follows:

[Rollcall Vote No. 282 Leg.]

YEAS—58

Abraham	Frist	Mack
Ashcroft	Glenn	McCain
Baucus	Gorton	Moynihan
Bennett	Gramm	Murkowski
Bond	Grams	Murray
Breaux	Grassley	Nickles
Brown	Gregg	Nunn
Burns	Hatch	Pressler
Chafee	Hatfield	Roth
Coats	Helms	Santorum
Cochran	Hutchison	Shelby
Cohen	Inhofe	Simpson
Coverdell	Jeffords	Snowe
Craig	Johnston	Specter
D'Amato	Kassebaum	Stevens
DeWine	Kempthorne	Thomas
Domenici	Kyl	Thompson
Faircloth	Lieberman	Thurmond
Feinstein	Lott	
Frahm	Lugar	

NAYS—41

Akaka	Feingold	McConnell
Biden	Ford	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Pell
Bradley	Heflin	Reid
Bryan	Hollings	Robb
Bumpers	Inouye	Rockefeller
Byrd	Kennedy	Sarbanes
Campbell	Kerrey	Simon
Conrad	Kerry	Smith
Daschle	Kohl	Warner
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Exon	Levin	

NOT VOTING—1

Pryor

The motion to lay on the table amendment No. 5223 was agreed to.

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. KERREY. I ask unanimous consent to add Senators SNOWE and PRESSLER as cosponsors to Amendment 5232 regarding IRS reorganization.

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

The Senator from Alabama.

AMENDMENT NO. 5206

Mr. SHELBY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is amendment No. 5206, the WYDEN amendment.

Mr. SHELBY. Mr. President, the WYDEN amendment contains direct spending and revenue legislation which would increase the deficit by \$85 million for the period 2002 through 2006.

At this point, I raise a point of order, pursuant to section 202 of House Concurrent Resolution 67, the concurrent resolution of the budget for the fiscal year 1996. I raise the budget point of order.

Mr. WYDEN. I move to waive the point of order and ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak on my amendment at this time.

The PRESIDING OFFICER. The motion is debatable.

Mr. WYDEN. Mr. President, the Senator from Alabama is raising a point of order on a revenue issue that simply does not apply to this amendment. I believe the Senator from Alabama is talking about a Congressional Budget Office report that was done on the House legislation on this matter, and I would just like to inform my colleagues that this amendment contains a change from the House legislation, a change that was added at the direct request of a number of managed care organizations, that deals with this question of revenue.

If I could briefly engage the Senator from Alabama on this matter? The Senator from Alabama, I know, is trying to juggle a number of matters, but I would like to ask the Senator from Alabama, does he have a Congressional Budget Office report at this time that specifically cites this revenue projection on my amendment which is pending before the Senate?

Mr. SHELBY. If the Senator from Oregon will yield?

Mr. WYDEN. I am happy to yield.

Mr. SHELBY. We have an oral statement from the Budget Committee staff that this violates the concurrent resolution and will cost \$85 million. They scored it that way.

Mr. WYDEN. Mr. President, the Senator from Alabama told me that he does not have an official report from the Congressional Budget Office with respect to revenue on it. The Senator has said that the majority staff projects that it will cost \$85 million.

Mr. SHELBY. If the Senator from Oregon will yield for a correction?

Mr. WYDEN. I am happy to yield.

Mr. SHELBY. The CBO, not the majority staff, is where this number comes from, \$85 million that is a violation of the rule. Not the majority staff but the Congressional Budget Office itself.

Mr. WYDEN. If the chairman of the subcommittee would provide me a copy of that, I would very much like to see that. Because the fact is, and let us go to the discussion of this matter, this has nothing to do with the Federal budget. What I am seeking to do is to make sure that managed care plans, the fastest growing part of American health care today, are not allowed to impose gag rules that impede patients

from getting all the information that they need with respect to medical services and medical treatments.

I come, Mr. President, from a part of the country that has pioneered managed care. The Portland metropolitan area that I represented, first in the House and now as a Senator, has the highest concentration of managed care in our country. We have seen good managed care, and there is plenty of it in Oregon.

Unfortunately, there are managed care plans that have cut corners and that have kept a patient from a full range of those who provide necessary services. There are plans in the country where there have been oral communications where a plan says to a particular provider: "We're watching the number of referrals that you are making out of the network. We don't want you to refer to that particular specialist."

This is going on in our country. It is not right, and that is what this issue is all about. This is not a budget issue, I say to my colleagues. This is a matter of right and wrong. This is a matter of whether you are going to stand up for consumers, stand on the side of patients, or whether you are going to see those gag rules that keep patients from getting the information that they need and deserve.

Mr. President, the preamble of the Hippocratic oath, which guides so much of American health care, is a statement to physicians: "First, do no harm."

The message of these gag restrictions, these gag clauses that we are seeing in managed care plans all across the country is not "First, do no harm." Their message is, "First, support the bottom line." That is the issue that we are debating. That is not good health care. That is certainly not good managed care.

Several months ago, the Washington Post cited a startling example involving the Mid-Atlantic Medical Services health plan, a large Washington metro area provider. This plan wrote a letter to network practitioners informing them that "effective immediately, all referrals from (the plan) to specialists may be for only one visit." And in bold type, the letter stated: "We are terminating the contracts of physicians and affiliates who fail to meet the performance patterns for their speciality."

That is the kind of gag rule, that is the kind of constraint that is being imposed on patients in the American health care system today by some managed care plans. Certainly, not all the managed care plans, and it is certainly not representative of what we are seeing in Oregon, but it is happening across the country. We have even seen it in a State like mine that has good managed care, and this is a bad deal for patients all around.

First, patients end up not getting the kind of health care that they need.

Second, the plan may restrict the provider, the physician, from informing

the patient about referral restrictions so that the patient doesn't even know that they are being medically short-changed via the plan's policy.

So what you have, stemming from the gag clauses, is a situation where our patients are in the dark in the fastest growing sector of American health care. These gag clauses keep the patients from even knowing, from even being in a position to understand that they are being medically short-changed via a plan's policy.

Let me mention a couple of providers who have brought this to my attention in Oregon.

One orthopedic surgeon faced a situation where his managed care plan demanded he diagnose problems in patients apart from the ones for which they were referred. He, in effect, was told he had to keep his mouth shut and instead re-refer those folks back to their primary care physician.

This physician wrote me: "This is extremely disappointing to patients, as you might imagine. This requires more visits on their part to their primary care physician and then back to me, which is extremely inefficient."

Another physician, a family practitioner in a rural part of the State, wrote that antigag legislation was needed because "when a physician recommends medical treatment for a patient and a plan denies coverage for that treatment, patients and physicians need an effective mechanism to challenge the plan."

So what we find is that these kinds of communications, communication between a plan and a provider, such as an oral communication, are getting in the way of the doctor-patient relationship, and that is why consumer groups and provider groups all across this country are up in arms and have weighed in on behalf of this particular amendment.

There are some protections. A handful of States do offer some protections for the patient, but they vary widely from State to State. So that is why I bring this matter to the Senate's attention.

Senator KENNEDY joins me in this effort to set a national standard for what has become a national problem, but I would like to emphasize how bipartisan this effort is. Senators need to understand that if they vote against my amendment, they are essentially voting against the amendment that Senator HELMS has also filed. It is a little bit different. It has not been formally addressed in the Senate, but it is essentially what Senator HELMS has sought.

In the House, Dr. GREG GANSKE, a Republican, a physician, has done yeoman work on this matter, with Congressman ED MARKEY of Massachusetts, a Democrat. They have held voluminous hearings in the House where this has been a problem documented on the record.

The Commerce Committee dealt with this issue—I would like all my colleagues to know this, as we move to a vote on this matter—the House Com-

merce Committee dealt with this on a unanimous basis, on a bipartisan unanimous basis, and I simply want my colleagues to know that while Senator KENNEDY joins me formally in this effort, Senator HELMS has filed what amounts to almost an identical amendment to what I offer today.

Dr. GANSKE and ED MARKEY, on a bipartisan basis in the House, have engineered committee approval of it, so this is not a partisan issue that comes before the Senate today.

This amendment is rifle-shot legislation prohibiting only gag provisions in contracts or in a pattern of oral communications between plans and practitioners which would limit discussion of a patient's physical or mental condition or treatment options.

I want to emphasize that health plans would still be able to protect and enforce provisions involving all other aspects of their relationships with practitioners, including confidentiality and proprietary business information. The reason that is important, Mr. President, is obviously it is not in the interest of the American people or this body to have the U.S. Senate fishing about in the proprietary records of health plans.

What this is all about is making sure that patients get information about health services, about their physical or mental condition, about treatment options. They deserve the right to information about health services and not face these gag clauses that keep them from getting the information that they deserve.

I want my colleagues to know that I have worked hard with leaders in the managed care community, as well as practitioners and consumer advocates in crafting this legislation. The amendment specifies that State laws which meet or exceed the Federal standard set out here would not be preempted by Federal law.

The bill has been endorsed by a wide variety of provider groups, physician groups, as well as by consumer organizations. The endorsements for this particular amendment include the Association of American Physicians and Surgeons, the American Association of Retired Persons, the Center for Patient Advocacy, Citizen Action, the Consumers Union, the American College of Emergency Physicians, and a number of other organizations.

Here is what the Association of American Physicians had to say with respect to this amendment. They said:

Restrictions on communication with our patients not only undermine quality of care, but are a blatant violation of the Hippocratic oath. Prohibition of gag rules is a crucial step toward protecting patients.

The Center for Patient Advocacy said:

It has become common for insurers to incorporate clauses or policies into providers' contracts that restrict their ability to communicate with their patients. Such gag clauses seriously threaten the quality of care for American patients.

So what we have, Mr. President, and colleagues, is essentially a pattern

across the country with these gag rules that turns the Hippocratic oath on its head. A Hippocratic oath that tells physicians, "First, do no harm," has become all too often, "First, think about the bottom line."

So I am very hopeful that on a bipartisan basis the Senate will pass, hopefully without opposition, my amendment. As I say, a vote against my amendment is essentially a vote against what Senator HELMS has filed in this body. It is a vote against what Dr. GANSKE has sought to do in the House. And most importantly, it is a vote against patients and consumers all across the country.

If you vote against this amendment today, which will undoubtedly be the only chance the Senate gets to go on record on it in this session, then you are sending a message to managed care plans across the country that if you want to stiff the patients, if you want to stiff those who are vulnerable and those who need health care in America, it is all right. You can keep from them information about their physical and mental options and alternatives. You can keep information from them about treatment and kinds of services. I cannot believe that is what the U.S. Senate would want to do.

I think what the U.S. Senate would want to do is what Senator HELMS has sought to do, what Dr. GANSKE has sought to do, what Congressman MARKEY and Senator KENNEDY and I have sought to do, and that is to stand up for the rights of the patients.

So I am hopeful that this will be supported widely by Senators today. We should not let these gag rules between plans and an individual physician get in the way of the sacred doctor-patient relationship. These plans are the fastest growing part of American health care today. And we ought to go on record as being on the side of patients, as being on the side of the vast majority of doctors and providers in this country who want their patients to know all their treatment options, all the services that are available to them. I hope that Senators on a bipartisan basis will support this effort.

Mr. KENNEDY addressed the Chair. The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY] is recognized.

Mr. KENNEDY. Mr. President, first of all, I want to commend Senator WYDEN for providing leadership in this very, very important area of health policy. I welcome the opportunity to join with him on an issue that really affects, in a very significant and important way, the quality of health care that is being practiced in this country. I commend him and others who have been involved with this legislation.

I would like to address the Senate just very briefly on this issue and also make a comment about the procedural situation that we find ourselves in at the present time.

As Senator WYDEN has pointed out, one of the most dramatic changes in

the health care system in recent years has been the growth of managed care programs. In many ways, this is a positive development. Managed care offers the opportunity to extend the best medical practices to all medical practice, to emphasize health maintenance and to provide more coordinated care. Numerous studies have found that managed care compares favorably with the fee-for-service medicine on a variety of different quality measures.

Many HMO's have made vigorous efforts to improve the quality of care, to gather and use systematic data to improve clinical decisionmaking and assure an appropriate mix of primary and specialty care. But the same financial incentives that can lead HMO's and other managed care providers to practice more cost-effective medicine also can lead to undertreatment or inappropriate restrictions on specialty care, expensive treatments, and new treatments.

In recent months, the spate of critical articles in the press has suggested that too many managed care plans place the bottom line ahead of their patients' well-being—and are pressuring physicians in their networks to do the same. So these abuses include failure to inform the patients of particular treatment options; excessive barriers to reduce referrals to specialists for evaluation and treatment; unwillingness to order appropriate diagnostic tests; and reluctance to pay for potentially life-saving treatment. In some cases, these failures have had tragic consequences.

In the long run, the most effective means of assuring quality in managed care is for the industry itself to make sure that quality is always a top priority. I am encouraged by the industry's recent development of a philosophy of care that sets out ethical principles for its members, by the growing trend toward accreditation, and by increasingly widespread use of standardized quality assessment measures. But I also believe that basic Federal regulations to assure that every plan meets at least minimum standards is necessary.

So, with this amendment, the Senate has a chance to go firmly on record against a truly flagrant practice—the use of gag rules to keep physicians from informing patients of all their treatment options in making their best professional recommendations.

Gag rules take a number of forms. This amendment targets the most abusive and most inappropriate type of gag rule: gag rules that forbid physicians to discuss all treatment options with the patient and make the best possible professional recommendation, even if that recommendation is for a non-covered service or could be construed to disparage the plan for not covering it.

Our amendment forbids plans from prohibiting or restricting any medical communication with a patient with respect to the patient's physical or mental condition or treatment options. This is a basic rule which everyone endorses in theory but which has been

violated in practice. The standards of the Joint Commission on Accreditation of Health Care Organizations requires that "Physicians cannot be restricted from sharing treatment options with their patients, whether or not the options are covered by the plan."

Dr. John Ludden of the Harvard Community Health Plan, testifying for the American Association of Health Plans, has said: "The AAHP firmly believes that there should be open communications between health professionals and their patients about health status, medical conditions, and treatment options."

Legislation similar to this amendment passed the House Commerce Committee on a unanimous bipartisan vote. President Clinton has strongly endorsed the proposal.

The congressional session is drawing to a close. Today the Senate has the opportunity to act to protect patients across the country from these abusive gag rules, and I urge the Senate to approve the amendment.

Mr. President, I just want to make a very brief comment about this point of order. Mr. President, this making of a point of order is an abuse of the budget system. Basically, what we are talking about, for those that are trying to hide behind the point of order, is that the costs that are affected come from the most egregious abuses in the health care system by systems which are shortchanging and endangering the health of the American people.

You cannot hide behind this procedural vote on this issue, Mr. President. You just cannot hide. This is not about involving additional burdens or costs to the Federal Government. What you are basically talking about is providing protections to the sleaziest operators in this country that are endangering the health of the American people, and every consumer will know it.

Make no mistake about it. Make no mistake about it. We are talking about trying to get the best health care. That means that the best information that the best doctors in this country can provide ought to be provided to patients. Patients deserve to have that information.

We are seeing an abuse of the budgetary system by raising the point of order on this particular measure. Make no mistake about it, every consumer is going to know what this is about. This is not about procedure; this is about substance. This is about substance. You can have a technical point of order, but it is about substance, about quality of health.

We only have the opportunity to offer it on this particular measure. I commend Senator WYDEN for providing the initiative. We all ought to be very clear about what is involved in a technical point of order. It is an abuse of the budget system in every sense of the word. It involves the most important issue regarding health and that is the quality of health for American consumers.

The idea that the Senate, after we have had unanimous and bipartisan

support over in the House of Representatives, is going to try and hide under a technical amendment, will be a shameful day here in the U.S. Senate.

Mrs. KASSEBAUM. Mr. President, I say, first, this is not an effort to hide behind a technical point of order. I care just as much as the Senator from Massachusetts or the Senator from Oregon about the quality of health care. We all do in this Chamber. There is a process, unfortunately—or fortunately—under which we operate around. That process requires us to do some things to assure that issues are considered with some thoroughness, and I believe that is appropriate.

I agree in many ways, in all ways, actually, on the principle to which the Senator from Oregon and the Senator from Massachusetts are speaking. Patients should have access to complete and accurate information regarding their health care. None of us here in this Chamber disagree with that concept, or with the concept that doctors should be allowed to share that information with their patients. Patients' communications with their doctor should be protected. I think we would all feel this is a prime concern. It is a vital part of the health care process.

I have a great deal of sympathy for the motivations behind the amendment that is offered by Senators WYDEN and KENNEDY. However, I believe it would simply be irresponsible to approve it in the absence of any review or discussion of its provisions at any level in the U.S. Senate. The legislation upon which the amendment is based was introduced barely a month ago on July 31 and no committee hearings have been held.

I have visited with Senator WYDEN because, as chairman of the Labor and Human Resources Committee, I have wanted to hold hearings on this legislation since we came back from the August recess. It has not been possible to find a time that we were able to put a hearing together. That does not mean that it is not going to happen, and certainly it should be a priority of the next Congress. However, just as so often happens here when we begin to run out of time, we want to add everything that we can to the appropriations bills that are moving.

In this instance, as has been pointed out, a similar proposal was approved by the Commerce Committee in the House of Representatives. It is a bipartisan measure. There is nothing partisan about this. It passed unanimously in committee. It has not been considered by the full House of Representatives. I believe that, when we are looking at aspects of a very important and yet complex piece of legislation, we do have to go through the procedures and processes that are part of our operation here, whether we want or not.

It certainly is not unprecedented to have extraneous amendments offered at the last minute. However, the Senate's being asked to decide a highly

complex issue without the benefit of any review at all is, I suggest, Mr. President, a mistake. It is a mistake. Our procedures may delay consideration of legislation we support, but it protects us from legislation that we do not support as well. We need to be able to understand what a piece of legislation is all about. For example, we are not sure what CBO's scoring of this amendment is. It might not be important, but it is a requirement we have scoring around here. We have that requirement so we can better understand the budgetary consequences of our actions, and—generally—we are required to provide offsets for spending increases.

As I mentioned earlier and as Senator WYDEN pointed out, the House Commerce Committee has considered this issue and has held extensive hearings. I have visited with Congressman GANSKE myself, and I have high regard for the dedication that he has given to this issue and for the time that he has spent with it. His being a doctor, I have high regard for his understanding of the issue. I have great interest in his work and feel that he is to be commended for moving forward the discussion to the point that it has progressed.

However, I point out that even the authors of the amendment before the Senate acknowledge that the work of the House committee is not the final word, as several provisions of the amendment depart from the language approved by the House committee. The reason that we have committees in the Senate and the reason that each one of us spends, or should spend, so many hours in committee work is to lend some degree of thought and expertise to public policy issues.

It can be very frustrating when legislation does not move forward at the pace we would like to see. Nevertheless, the committee system is one of the processes, and perhaps breaks, that we have here, Mr. President. That system enables us to turn out, one would hope, a finished product where we understand what the language means and which avoids the unintended consequences of the initial language proposed.

In the course of this work, I think we find that very little is as simple as it may seem at first glance. We also find our initial solutions can spawn problems just as serious as those we set out to address. Such solutions are inevitably refined and improved as additional information is gathered.

In an area as complex and dynamic as managed care, we need to give serious thought and deliberation before launching the Federal Government into the middle of private contractual arrangements. The amendment is intended to address an important issue regarding quality health care, and it is an important issue. But good intentions are not sufficient; we need to understand the consequences of the language we use and the actions we take.

In fact, President Clinton himself has acknowledged the need for a closer ex-

amination of managed care issues with his recent announcement of his plans to establish the National Commission on Health Care Quality.

As I stated when I began speaking, I am not arguing that this issue should be ignored. In fact, I think it is a very important issue for us to look at and one of the next important steps in any of our health care debates. It is a legitimate concern.

It is for this reason I intend to propose an amendment calling for action in this area early next year after there has been an opportunity to review the full ramifications of the solution proposed by the Senator from Oregon. A vote "no" on this motion, Mr. President, does not mean that we do not care. A vote "no" is not hiding behind some procedural arrangement. A vote "no" is simply saying we have a process that we should make work as intended in order to give us the best end result on an issue that we all care deeply about and that I believe should be of prime concern.

I yield the floor.

Mr. CONRAD. Mr. President, I think this is a fundamental issue and that we ought to address it now.

Mr. President, I come from a long medical tradition on my mother's side of the family. My grandfather and virtually all of his relatives were doctors. My grandfather was a pioneer surgeon in North Dakota and was the chief of staff of our local hospital. In many ways, I grew up in a medical family.

The notion that we would have a gag rule on doctors and what they can tell their patients is anathema to those who are medical professionals. It is not limited to medical professionals. I think it is anathema to any American. The notion that a doctor, by contract, is precluded from sharing certain information with a patient about that patient's illness is unconscionable—unconscionable.

What kind of system do we have when a doctor can be precluded from telling a patient about treatment options, about referral options in America?

Mr. President, I met yesterday with medical professionals from my State. I do not use the English language lightly. I said that I believe these gag rules are immoral, and I do believe it is immoral, Mr. President, to say to a doctor, "You are restricted and limited in what you can say about what you know about a patient's options." You know, it sounds to me like another country and another time. Maybe that would go over in the Soviet Union. Maybe that would have gone over in Germany in the thirties. This is America in the nineties. No doctor should be precluded from discussing with a patient the treatment options of that patient. That is outrageous.

Mr. President, we may not be able to solve this matter completely in the days that remain in this session, but we can start, and we should start, and we have the opportunity in this amend-

ment. This amendment has been carefully crafted. The House has gone over it, the medical community has gone over it, some of the best minds of the U.S. Senate have gone over it, and they have crafted an amendment that is a rifle shot. It says very clearly what cannot be gagged, what communications ought to be able to freely flow between a patient and the person who is responsible for that patient's care.

Mr. President, we ought to pass this amendment. We ought to pass this amendment. I can't think of a single good reason why this amendment ought to be stopped. I can just say that I have discussed this with people in my home State on my most recent trip home. They are just mystified how, in America, you can have a circumstance in which a doctor is precluded and prevented from talking to their patients about treatment options that are available to them. Well, that is just beyond description in terms of the morality of the circumstance.

Mr. President, I want to commend Senator WYDEN for coming forward with this amendment at this time. I would commend anybody on the other side of the aisle—and I would do it publicly—if they came forward with this amendment, because I feel that strongly about it. This is something we ought to pass. It ought to be bipartisan. There ought not to be a whiff of partisanship about it. I thank my colleague from Oregon, Senator WYDEN, for doing, I think, a superb job in bringing this amendment to the attention of the body. This ought to pass 100-0. I don't care about points of order and all the rest. I don't know whether people are hiding behind it or not. Frankly, I just think it is inappropriate in this circumstance to be talking about a point of order with respect to an amendment that is so totally and fully justified.

Again, I want to thank my colleague, Senator WYDEN, for authoring this amendment and bringing it to our attention. I hope this amendment passes 100-0 on the floor of the U.S. Senate. That would send a very good message across this country about what is acceptable and what is not acceptable.

I will just add this final point. If this is the direction that we are going to go in with health care in America, there is going to be an enormous reaction in this country. I predict that today. If this is the direction we are going to go in, in which patients are denied information about their coverage options, then we have big trouble in this country. We can address it right here today and pass this amendment, and we should.

I thank the Chair and yield the floor.

Mr. SHELBY. Mr. President, I will speak to this in a second.

Mr. President, I ask unanimous consent that during the consideration of the committee amendment on page 80 regarding abortion funding there be 1 hour of debate prior to a motion to table, to be equally divided between

Senators NICKLES and BOXER, and that no other action occur prior to the motion to table. This has been cleared with Senator KERREY.

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

Mr. SHELBY. Mr. President, CBO has told staff from both sides of the aisle, Republicans and Democrats, that the scoring of this amendment is the same as the scoring of the Ganske bill in the House, and they will be providing a written confirmation on this scoring to both of our staffs immediately. It could be imminent. We will present it and insert it into the RECORD as soon as we get it from CBO. It is going to be the same thing. CBO says to us that it is going to cost \$85 million and it violates the Budget Act.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts, Mr. KENNEDY, is recognized.

Mr. KENNEDY. Mr. President, I will just respond very briefly to two points. One is about the consideration of this amendment. I say to my friend and colleague from Kansas, Senator KASSEBAUM, with all respect, we did not have any hearings on the mental health provision that we just passed here 82 to 15, the Domenici-Wellstone amendment. We didn't have any hearings in our committee on that particular issue. We did not have any on the Lodine patent extension, which was added by some of our majority Members to the Kassebaum-Kennedy bill. That would have been something we should have had a good deal of hearings on. We did not have any on the Mediguide amendment that was added in the agricultural appropriations bill. Hearings would have been useful. Those affect consumer information as well. So the fact of the matter is, on this issue, it has been reviewed in detail in hearings in the House of Representatives. It is a simple concept, and there is absolutely adequate justification.

Finally, Mr. President, on the budget item—and we all have the budget items here—it is my understanding that, for 1997, 1998, 1999, 2000, and 2001, the items which are listed in the budget, that may be the potential cost, can be assumed within the range of differences and estimates within the Budget Committee. What it is not is in the year 2002. Do you know what that figure is that we are going to risk denying American consumers and patients information that is vital to their health? It is \$15 million. It is \$15 million. Do you know how the Budget Committee gets that? They say, well, when patients actually find out that there is a better treatment for their illness, what they are going to do is get the better treatment for their illness, which means that they may very well get less wages because if they increase the cost of their health insurance, they are going to get less wages. That is the estimate. That is going to be the result—\$15 million in the year 2002.

We are being asked now to allow the gag rule on doctors in this country to continue. This is a result of the pressure of the insurance company, and you are trying to tell us that this is a budget item, that this is a matter of budget process and procedure, in order to maintain the integrity of the Federal budget? It is an excuse, and it is an abuse of the budget process. It is the worst kind of abuse, because by denying this kind of information to patients, what we are doing is using the budget process as a way to provide an out for the sleaziest operators and at the same time, endangering the health of the American people. That is absolutely wrong. It was never intended in any debate or discussion of the Budget rules. This is a matter of substance.

I look forward to supporting the Wyden amendment and, again, I commend him for his leadership in bringing this extremely important measure to the Senate floor.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, first, I express my thanks to Senator KENNEDY. He has done yeoman work on so many health issues over the years. He has just been so helpful to me as a new Member of the Senate. I thank him for all of his help and that of his staff in preparing this amendment.

I think it is clear, Mr. President, that this amendment is not some sort of exotic animal that has just wandered onto the floor of the U.S. Senate to be considered, as if the Members have no awareness of what this issue is all about.

This issue has been the subject of extensive hearings in the House of Representatives. This issue has been all over the news media across the country. Suffice it to say that virtually every Member of this body has heard from constituents and from providers at home about this particular issue. I know that virtually every time I am home—I come from a part of the country which has some of the very best managed care in the Nation—that I hear from patients and consumers about this particular issue.

It really comes down to a question of whether we are going to keep faith with the Hippocratic oath of doing no harm to patients, making sure they have information about the various treatments and services that are essential to them, or to turn that Hippocratic oath on its head and in effect say the first obligations are to the bottom line.

This amendment is rifle-shot legislation. It prohibits only gag provisions in contracts that relate to patient care. It goes only to the question of whether or not patients are going to be able to get full and complete information about their physical and mental condition and about the treatment options that are available to them. It is not going to interfere with proprietary matters. It is not going to allow fishing expedi-

tions into proprietary business information that ought to be the property of the health maintenance organizations. It goes just to the question of whether patients have a right to know.

Some may say now is not the time; that maybe next session it can be taken up. I would ask that one not substitute this kind of discussion of maybe tomorrow or maybe next year for what is simple justice and common sense for medical patients in the fastest growing sector of American health care. This has not been a partisan issue. Dr. GANSKE, a Republican, a physician on the House side, has done superb work along with Congressman MARKEY, a Democrat.

I have noted that Senator HELMS has filed an amendment which is very similar to the one that I will be seeking a vote on in a few moments. But there is a question, it seems to me, of consumer justice, of the patient's right to know, and we should not ask those patients to wait any longer given the documented record of abuses and problems.

We know that our health care system involving billions and billions of dollars is now being driven by managed care. One plan after another in the U.S. Senate has looked to managed care as the centerpiece of American health care as we look into the next century.

My view is—I come from a part of the country where there are many good managed care plans—that managed care will play a big role, a significant role in delivering quality care in a cost-effective way to the patients and consumers of our country. But let us not let a small number of plans—plans that have been cutting corners and have been found to be cutting corners from hearings that have been held in the Capitol—in effect continue those consumer abuses that take a toll on patients across this country.

This is not a vote about an arcane kind of issue with respect to the budget. This is a question of justice for patients, of the patient's right to know, and of patients needing information about the various treatment options available to them.

I hope my colleagues will in the spirit that this has been addressed in the House pass this with a bipartisan and significant vote. That is the way it was tackled in the House Commerce Committee. I hope we will send a message today to the vast majority of patients, doctors, and others who offer good medical care that we are on your side, that we are going to isolate those gag rules, that we are going to say that is not what we want American health care to look like in the 21st century, and that we would vote today to ban these insidious, unconscionable gag rules that restrict the right of medical patients in our country to know about essential services.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. The yeas and nays have already been ordered, the Chair notes.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I wish to speak briefly in order to mention to the Senator from Oregon that he has talked a couple of times about the language of the Senator from North Carolina, Senator HELMS. I just visited with Senator HELMS to ask him what he thought of the provision before us. He pointed out that his language is much more narrowly drawn. It applies only to the Federal Employees Health Benefits Plan and includes some specific criteria. He has some difficulty believing that we should expand it further without understanding more of the ramifications.

I, like everyone else, have great sympathy for what Senator WYDEN has been wanting to accomplish, and what Congressman GANSKE wants to do in the House. I just have to say, however, it may not be as easily done as we would like to believe that it could be. That is all the more reason, I think, that we ought to at least have a hearing in the Senate and take the legislation through the committee.

As I said, and as Senator KENNEDY pointed out, we have considered some major legislation which has not gone through the full committee process. But, in general, those have been instances in which we have had some fairly extensive debate.

This proposal came to us without advance warning and without benefit of prior discussion in the committee or in the Senate. We are simply not prepared to look at language regarding contractual arrangements in the private sector and make wise decisions about it overnight.

I yield the floor.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, we have debated this for quite awhile today, and also, as some of you recall, fairly extensively last night.

Mr. President, this is not a Treasury appropriations issue that is before us. This debate has addressed the issue, and adopted an amendment. The amendment would cause the committee to find \$85 million in the conference to stay within our allocation. We would have to take funds from the accounts that I spoke about earlier. The bill funds law enforcement, the IRS, and other basic Government functions, such as the Secret Service, and GSA. This bill does not come close to the President's budget request. The administration would like more money in this bill for law enforcement and others, not less.

This amendment would further reduce those programs, if it were adopted, \$85 million. The Senator's amendment may be a worthy one, and probably is a worthy one, but the committee has an obligation, I believe, to fund the basic Government functions before

the committee that we have jurisdiction over, and the Wyden amendment undermines the committee's ability to do so.

I hope that the Senate will not waive the Budget Act.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, the Senator from Indiana asked me if he could speak. We are moving to a vote. He has a clarification question. I was seeking the floor to give him an opportunity to be recognized.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. COATS. Mr. President, I thank the Senator from Nebraska for yielding for the purposes of a question.

I would like to ask the sponsor of the amendment, Senator WYDEN from Oregon, a question and see if I can get a clarification. I have just been advised that the amendment that he has offered preempts current State law; our current law. Is that correct?

Mr. WYDEN. No, that is not correct. In fact, we specifically protect the rights of States to go further.

Mr. COATS. What if States decide to go a little more narrow?

Mr. WYDEN. This is in fact a national standard. Yes, we do say—because managed care plans, many of them, operate in more than one State, we have said, you bet, we have a national problem. It is a national standard. But there are a small number of States that have dealt with this in a thoughtful kind of way. We specifically protect those States.

Mr. COATS. That is my dilemma because Indiana has, in my opinion, dealt with it in a thoughtful way. In some instances, the statute that we have is broader than the amendment offered by the Senator from Oregon and therefore I would think would be acceptable. But in other instances it is narrower. In other words, it is crafted to how Indiana best sees the need to provide information to consumers to protect them.

So that I assume then the answer is that that portion of the Indiana consumer protection and consumer information statute, which does not conform to the amendment, is preempted.

Mr. WYDEN. Well, the parts that protect the patient and protect Indiana physicians, those parts are in fact protected under my amendment. But if there are parts of the Indiana statute that do not adequately protect Indiana physicians and do not adequately protect Indiana consumers, yes, there would be a Federal standard.

Mr. COATS. If the Senator will yield further, that was not directly my question. Indiana has made a determination through its legislature, through its Governor, through consultation with consumer groups, patient groups, provider groups, about the best means of providing information and protecting consumers. And so my question is, does the Senator's amendment preempt those decisions on the part of Indiana

citizens and the Indiana legislature that do not happen to conform, that would be construed by the Senator as being more narrow? In other words, they might not meet all of the Senator's criteria but they certainly meet the criteria that the people in our State believe appropriate to provide protection to patients.

Mr. WYDEN. If the Senator will let me respond, as the Senator knows—and both of us are veterans of the House Commerce Committee—not very much goes through the House Commerce Committee unanimously. Dr. GANSKE is not known as a poster child for the anti-States rights movement. This is a bill that has been worked on so as to be sensitive to the rights of States. What it does essentially is bring the same kind of consumer protections at the Federal level that we do in a number of Medicare areas. The Senator and I worked, for example, in the House on Medicare risk contracts and the like. This does say that on certain matters up to what amounts to a floor of consumer protection there ought to be a national standard. And that is how we deal with it here. That is how Dr. GANSKE dealt with it in the House.

Mr. COATS. I think I have the Senator's answer. The Senator's amendment does preempt those portions of Indiana law that do not conform with his definition of a floor or minimum standard. I believe our State has taken adequate steps to provide protections and information for consumers and therefore I will have to oppose the amendment. The Senator answered my question. I do not need to know the history of what happened in the committee or whether Mr. GANSKE is right or wrong. I am just looking out for my State of Indiana which made a determination of what is best for our consumers, and we are very happy in Indiana. I cannot support an amendment that preempts what we have done.

Mr. WYDEN. If the Senator will let me respond once more, I cannot imagine that Indiana State law allows these plans to gag Indiana doctors. I have not reviewed the Indiana law, but I just cannot believe that Indiana law does permit these kinds of gag rules. That is all we do in this legislation. If the Senator is looking for a way to vote against what physician groups and patients all across this country have been calling for, so be it. I know the Senator has done a lot of good work in health care. But I cannot believe that Indiana law is coming out in favor of these kinds of gag provisions. All we are seeking to do in this legislation is prevent them as well.

Mr. COATS. That is my last word here. I know that the Senator is very familiar with what the State of Oregon has done. The constituents of Oregon have elected him because they feel he knows what is going on in that State. It does not sound to me as if the Senator from Oregon knows what the State of Indiana has done. They elected this Senator because they know I know

what is going on in that State. So I think it is presumptuous for the Senator from Oregon to say what Indiana has done is incorrect when he does not even know what it is.

All I am saying is I want to protect Indiana's right to make a determination of what is in the best interests of their citizens, and the Senator has answered my question. He preempts that part of our law which does not conform to what he thinks is right, but obviously it has to reflect what we in Indiana think is right. So I thank the Senator for his responses.

Mrs. BOXER. Will the Senator yield to me for a question?

The PRESIDING OFFICER. The Senator from Nebraska has the floor.

Mr. KERREY. Mr. President, we have an hour of deliberation following this vote on an abortion amendment and Members on both sides that are anxious for that vote to occur have asked me to expedite it in order to be able to do other things. And so I think we have debated this. I will be pleased to allow it to go on if I have something additionally constructive, but I think people pretty well have this thing laid down.

Mr. President, I have not made a statement on this. I hope that Members actually will vote to waive in this case. We are trying to move in the direction of managed care, particularly those of us who are trying to work both sides of the aisle and get some agreement on providing incentives in Medicare to control costs, to increase choice, and allow people to purchase into managed care. The CBO does not calculate any savings that occur as a consequence of people liking managed care as a result of knowing that they are going to get all the information to purchase it and reduce taxpayer exposure as a consequence. All they do is calculate some marginal increase in costs that might occur as a result of more expensive treatments being done. They offer no savings as a result of people saying we now like managed care better because of what occurs.

This is eventually going to become law. Later on, we are going to pass an amendment with a big vote that gives Federal employees the same right. They are going to have the same right that the Senator from Oregon is now asking for all other people, especially for Medicare patients that are out there who are trying to ascertain whether or not they want to purchase into a managed care environment. So I think especially for budget reasons, CBO, with all due respect, has not calculated the increased savings that will occur as a consequence of seniors in particular saying we now have more confidence in managed care as a result of getting all the information.

The PRESIDING OFFICER. The question now is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness in the family.

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

The yeas and nays resulted—yeas 51, nays 48, as follows:

[Rollcall Vote No. 283 Leg.]

YEAS—51

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Grassley	Murray
Bradley	Harkin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Reid
Bumpers	Johnston	Robb
Byrd	Kennedy	Rockefeller
Campbell	Kerrey	Sarbanes
Conrad	Kerry	Simon
Daschle	Kohl	Smith
Dodd	Kyl	Snowe
Dorgan	Lautenberg	Specter
Exon	Leahy	Wellstone
Feingold	Levin	Wyden

NAYS—48

Abraham	Frahm	Lugar
Ashcroft	Frist	Mack
Bennett	Gorton	McCain
Bond	Gramm	McConnell
Brown	Grams	Murkowski
Burns	Gregg	Nickles
Chafee	Hatch	Pressler
Coats	Hatfield	Roth
Cochran	Heflin	Santorum
Cohen	Helms	Shelby
Coverdell	Hutchison	Simpson
Craig	Inhofe	Stevens
D'Amato	Jeffords	Thomas
DeWine	Kassebaum	Thompson
Domenici	Kempthorne	Thurmond
Faircloth	Lott	Warner

NOT VOTING—1

Pryor

The PRESIDING OFFICER. On this vote the yeas are 51, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained.

Mr. SHELBY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 5235 TO COMMITTEE

AMENDMENT ON PAGE 16, LINE 16

(Purpose: To express the sense of the Senate regarding communications between physicians and their patients)

Mrs. KASSEBAUM. Mr. President, I send to the desk an amendment to the committee amendment and ask that it be considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] proposes an amendment numbered 5235 to committee amendment on page 16, line 16.

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

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

The amendment is as follows:

At the end of the committee amendment, insert the following new section:

SEC. . PROTECTION OF PATIENT COMMUNICATIONS.

(a) FINDINGS.—Congress finds that—

(1) the health care market is dynamic, and the rapid changes seen in recent years can be expected to continue;

(2) the transformation of the health care market has promoted the development of innovative new treatments and more efficient delivery systems, but has also raised new and complex health policy challenges, touching on issues such as access, affordability, cost containment, and quality;

(3) appropriately addressing these challenges and the trade-offs they involve will require thoughtful and deliberate consideration by lawmakers, providers, consumers, and third-party payers; and

(4) the Patient Communications Protection Act of 1996 (S. 2005, 104th Congress) was first introduced in the Senate on July 31, 1996, and has not been subject to hearings or other review by the Senate or any of its committees.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Labor and Human Resources of the Senate, taking into account any relevant findings of the National Commission on Health Care Quality and other public and private entities with expertise in quality health care service delivery, should act expeditiously in the first session of the 105th Congress to schedule hearings and executive session consideration of legislation designed to ensure that patients be given access to all relevant information concerning their health care so as to permit such patients, in consultation with their physicians, to make appropriate decisions regarding their health care, and that the Senate should promptly consider that legislation.

Mrs. KASSEBAUM. Mr. President, this amendment is very brief, if I may just explain it. It expresses the sense of the Senate regarding communications between physicians and their patients. It addresses the same issue that we have just been debating. I think we have had a good and extensive debate. My concern with the amendment on which we just voted was that its provisions had not been fully considered and had not been the subject of any hearings in the Senate. We needed to approach the issue, I thought, in a more cautious way—even though there was strong support for the concept behind that amendment.

My amendment is just saying that:

It is the sense of the Senate that the Committee on Labor and Human Resources of the Senate, taking into account any relevant findings of the National Commission on Health Care Quality and other public and private entities with expertise and quality health care service delivery, should act expeditiously in the first session of the 105th Congress to schedule hearings and executive session consideration of legislation designed to ensure that patients be given access to all relevant information concerning their health care so as to permit such patients, in consultation with their physicians, to make appropriate decisions regarding their health care, and that the Senate should promptly consider that legislation.

This amendment is consistent with the intent of the legislation offered by the Senator from Oregon and the Senator from Massachusetts, but puts the

Senate on record as supporting the use of the standard and proper procedures that I think are needed to give this issue the full and careful consideration it deserves.

Since we have had, I think, a full debate, I ask for the yeas and nays and for the immediate consideration of this measure.

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

The yeas and nays were ordered.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I have not seen the sense of the Senate, offered by Senator KASSEBAUM, but I would like to discuss this further with her. I also might say that as a new Member of the Senate, she has been especially helpful to me. We have worked on a variety of things, Food and Drug Administration issues and the like. I want her to understand that it has not been particularly pleasant to spend the afternoon taking different positions with somebody I admire. I want her to understand that.

Again, I have not seen a copy of the sense of the Senate offered by the chair of the committee. She seeks to offer a study of this issue involving gag rules on medical patients; is that correct?

We have my amendment which passed 51 to 48, but did not get 60 votes, on a proposal that keeps these health maintenance plans from imposing gag rules that keep their patients from getting a full range of information about medical services and treatments and their health care options.

My amendment does not deal with the abortion issue. Perhaps some may have thought it did. It simply deals with all of those physical and mental health services and the treatment options that patients need to make decisions.

The Senate passed my amendment 51 to 48. Of course, it needed 60 votes. I gather now that the Chair of the committee seeks a study of this particular issue. I yield to her to find out whether this, in fact, is a study, or is this legislation with some teeth in it that actually does ban these gag rules, these insidious, offensive, anticonsumer gag rules that keep patients from knowing about their rights?

Mrs. KASSEBAUM. Mr. President, no, this is not another study. It is a sense-of-the-Senate resolution. So it does not have statutory authority as the language of the Senator from Oregon would have had.

However, it does not call for another study. It simply says that the Senate should take into account any relevant findings of the National Commission on Health Care Quality which President Clinton has said he would appoint and other public and private entities with expertise in this issue and in the quality of health care service delivery. We would consider the views of those entities at a hearing before the Labor and

Human Resources Committee, the committee of jurisdiction over this legislation.

I do not think another study is important so much as gaining understanding through a hearing about what facts are known and what points of view would be expressed from different aspects of the health care service delivery industry, and then acting expeditiously.

So I assume the bill of the Senator from Oregon would be the vehicle in the next Congress. Hopefully, the bill would be introduced right at the beginning of the Congress, so that there would be time to look at it. I think that the interest in this issue is indicative of the fact there is going to be a great deal of interest in legislation regarding this subject.

So I am not calling for a study. My amendment says we should act expeditiously, but we should review all of the pertinent information that is available.

Mr. WYDEN. Mr. President and colleagues, I hope that it is understood that while I think that the Chair of the committee means well and is sincere in this effort, I think that the sense of the Senate that she offers today is very risky business.

This is September of 1996. The Senator from Kansas essentially is saying September, October, November, December, January, February, as the next Senate gets into business, that sometime 6 to 8 months from now we can talk again about the rights of patients in the fastest growing sector of American health care. I think this is risky business.

It is one thing to study an issue when it is abstract, when it may not have direct and immediate consequences, but what the Senator from Kansas is saying is that when you have patients being hurt today, being subjected to risk today when they do not have access to all the information about the physical and mental health services that may be available to them when they need that information to make decisions about their treatment, the Senator from Kansas is saying they cannot have it. I know that the Senator from Kansas does not intend it that way—putting patients at risk.

It means that today in Oregon and in Kansas and all across the country where there are gag rules that keep patients from knowing of their rights, they will not be able to have that information. It is not available to them. The U.S. Senate is saying, instead of voting for legislation or allowing me to get 60 votes on my amendment, what we will do is not give those patients the rights they need, not make sure that they can know of all the physical and mental health services that they deserve, and instead tell them that sometime next year, sometime in the future, we will go on.

I think it is a mistake. It puts patients at risk. This Member of the U.S. Senate is not willing to play that kind of Russian roulette with the well-being

of patients in the fastest growing sector of American health care.

I am happy to yield to the Senator.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I suggest that we have been in the 104th Congress for 2 years. This legislation was introduced in the House some time ago. It would have been useful to us here in the U.S. Senate if this legislation had been before us prior to July 31. We would then have had time to hold committee hearings, which I think would have enabled us to make some corrections or additions or changes and to understand better the consequences of all the steps toward the goals we do support. I think it is not fair to say all of a sudden that, because a bill introduced right before the August recess has not yet been considered, that means it is something we do not care about. There was time in which the process could have moved forward, had the bill been introduced earlier.

Mr. WYDEN. Mr. President and colleagues, there is no question in my mind about the sincerity and good will of the Senator from Kansas. She, along with Senator KENNEDY, have done, I think, an especially valuable service this session with the insurance involving portability. For the first time in America, because of the work of the Senator from Kansas, we are going to make sure that workers are not going to be locked into their jobs. They are going to have a chance to enjoy the American dream because of their hard work. No one questions the sincerity and the desire of the Senator from Kansas to tackle these very real and very human kinds of problems that affect so many of our families.

I feel very strongly—and looking at the sense of the Senate, it calls for consulting public and private entities with expertise and quality health care service delivery. The fact is that the House, in hearings that were public, shown on C-SPAN and the like, did exactly that. They had extensive discussions with the very people that this sense-of-the-Senate resolution suggests we talk with.

It would be one thing if there had been no discussions with these distinguished people in the private sector. Those discussions have taken place. They have been held. That is why Dr. GANSKE, a Republican, and Congressman MARKEY, a Democrat, came together and got a unanimous vote to go forward and protect the rights of health care patients in the fastest growing part of American health care.

We have done, it seems to me, the essence of this sense-of-the-Senate resolution, No. 1.

No. 2, I think it puts patients at risk because it allows gag rules to go forward unimpeded in the months after this Congress adjourns.

I hope my colleagues and the Senate understand just how pernicious these

gag rules are. What these gag rules are all about is that a plan may say to a physician, "You are making too many referrals outside the network, outside the health maintenance plan." The plan may say, "I do not want to have a referral to an ophthalmologist or a cardiologist or another specialist." These are very anticonsumer provisions that are becoming a part of American health care. They have been documented. They are a matter of public record. I just think it is very risky business to say that instead of protecting the rights of the patients, instead of protecting the rights of the consumer, what we will do is study it a bit and talk to some of the same people that we already talked to, rather than protecting those rights of the patients.

So this Senator believes that we should not have another study, should not have yet another analysis. If I could just briefly engage the chair of the committee, Senator KASSEBAUM, who I know is having some discussions on several matters. But I wanted to see if it might be possible to have the distinguished chair of the committee lay aside her sense-of-the-Senate resolution at this time, and perhaps we can have some more discussion toward seeing if, on a bipartisan basis, we can come up with some piece of legislation that has some teeth in it before we conclude with this bill, and that we recognize that a majority of Senators voted to put some real teeth into this issue. It wasn't 60; it was 51. But a majority of Senators said that they didn't think these gag clauses were in the interest of American patients. They said this was anticonsumer. I would like to see—like we have done with FDA and other matters—whether the distinguished chair of the committee and I could work a bit further on this between now and the end of the day and perhaps come back to the Senate with a bipartisan proposal that really would provide a measure of relief to patients at this time.

Now, to do that, the Senator from Kansas would have to lay aside her sense-of-the-Senate proposal. I just ask if she would be willing to do that at this point, and during the interim, I ask that she and I and Senator KENNEDY and our respective staffs, on a bipartisan basis, see if we can come up with a bipartisan proposal that would really have teeth in it and protect the rights of the patients.

I yield to the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I have no objection to setting aside the underlying committee amendment, if that is the wish of the Senator. I thought, actually, we could voice vote the sense of the Senate. There are many other amendments that will require lengthy debate. If we want to set aside the entire amendment, that is fine. I am happy to do so, so the debate can proceed on other amendments.

Mr. WYDEN. If I might say further, I was asking the chair of the committee to lay aside, for the moment, her sense-

of-the-Senate resolution so that, hopefully, the next time this comes up in the Senate—hopefully, later today—we would have a bipartisan proposal that would have some real teeth in it that would protect the rights of patients. Is that acceptable to the chair of the committee?

Mrs. KASSEBAUM. Mr. President, no. As I stated, I am happy to lay aside the underlying amendment. Otherwise, my sense of the Senate is open to being amended. I feel that would not be a good position in which to be placed at this point. I am happy to do so and proceed with other amendments to the bill and see what we can work out. That is the position I take.

Mr. WYDEN. Reluctantly, I will have to oppose the sense-of-the-Senate resolution. I want to take a few more minutes to tell the Senate why I am going to oppose the sense-of-the-Senate resolution.

You pass the sense-of-the-Senate resolution and you are playing Russian roulette with consumers in our health care system. We have patients and consumers who are being denied the information they need with respect to medical services for their physical and mental problems and the treatment options that are available to them. You pass this sense-of-the-Senate resolution and what you say to those patients, in the fastest growing sector of American health care, is, "We are not on your side. We don't want you to have any rights now. We are not going to do anything about these pernicious, offensive gag rules that exist today. Instead, what we will do is go out and talk to a whole bunch of the same people that the U.S. Congress has already talked to."

I think that is unfortunate. I think it is risky business. I think that when you have patients who are in jeopardy—and make no mistake about it, that is what happens when you have these gag rules. These patients are in jeopardy. They are not being told what they need to know as it relates to essential health services and the information they need.

I will tell you, I am just absolutely baffled at how the U.S. Senate can say, at a time when patients hunger for information about health care services, at a time when they want to get it on the Internet, at a time when they can go to special programs offered by health care providers, just to know about new treatments and options, I can't understand how the U.S. Senate would then say that we are going to stiff those patients, we are not going to give them the information they need, we are not going to tell them what they need to know to make the essential decisions about the treatment and the services that they think are best for them.

So I think that this sense-of-the-Senate resolution puts patients at risk. It means that we are not going to get any help for patients who need it now, who can't wait 6, 8, 10 months, or whenever

it might be until the Senate might take this up again. It is not completely clear to me what the timetable of this might possibly be. But I think that this sense-of-the-Senate resolution puts patients at risk. I think it jeopardizes the well-being of vulnerable people. I think it is the antithesis of sensible health care policy, which ought to be built on the patient's right to know—the right to know everything, not just those things that might be in a planned financial interest. I just can't believe that this Senate wants to wrap up the discussion of this topic by telling patients that we are going to be on the side of the gag rules, we are going to be on the side of those who want to keep you from having information. But that is what this sense-of-the-Senate resolution does.

Unfortunately, it says we won't protect patients now. We are not going to stand up for them when they face these gag rules that limit their right to know. I want it understood that this Senator is going to oppose this sense-of-the-Senate resolution, because it puts patients at risk. It sends the message—and perhaps some may desire to do this—that the U.S. Senate is doing something to help patients when, in fact, it is not. The earlier amendment, the amendment that banned these gag clauses, helped patients. It helped them now, because it made sure that they could have access to all the information they need to make informed and thoughtful choices.

I can tell my colleagues that I come from a part of the country that has managed care, that has had managed care perhaps longer than any other. We pioneered it. We have good managed care. We still have some of these abuses. But I can assure you that your communities and your States have a whole lot more of these problems than we do.

I think it is going to be very, very hard to go home and explain to patients, explain to doctors—because doctors have endorsed this effort to eliminate the gag rules—how it is in the public interest. I cannot possibly believe that you can stand up at a community meeting of physicians, patients, or citizens and say we are not going to give you the information you need about medical services and medical treatments. But instead of giving you the information that you need we are going to have a gag rule, and you can't find out about your rights.

Mrs. BOXER. Will the Senator yield to me for a question?

Mr. WYDEN. I will, and I want to yield to Senator KERREY who has been helping me for the better part of 24 hours.

Mrs. BOXER. I will be very brief. I wonder if the Senator knows that before he happily came to this body we made an incredible contribution to the whole country when we passed a Sense of the Senate on this subject. That happened to be a Boxer amendment that was endorsed by Senator KENNEDY

which put the Senate on record as saying that patients have a right to know the treatment options that are available to them. It was very straight forward. Unfortunately, what happened as a result of some of the games that are played around here is that Sense of the Senate was dropped from the conference after everybody voted for it.

I think the time has come to do what the Senator from Oregon has suggested, and I think the fact that the Senator from Oregon got 51 votes shows that the Senate is ready to move forward on his amendment and not study this to death. Because frankly, if you study this to death people are going to die. We heard stories in California where people did not know their treatment options, and tragedies flowed from that.

I want to underscore what the Senator is saying. I say to my friend from Oregon that I am glad that he is being tough on this. I think there are a lot of people around here that want to vote for meaningless things so they can go home and say, "Yes, I didn't vote for the Wyden amendment but I voted for the sense of the Senate." And I think what the Senator is doing by being, I would say, very strong although very respectful and very aware of the way he has presented. He is saying that the time for these meaningless studies has come and gone, and we need to get to the business of saving lives.

I wanted to thank the Senator. I again repeat my question: Was the Senator aware that we did go on record several months ago on this issue?

Mr. WYDEN. I very much appreciate the Senator from California making me aware of this. I was not. It just seems to me, as the Senator has indicated, that it is time to act. Before I came to the Congress and served in the House where we served together, I was head of a senior citizens group, a great panel. I had not run for public office before. I had never been involved in public office. When we started that senior citizens group we said we are going to focus on the good ideas that help people. We do not care whether they are Democrat. We do not care whether they are Republican. We are just going to focus on the ideas that help people. I think that is what Dr. GANSKE did when he took this up in the House, a Republican physician, who said that what we need to do is help people. We certainly are not helping people by having these gag rules that keep people from knowing about their rights much.

So the House, as we have discussed, and in the committee on a unanimous basis, said we are going to stand up for the patients, we are going to stand up for the providers, the vast majority of doctors who are honest and ethical, and want to tell their patients about their rights. And it made great bipartisan progress.

That is what I want to do here. I know the Senator from Nebraska has been trying to help me for the better part of 24 hours. I want to yield to him.

Mr. KERREY. Mr. President, I wanted to ask the Senator from Oregon if he would be willing to allow the underlying amendment to be set aside so we can proceed to the next item of business under the unanimous consent agreement and come back to the amendment. We have an hour agreement for the next amendment, and we can come back to it.

Mr. WYDEN. The Senator from Nebraska has been very helpful. I appreciate it. That is acceptable to me.

Mr. SHELBY. Parliamentary inquiry. We set aside the committee amendment, and then the Kassebaum amendment which is the second degree, then we go under the UC to the pending committee amendment, as I understand it. Is it the committee amendment, and then the Kassebaum amendment in the second degree. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. SHELBY. If we set aside the committee amendment and the Kassebaum second degree, at the end of the hour of debate, which we have already gotten a UC on, we would automatically come back to the committee amendment and the Kassebaum amendment. Is that correct?

The PRESIDING OFFICER. That is correct. Once the next committee amendment is disposed of, then we would return to the underlying committee amendment which also has the Kassebaum amendment on it.

Mr. SHELBY. I ask unanimous consent to set aside the committee amendment and the second-degree amendment to it, the Kassebaum amendment, so we can go forward.

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

EXCEPTED COMMITTEE AMENDMENT BEGINNING ON PAGE 80, LINE 20 THROUGH PAGE 81, LINE 4

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The bill clerk read as follows:

Beginning on page 80, strike line 20 through page 81, line 4.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Who yields time?

Mrs. BOXER. I wonder if we could hear what the unanimous consent exactly was.

The PRESIDING OFFICER. The unanimous-consent agreement would be to set aside the underlying committee amendment, which is the second committee amendment which also contains the Kassebaum second-degree amendment. We would then go to the third committee amendment. With that amendment, 30 minutes are under the control of the Senator from California, and 30 minutes under the control of the Senator from Oklahoma at which time the motion to table would be in order.

Mrs. BOXER. Mr. President, I think it would be appropriate for the oppos-

ing side, the side that wishes to strike the committee language, to go first. Clearly the Senator from California and the Senator from Nebraska are very pleased with the action of the committee and support the committee. I think it is most appropriate for those wishing to strike the committee language to proceed at this time. Then we can respond.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, I yield myself such time as I need.

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

Mr. DEWINE. Mr. President, let me first say that this very same issue was debated by this body last year in our consideration of the Treasury-Postal Service appropriations bill.

Mr. President, at that time this body voted 50 to 44 to accept the very language that the amendment before us asked us to strike. So this Senate has already voted in this same context to restrict Federal funds for abortion, specifically to restrict the use of Federal funds for abortion coverage of the Federal health care plans to cases of rape, incest, or the life of the mother.

Mr. President, I wanted that noted out front so that we all realize that we are not covering any new ground. This is something that should not take, frankly, very much of the Senate's time.

Mr. President, the issue of abortion is an important matter of conscience to millions of Americans. We tried to promote our views in the democratic arena. We seek to embody these views in our Nation's laws. As someone who is pro-life I worked, obviously, to promote the value of and protect the innocent human life. But, Mr. President, the discussion of this amendment is much more narrow. The discussion of this amendment does not need to reach that moral level of debate. The key question in regard to this amendment that we have to answer simply is this: Should taxpayers pay for these abortions?

Again, I emphasize the Senate spoke last year by a vote of 50 to 44 and said no.

I believe that we should not ask the taxpayers to promote a policy of abortion on demand. This amendment that I am going to move to table after we conclude our debate would strike the House language on this subject and would change current law. Our position, my position is to retain current law, to retain what the Senate did last year by a vote of 50 to 44, and to retain the current House language. I believe we should retain this language that permits Federal employee health plans to cover abortion only in the cases of rape, incest, and threats to the life of the mother. In essence, this is a Hyde amendment-type debate.

The vast majority of Americans, 69 percent, in a 1992 ABC-Washington Post poll said they opposed taxpayer

funding for abortions for low-income individuals.

If that many people oppose subsidizing abortions for poor people, I think there would be even more opposition to subsidizing abortions for higher income Government workers. The reality is that in every single poll I have ever seen done, the vast majority of Americans, whatever their position on the issue of abortion, say no taxpayers funding.

We should make no mistake about it. This is a taxpayers subsidy. In 1995, the Federal Government paid an average of 74 percent of the cost of a Federal employee's health premium. That is taxpayer money. I suggest it is wrong. I think we should leave the taxpayers out of the whole debate and out of the whole issue. Therefore, I believe we should support the House language, that we should support current law, and that would mean tabling this amendment.

In summary, then, this matter has been debated time and time again on this floor. The issue is a narrow one, a very narrow one, and it is simply this: Should taxpayers' dollars, all taxpayers in this country, be taken by the Federal Government and used to subsidize and fund abortions? Current law says no. Current law limits abortion availability in Federal employee health care plans to cases of rape, incest, and to save the life of the mother. That is current law. That is what the Senate voted for last year. That is the House position, as well.

I might add that when we went through this debate last year, ultimately the House acquiesced in the Senate's three exceptions. These were our exceptions from the Senate. They acquiesced, and that is where we are today. My motion to table would simply restore current law.

At this point, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. I yield myself 7 minutes.

The issue as presented by my friend and colleague from Ohio is quite different, in my view, from the way he put it forward to the American people. To me, the question is clear: Should women Federal employees or their dependents be treated the same as other women in the work force or should they be singled out, punished, have their rights taken away from them and be treated differently?

We get into a lot of debate in the Senate on very important issues. None could be more important than this, regardless of the way you view the issue on abortion. And we know in the Republican platform, the platform committee adopted a platform which would criminalize abortion, urging adoption of a constitutional amendment which would deny women the right to choose

even in matters of rape or incest, and we know that many here who speak out on this issue and that is really their whole desire.

The fact is, abortion is legal in this great land.

My friend and colleague says we are trying to stop abortion on demand. There is no such thing as abortion on demand in this country. There is a Supreme Court case called *Roe versus Wade*. Yes, a woman has the right to make this personal, private decision without a U.S. Senator telling her what to do in the first 3 months of her pregnancy. She has the right to make that decision with her doctor and her God without the Senator from Ohio or another State who holds an opposite view essentially saying, no, we do not think that is right.

She can make that choice under *Roe versus Wade*. After that, the State has an interest, and rules apply to that abortion. So there is no such thing as abortion on demand.

The bottom line is, this is a tough, personal, private matter, and I really think it is about time we trusted women to make that choice. Why should we say that a woman who happens to work for the Federal Government or her dependents should not have this right?

My friend says we disposed of this matter on a vote before. Yes, we did. As a matter of fact, in 1993, in this Senate, before my friend got here, we restored the rights of women in the Federal Government to be treated equally. I really do not think women are asking for much here other than to have equal treatment, to be respected for the choices that they make, and, unfortunately, what this amendment will do by disagreeing with the committee of the Senate is to tell a woman who happens to work for her Government, she cannot use her own insurance to exercise a perfectly legal right.

My friends in the Senate, I have to say, if there was an amendment to stop a man who happens to work in the Federal Government from getting a perfectly legal medical procedure, one that might protect his health, there would be an uproar around here. They would say, how could you do that to the men of this country? Why not treat the men who work for the Federal Government the same way we treat men who work in the private sector?

The answer, in this particular case, with this particular amendment, is you cannot win your point with the American people. You do not have the votes in this country to put Government in the middle of this personal, private decision. And so what do you do? Every chance you get, I say to my colleagues on the other side of this issue, you chip away and you chip away and you chip away at the right of women to choose.

If you are a woman today, what this Congress has done in its extremism, I say, is to tell a woman who is willing to die for her country by serving in the military that she cannot go to a hos-

pital, a military hospital, and have a safe and legal abortion which could potentially save her life—that right has been taken away. This Congress has been chipping away at a woman's right to choose.

I am so proud of this committee which took a stand against the extremism of the House of Representatives and restored the rights of women who are Federal employees to use their own insurance for which they pay a percentage, to exercise a perfectly legal right.

Mr. President, I should like to reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I yield myself 1 minute.

Let me just briefly respond. This is not an issue of equal treatment. This is not an issue of that at all. It does not tell anyone what to do. I think we need to keep our eye on the ball and discuss not the whole issue of abortion here today. I think it is important we discuss what is in front of us. What is in front of us is a very narrow issue, and that simply is, are we going to use Federal tax dollars to subsidize, pay for abortions?

The vast majority of the American people say, no, we see absolutely no reason to do this. On an issue as contentious as this is and where there are good people on both sides of the battle, why in the world we would say, this Congress would say we are going to take Federal tax dollars to subsidize abortions makes absolutely no sense.

Let me at this point yield to my colleague from Indiana 10 minutes.

Mr. COATS. Less than that, 5 minutes.

Mr. DEWINE. I yield 5 minutes.

The PRESIDING OFFICER. The Senator from Indiana is recognized for up to 5 minutes.

Mr. COATS. Mr. President, the Senator from Ohio essentially made the points I was going to make in response to the Senator from California, who I think has mischaracterized the issue before us. The issue before us has nothing to do with a woman's right to have an abortion. It has nothing to do with an amendment that, in her words, denies the choice of women, takes away a woman's right to choose. It is not an amendment to stop anyone from getting a perfectly legal procedure accomplished. So I think it is important for our colleagues to understand what the amendment does and what it does not do.

This is not a debate on whether or not a woman has a right to an abortion. I have suggested for a number of years, ever since I have been in the Senate, that we ought to have that debate. We have had that debate on occasion. But this is not the debate we are having today. The debate we are having today is on the amendment offered by the Senator from Ohio, which simply restores to the Senate bill the language that was incorporated in the

House, that says, except in the cases where the life of the mother is in jeopardy or in cases of rape or incest, the taxpayer will not be asked to fund abortions chosen by a woman under the Federal Employees Health Benefits plan.

There are a number of perfectly legal procedures, medical procedures, that are not covered by the health insurance plan. Not every health insurance plan covers every procedure. I do not know what percent of private insurance policies cover the cost of abortion, but that is not an issue either. The question is whether or not the Federal Employees Health Benefits plan, which every Federal employee participates in, will cover abortion. There are, as I said, a number of procedures that are not covered. That is a matter of determination by the organization that provides the insurance. We have the ability to select from a number of different insurance plans. But the issue is whether or not the taxpayer will be asked to pay for it.

This is not just another medical procedure. This is a procedure that is extraordinarily controversial, where American opinion is divided, where taxpayers, for religious reasons, moral conscience reasons, and other reasons feel they should not have to use their tax dollars to pay for something they believe fundamentally violates their religious beliefs, their moral convictions.

This is a debate we have had now for 20 years, and pretty consistently over the last 20 years, with a couple of exceptions, the Congress, whether it has been a Democrat-controlled Congress or a Republican-controlled Congress, has pretty consistently supported the proposition that taxpayers should not be coerced into paying for a procedure which many of them feel violates some of their most deeply held beliefs. That has been, as I said, supported by both Democrats and Republicans. Democrats controlled the House throughout the decade of the 1980's and the early 1990's, and the Hyde amendment, which is essentially what the Senator from Ohio was offering, was supported by both parties. It has been supported here in the U.S. Senate. It says that, except in those instances of rape, incest, and protecting the life of the mother, we will not ask the taxpayer to pay for it.

Since the Federal Government subsidizes our insurance costs—up to about 74 percent, I think is the latest figure—clearly, the cost of an abortion would be subsidized and paid for, at least three-fourths of it would be subsidized and paid for, by the Federal taxpayer. That is why the amendment is being offered.

So I think it is important we focus on the amendment that is here. We can reserve time—I am sure both sides would be willing to accommodate it at some point—to discuss the larger issue of abortion: the meaning of life, when life begins, what restrictions if any

should be placed on abortions, the whole idea of Roe versus Wade, the Supreme Court decision. Those are all issues that are legitimate issues but have nothing to do with this amendment.

So let us make sure that we focus on what the amendment seeks to do and what the amendment does not seek to do. I have more I can say in this regard, but I think in the interests of time here, since my 5 minutes is up, I will cease at this point and then we will talk about it, but let us keep the discussion focused on what the amendment is all about.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I will take 1 minute and then I will yield 5 minutes to one of the leaders on this issue, Senator MIKULSKI. Let me just respond briefly.

To hear Senators say this has nothing to do with a woman's right to choose, makes me think sometime that we are in never-never land around here. Of course it has something to do with a woman's right to choose. You are telling more than a million women, more than 1 million women, who happen to work for the Federal Government or rely on the FEHBP for health insurance that they should be treated differently when it comes to their right to choose. They work hard. They ought to be trusted. So, it is all fine to stand here and say it is being mischaracterized, it has nothing to do with the right to choose, but if you are a Federal employee and, let us say, you earn \$20,000 a year and you pay for a percentage of your health insurance and you cannot get an abortion with that health insurance, even if your doctor says you might be paralyzed for life—because there is no exception for that—I assure you we are talking reality. We are not talking something that does not really exist. This is a real threat to a woman's right to choose if she is a Federal employee.

Mr. COATS. Will the Senator yield on that point for a question?

Mrs. BOXER. I cannot yield on my time, but if you use your time I will be glad to, because I do not have enough time.

Mr. DEWINE. I yield my colleague 1 minute.

Mr. COATS. I understand. We will use our time. I would like to ask a question.

The Senator from California said we are denying women who work for the Federal Government the same rights that all other women have.

Are you saying that every insurance policy in America has coverage for abortion and therefore every other woman in America has the right to have an abortion paid for under her insurance policy? Or, are there different policies, some that offer it, some that do not offer it?

Mrs. BOXER. The vast majority of plans do offer abortion, and in the private sector most women have the opportunity to find a plan that would, in

fact, cover that if they so chose. Whereas in this particular amendment we are saying no one, no one who works for the Federal Government, through the Federal Employees Health Benefits plan, can get such a policy. We are restricting the freedom of the women who work for the Federal Government.

Mr. COATS. We checked with Planned Parenthood and asked them that question. They disagreed with what you just said. They said there is no way, they do not have specific information about the availability of abortion coverage, how many insurance policies cover it, how many do not.

The point is, it is not an accurate statement to say we are denying women who work for the Federal Government the opportunity that all women have. That is not an accurate statement.

Mrs. BOXER. Maybe my friend would appreciate we know that 78 million women—

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. On my time, if I might respond, we know for sure that 78 million women in the private sector do affirmatively have this choice. So we have 78 million women that we know of who have this choice but the 1.2 million women who work for the Federal Government or are dependents of Federal employees do not have the choice and cannot have the choice if the Senators on that side of the aisle prevail.

Mr. President, I yield 5 minutes to our leader on this committee, along with Senator KERREY, Senator MIKULSKI.

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

Ms. MIKULSKI. Mr. President, I rise in very strong support of the committee amendment and in opposition to the Nickles amendment.

As a member of the Senate Appropriations Committee and a member of the Subcommittee on Treasury and Postal Services, we made very clear in the committee the dominant view in the committee is that we wanted the women of the United States of America to be able to have abortions where medically appropriate in their health insurance legislation. This bill was reported by the Senate Appropriations Committee, and it would enable Federal employees whose health insurance is provided under the Federal Employees Health Benefits plan to receive coverage for abortion services, subject to all the traditional laws of the land.

The Nickles amendment would reinstate the language from the House bill which prohibits coverage for abortion except in the case of life endangerment, rape, or incest. It would continue a ban which has prevented Federal employees from receiving the health care service which is widely, if not totally, available for private sector employees.

We think limiting it to life of the mother, rape, or incest is medically

dangerous. We believe the decision should be made by the mother, with the consulting physician, using whatever is her religious conviction to be able to proceed with something that is deemed by the physician as medically appropriate. We leave that decision to be made not on the floor of the Congress but in a doctor's office.

The 104th Congress has been a tough one to support a woman's right to choose in that most private of matters not to have a child. Bill after bill after bill after bill, we have faced votes on women's reproductive rights.

In the 104th Congress, between the House and the Senate, this Congress has voted 51 times on this issue. The 104th Congress has been unprecedented in its assault also on Federal employees—their pay, their benefits and their livelihoods. What we have with this amendment is a vote on abortion and also on the basic benefit package for Federal employees.

I represent over 280,000 Federal employees in the State of Maryland, the Social Security Administration that makes sure the checks go out on time, the National Institutes of Health that right now are doing research to ensure the saving of lives.

We want the very people who are able to do research on fertility and reproduction to be able to have access to what is medically necessary in terms of the relationship of abortion.

Federal employees have faced assault after assault in these last 2 years. They face tremendous employment insecurity, downsizing, and so on. I view this amendment as yet another assault on these public servants. It goes directly after the benefits of Federal employees.

Health insurance is part of the compensation package to which they are entitled. The cost of insurance coverage is shared by the Federal Government and by the employee. I know that the proponents of continuing the ban on abortion coverage for Federal employees say they are only trying to prevent taxpayer funding of abortion, but that is not what this debate is about. This is about prohibiting the compensation package of Federal employees from being used for a legal and sometimes vital medical service. Health insurance is part of the Federal employee's pay. The decisions related to health care should be made between the patient and the physician.

If we were to extend the logic of those who favor the ban, we might next prohibit Federal employees from using their own paychecks to pay for an abortion. No one is seriously suggesting that Federal employees ought not to have the right to do what they want with their own money. We should not be also placing unfair restrictions on the type of health insurance that Federal employees can purchase under their own Federal Employees Health Benefits plan.

Over 1.2 million women of reproductive age depend on the FEHB for their

medical care. We know that access to reproductive health services is essential to women's health. We know that restrictions that make it more difficult for women to obtain early abortions where medically appropriate increase the likelihood that women will put their health at risk by being forced to continue a high-risk pregnancy. If we continue to ban the abortion services and leave only these very narrow exemptions, these 1.2 million women of reproductive health age who depend on FEHB will not have access to abortion even when their health is seriously threatened. We are going to be replacing the informed judgment of medical practitioners with that of politicians.

Let me conclude by reiterating that decisions on abortion should be made by the woman in close consultation with her physician. Only a woman and her physician can weigh her unique circumstances and make the decision as to what is medically necessary and medically appropriate. It is wrong for Congress to try to issue a blanket prohibition.

I will vote "no" on Nickles and up on the committee amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

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

Very briefly, let me say, again, this is not a debate about abortion. This is not a debate to determine what a person can do or cannot do. That is not what is at issue here. What is at issue here is what will be covered. What is at issue is whether or not Federal tax dollars taken from all Americans, many of whom find this procedure to be abhorrent, whether or not we will involuntarily take their money to pay for abortions.

Congress has voted time and time again not to do that. The vast majority of the American people in every public opinion poll anyone has seen indicate they do not want that done. It is a very, very narrow issue.

Let me read the current law. Our position is the current law simply should be sustained:

No funds appropriated by this act shall be available to pay for an abortion or administrative expenses in connection with any health plan under the Federal Employees Health Benefits program which provides any benefits or coverage for abortions. The provision of this section shall not apply where the life of the mother will be in danger if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.

Mr. President, let me yield to my colleague from Oklahoma.

Mrs. BOXER. Will the Senator yield for a question? I will be happy to do it on my time.

Mr. DEWINE. On your time, fine.

Mrs. BOXER. My colleague keeps reiterating, as do my other colleagues on the other side, that this is about Federal funds and people oppose spending Federal funds.

Would my friend support an amendment that said that women Federal employees who do, in fact, exercise their right to choose and use their insurance could be reimbursed for the portion of the premium which they paid themselves which, in this case, is about 28 percent? Would my colleague work with me on such an approach so at least they can get reimbursed for the portion of their share of the premium?

Mr. DEWINE. I am not sure how that will function, how that will work or how to mechanically get that done. The bottom line is, in fact, you can buy riders, you can, in fact, buy separate policies.

All we are saying is, when the latest study shows 74 percent of the premiums are paid by other taxpayers, it is a legitimate issue.

Mrs. BOXER. I say thank you to my friend and take back my time. I think this points out for all the American people to see that this is not about Federal funds, because I just made a very reasonable proposal that since women pay approximately 28 percent of their premiums out of their own pocket, why not allow them to get this coverage and reimburse them for 28 percent of the cost of the procedure? My friend says he doesn't know how it would work. We figure out a lot tougher things around here.

Mr. President, I yield 5 minutes to my friend—

The PRESIDING OFFICER. The Senator from Ohio had not relinquished the floor. He responded to a question from the Senator from California.

Mrs. BOXER. I am sorry. I reserve the remainder of my time.

Mr. DEWINE. I yield to my colleague from Indiana.

Mr. COATS. Mr. President, I would like to address the question just asked by the Senator from California.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. I say to the Senator from California, who asked would we be willing to accept an amendment which would allow reimbursement for an abortion for that portion of the premium which is paid for by the Federal employee, again, I think the Senator misses the point here.

From one standpoint, she is saying these women have no other place to go, they can't get an abortion. One-fourth the premium is \$62, if it is a \$250 abortion. I have been told that is the going rate for an abortion. So are you telling me that an employee of the Federal Government who has a job, a full-time job, who is working for the Federal Government is unable to come up with \$62 in order to pay for an abortion?

Mrs. BOXER. May I respond on my friend's time? I will be brief.

Mr. COATS. I would like you to respond on my time, but you did not let me respond on your time.

Mrs. BOXER. I will tell you what I will do for my friend, I will respond on my time.

Mr. COATS. That is what you asked me to do. That is appropriate.

Mrs. BOXER. The Senator is right. I should respond to him on my own time. He is perfectly correct.

I say to my friend from Indiana, he says I miss the point. I say, those on the other side of the aisle, who are trying to deny Federal employees their equal rights, miss the point. If your argument is that taxpayers do not want their funds used, I am giving you a way out of this, in fairness. If my friend thinks \$62 is not a lot of money, let me point out to him a fact. Twenty-five percent of the Federal employees earn less than \$25,000, and 18,000 Federal employees are at or below the Federal poverty level.

I say to my friend, \$62 is a lot of money for those people. But let us face the fact, you do not even want to go that far and allow them to get that reimbursement. My question, I think, really smoked out the true attitude on the other side of the aisle. This is not about Federal taxpayers' dollars; this is about chipping away at a woman's right to choose. It is very clear. You know, at the convention in San Diego, we saw what the goal is. This is chipping away wherever you can.

I yield 5 minutes to my friend from Illinois.

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

Ms. MOSELEY-BRAUN. Thank you very much, Mr. President. I thank the Senator from California.

In spite of the fact that the majority of the American people embrace the freedom of reproductive choice, the efforts to use Government intervention as a bar to the right to choose continues. Every year that I have been in the Congress, and 9 years before that, we have had to consider whether or not female Federal employees should be able to choose a health plan that includes abortion as part of its reproductive health services.

We have not been considering whether or not these women have the right to abortion. The Supreme Court affirmed they do over 20 years ago. This issue, the one we are considering, is whether or not we should prevent their insurance from covering the procedure.

In reality, we are considering whether or not we should put barriers in the way of our own employees exercising their constitutionally protected rights. I do not—and this is a matter of public record—I do not personally favor abortion. My own religious beliefs hold life dear, and I would prefer that every potential child have a chance to be born.

I do, however, believe fundamentally in the right of every woman to make her own private decision concerning her pregnancy. I cannot fathom telling my employees, or any employee in the Federal Government, that they cannot fully exercise their constitutionally protected right to choose because Congress was playing politics with their health insurance plans.

We are debating whether or not Congress will, for yet another year, deny Federal employees a benefit available to most women who work in the private sector. It is common practice in the health insurance industry for private health care plans to cover complete reproductive services, including pregnancy, childbirth, and abortion. This is because most women want the right to choose. It is also because it is better medicine, as Senator MIKULSKI pointed out in her statement.

In addition, this motion would restrict access to earned benefits. I think this is a very important point. Federal employees pay a portion of the cost of their health care benefits. A Federal employee chooses a Federal health benefits package and then pays a monthly fee to their chosen health care plan. Employees are free to choose from some 342 plans, 178 of which would not cover abortion even if they could. The employee chooses a plan and then pays for part of it.

The balance of the premium is an earned benefit, which is compensation. It is part of their pay, their compensation. Let me repeat for those who may not understand this point. It is not a gift from the Federal Government to its employees. It is earned by those employees, including women employees.

Approximately 9 million Federal employees, their dependents, and Federal retirees depend on Federal benefits for their health insurance. This includes 1.2 million women of reproductive age who rely on the Federal Employee Health Benefits program. The restrictions that this amendment would renew would prevent 1.2 million women from receiving the full reproductive health services that their doctors might want to provide for them.

Since 1983, Mr. President, Congress has changed the rules in this area not once, not twice, but four times. We have literally been playing political ping pong with women's reproductive health. I urge my colleagues to just put this issue to rest and allow women full access to health benefits and full access to the constitutionally protected right to choose.

Most women who choose to have an abortion do not use their insurance coverage to pay for it. Most women want to keep the matter private. But even if most women do not use the benefits, there is a matter of principle that the benefits should not be denied to them. We should remove the intrusion of politics from earned Federal employee benefits and from the private health decisions of our employees. This Congress should not continue to play politics with women's lives and women's health.

In conclusion, Mr. President, I would say, as I mentioned in another debate, for those who urge smaller Government, I would point out that here is another instance in which those who tell us that the issue and the objective is smaller Government, only say so when it does not relate to people's personal

liberty and their private lives. This is yet another intrusion in the private lives and private liberties of women, in terms of the exercise of their Federally constitutionally protected rights. I suggest that this amendment ought to be denied. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DEWINE. Mr. President, I yield to my colleague from Oklahoma 5 minutes.

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

Mr. NICKLES. Mr. President, first, let me compliment my colleague from Ohio and also my colleague from Indiana for their statements. Let me kind of try to put this in perspective. Senator DEWINE raised a concern about a committee amendment. At some point he will have a motion to strike the committee amendment or to table the committee amendment.

What is he doing? What does this mean? Well, last year the House and the Senate agreed to language that said we are not going to use Federal taxpayers' money to include abortion as a fringe benefit in health care plans except in cases of rape and incest and to protect the life of the mother.

One of my colleagues mentioned, well, we should be consistent. That was the policy of the Federal Government, frankly, from 1984 to 1993, until Bill Clinton became President. He changed it. That lasted in 1994 and 1995. We changed it last year. We had a vote. We actually had a kind of unusual session. We had a Saturday session. We had three votes on it and basically ended up with the policy that the Senator from Ohio is trying to maintain.

What is that policy? That policy is the same thing that was in the House language, that being that Federal taxpayers' moneys will not be used to provide abortions for Federal employees unless necessary to protect the life of the mother or in cases of rape or incest. That was last year's policy. That is what the House is trying to maintain. That is what the Senator from Ohio and Indiana and myself are trying to maintain, to continue last year's policy.

The committee had an amendment to strike the House language. That would open it up and that would allow Federal employees to receive taxpayer subsidies to pay for abortion. We did not agree with that last year. We did not agree with it for 10 years, 1984 through 1993. Bill Clinton wanted to change it. We changed that back last year. We are trying to maintain last year's policy. We had two or three votes on it, as I mentioned, in an unusual Saturday session.

I remember my colleague from Ohio stayed here. He had a very important family meeting in Ohio, and he stayed here to vote on this because he felt that it was important. I will never forget that, because we literally are talking about, do we want abortion to be a

fringe benefit in health care plans? Some people say, well, you are attacking a woman's right to choose. We are saying, no, it should not be a standard fringe benefit.

Abortion is not another standard health procedure. It happens to be taking the life of an innocent, unborn child. Do we really want the Federal Government to subsidize that? A lot of people think, well, maybe that should be a woman's right, but we should not be subsidizing it. If this amendment does not pass, we are going to be subsidizing it. Taxpayers pay for about three-fourths of it.

So when I think of that and I think of what kind of protections we give to unborn endangered species, thousands of endangered species—we have significant protections. As a matter of fact, if you destroy their unborn, you can be subjected to prison, you can be subjected to \$50,000 fines—but not for unborn children. We are not even trying to elevate unborn children to the protected status of endangered species; but we are trying to say: Taxpayers, you should not have to subsidize the destruction of innocent, unborn human beings.

That is what the DeWine amendment or the DeWine resolution is, to strike the committee language. I believe the Senator from Ohio is exactly right. Abortion should not be a fringe benefit. It should not be included as a standard option. If Federal employees want to purchase it, they certainly can. The cost is minimal. It is \$250 or \$300.

We should not include it as a standard fringe benefit and say, look, if the Federal Government does it, why should not all health care plans in America? Not all health care plans do. A lot of health care plans do not. We should not have an item in our standard health care package for Federal employees that actually results in the destruction of an innocent human being.

I compliment my colleague from Ohio. I hope our colleagues will support that and remember how they voted last year when we had an extraordinary Saturday session and we adopted the present policy. The present policy being, again, that for Federal employees, we will not include abortion as a standard fringe benefit unless it is necessary to save the life of the mother or in cases of rape and incest.

I thank my colleague. I yield the floor.

Mrs. BOXER. Mr. President, might I say that the more I listen to this debate the more I compliment my friends, the Senator from Nebraska, Senator KERREY, and the Senator from Maryland, Senator MIKULSKI, who argued this eloquently in the committee—to treat Federal employees the same way, the way more than 75 million American women are treated in the private work force.

We hear from the Senators from Oklahoma, Ohio and Indiana saying this has nothing to do with the right to

choose, yet we hear a speech about destroying an innocent life. Let me say this is very much about the right to choose and the right of a woman to make a private personal decision with her own physician, to be able to use her insurance that she pays for, and yet when I offer to my friends to talk about a way to at least reimburse her for the portion that she pays out of her own pocket, he says no, there are excuses and reasons why we could not do that.

This is, frankly, an attack and assault on a woman's right to choose. It is aimed at Federal employees. My friends would love to aim it at every woman in America. They cannot do it. They do not have the votes to do it. So they chip away.

I yield 4 minutes to the Senator from Rhode Island, Senator CHAFEE.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Rhode Island is recognized for 4 minutes.

Mr. CHAFEE. Mr. President, I will take a few minutes to speak in favor of the committee amendment. What this committee amendment would do is allow the Federal employees health program to resume coverage for abortion services. Unfortunately, and I believe it was unfortunate, last year, Congress voted to prohibit the Federal employees health program from covering abortions for our female employees and our female dependents.

If this committee amendment were not adopted—in other words, if it were rejected—we will be responsible for continuing a lower standard of health insurance for our female employees than they could get if they worked in the private sector. In the private sector you can get this. What this says is you cannot offer this service.

Now, there is nothing that says these programs have to include coverage for abortion services. Not at all. Indeed, before that amendment last year was passed, out of the 345 health plans that are all put under the Federal Employees Health Benefits program, 345 of them—about half; 178—offered some form of abortion coverage. In other words, a woman could choose this if she wanted; if she wanted a plan that did not cover it, fine, she could choose that. But it seems to me terribly unfair for us to say, no, no, none of those programs can offer this benefit to women who might want to have it. Indeed, if they are in the private sector, they could get it.

Now, some say this is a gift of the Federal Government to these women. No, it is a benefit. It is a benefit that comes with the health package that our Federal Government offers. It is like saying that a woman could not use her private funds, her earnings, her salary, her wages from the Federal Government to obtain an abortion. Nobody is suggesting that, because the Constitution says the woman has a right to go out and buy this procedure—it is a legal procedure, a medical procedure—and the right is held up by the Supreme Court.

Mr. President, I think what is being attempted here is a very, very, unfair move against employees of the Federal Government.

Last, here is a notice that came out last year after this prohibition was passed in the Congress.

Dear Blue-Cross and Blue-Shield benefit plan member:

On November 19, 1995, public law [so and so] was enacted which limits the Federal Employees Health Benefit plans coverage of legal abortions.

And then it says to the whole of the plan that they no longer can cover that. You are out of luck. If you are in the private sector, as I said, you can get this, but you cannot get it any longer if you are a Federal employee. There are 345 plans and none of them can be permitted to offer it. I think it is very, very unfortunate, Mr. President.

I hope the attempt to defeat the amendment is not successful.

Mrs. MURRAY. Mr. President, I rise today in opposition to the motion by the Senator from Ohio, and in support of full access to reproductive health care, including abortion services, for civil servants.

Last year, as my colleagues know, this Congress denied women who are civil servants from participating in health insurance plans which cover abortion services. This overturned previous policy, which allowed these women—like millions of women employed in the private sector—access to complete reproductive health care.

Mr. President, major health insurers such as Blue Cross/Blue Shield provide this coverage for women in private sector jobs across the country. It is approved of by a majority of the American public. By denying the same options for Federal employees, we set a different standard for millions of women. Nine million Americans are covered by the Federal Health Benefits Program, and none of them should be denied access to complete reproductive health care services. It sends the message that public servants do not have the same rights as private sector workers, and that is wrong.

Civil servants are no different than any other American. They are regular people: secretaries, engineers, maintenance workers, and caseworkers. Why should they be treated any differently than other workers? They pay for their premiums and deductibles like everyone else, and they should be allowed the same options as other women in this country. Civil servants are being asked to do tougher and tougher jobs with the downsizing of our Federal government—and are stepping up to the task. They should not be required to make further sacrifices simply because they are an easy target for those in Congress who would outlaw abortions all together.

Mr. President, we have all heard the stories of women who were forced into very difficult situations as soon as this policy was enacted this year. We heard

about Susan Alexander who wanted to have the child she was carrying, but found out gross fetal deformities made her child's development "incompatible" with life, and threatened her life as well. Her doctors all recommended terminating her pregnancy for medical reasons. Unfortunately, she and her husband were shocked to find that her insurance policy no longer covered what turned out to be a very complicated and expensive procedure, performed to protect her life.

Mr. President, we know there are other women out there like Susan Alexander who have been directly affected by the decision made in this body last year. We know that to continue this policy will have a serious and tangible impact on women's health. Therefore, it is irresponsible to continue to deny women access to a full range of health care services because Congress has turned the health care choices of women into a political football.

Make no mistake about it, we are once again confronted with an attempt to deny women the rights they now hold. Women have the legal right of choice in this country, and the majority in this country support that right. This policy is micro-management of the worst kind, and it is wrong. The U.S. Congress should not be making reproductive health choices for Federal workers. Nor should it discriminate against Federal workers who choose to have an abortion.

By denying civil servants health coverage for abortion services, Congress does just that. It continues to force Federal employees and their families to purchase separate insurance to cover reproductive health services. It continues to add financial considerations to a very time-sensitive, personal decision. And, above all, it reinforces the message to civil servants that the same rules do not apply to them. Their health is subject to the political winds of Congress.

Mr. President, this is not reasonable to expect of people who are dedicated to serving the public good. I commend Senator BOXER for her vigilance and dedication on behalf of women everywhere, and thank her for her leadership in protecting the rights of civil servants. Once again, I urge my colleagues to reject this motion.

Mr. ROBB. Mr. President, I rise today to support the committee amendment which would strike House provisions prohibiting the Federal Employee Health Benefits Program from providing coverage for abortion services.

The vast majority of private health plans provide coverage for abortion services. The House bill is telling Federal employees that, because of who their employer is, they shouldn't have the ability to choose a health plan which covers this legal medical procedure.

An employee who opposes abortions can choose a health care plan which

does not cover the service, which I understand was almost half of all FEHBP plans prior to last year's prohibition. I don't believe, however, that it is appropriate for us to preclude employees who want this coverage from choosing it.

For this reason, I urge my colleagues to support the committee amendment and vote against tabling this proposal.

Ms. SNOWE. Mr. President, I rise in strong opposition to this effort to reinstate the ban on abortions in Federal employee health benefits plans. It is yet another ripple in a steady stream of attacks on women's reproductive rights and health.

This debate is painfully familiar. One year ago, the Senator from Oklahoma, Senator NICKLES, offered an amendment, which—regrettably—passed this body and changed the status-quo of health care for Federal employees and their dependents in America. It represented a giant step backward for the rights and health of women who are covered by the Federal Employees Health Benefits Plan [FEHBP]. It prohibited the FEHBP from covering abortions—except when the woman's life is in danger or in cases of rape or incest.

As the result of these restrictions, Federal employees and their dependents enrolled in FEHBP's who need abortions must pay for them out of their own pocket, except in cases of rape, incest, or to save the life of the mother. This may result in significant hardship to a woman and her family, especially because many Federal employees have incomes at or below the poverty level, which is \$12,980 for a family of three.

In fact, 25 percent of all Federal employees earn less than \$25,000—with nearly 18,000 Federal employees having incomes below or just slightly above the Federal poverty level. And while the average cost of an early abortion performed in a clinic is \$250, the cost rises to \$1,760 if performed on an out-patient basis in a hospital.

This means that some Federal employees may be forced to decide between paying for an abortion and buying food for their children or paying rent. Others may be forced to carry their unintended pregnancies to term. It is shameful that our Federal employees have such terrible options.

Denying abortion coverage to Federal employees may also endanger a woman's health. Restrictions that delay an abortion make it more likely that a woman will continue a potentially health-threatening pregnancy to term, or undergo abortion procedures later in a pregnancy when they are far more risky to a woman's health.

Just because we have the power of the purse in Congress does not mean we should have the power to penalize women in public service by denying them their reproductive freedoms or threatening their health.

There are currently 1.2 million women of reproductive age who rely on their Federal health plan for their

medical care—and that's 1.2 million American women who would be summarily stripped of their constitutionally guaranteed right to choose because they or a family member work for the Federal Government.

Federal employees should have no fewer rights than any other American worker who earns a health care benefit as part of their compensation package.

Some argue that the Federal Government has a right to dictate which medical services will be covered under the FEHBP. They argue that Federal tax dollars should not pay for abortions.

That's what some would like this debate to be about—taxpayer funding for abortion. But that's simply not the case. In fact, that argument is a red herring.

Taxpayers would not fund abortions covered by Federal health plans. Far from it. The Federal Government, like millions of private employers across the country, contributes a portion of its employee's insurance premiums, and the employee pays the rest. Thus, FEHBP coverage is not pocket money for Federal employees. It is not an allowance or a Federal handout. It is direct compensation earned by Federal employees. And I would like to note that CBO has determined that coverage of abortions—a legal medical procedure—does not add to the cost of the premium.

This anti-choice restriction on Federal employees health benefits arbitrarily and unjustifiably reduces their total compensation package. The fact is, any service not covered by their health insurance which they must pay for out-of-pocket amounts to a pay cut in their hard-earned wages. It is not for Congress to determine how those hard-earned wages should or should not be spent. Wages and benefits belong to the employees.

According to the Office of Personnel Management, which oversees the FEHBP, between 1993 and 1995, 178 of the 345 FEHB plans provided abortion coverage. Of the "Big Five" health plans offered to Federal employees, four of the five offered abortion coverage. This range of options allows employees who object to abortions to choose any one of the hundreds of Federal health plans that would not cover the procedure.

Today, 78 million women in America have abortion coverage in the private sector. Two-thirds of private fee-for-service plans provide the full range of reproductive health services, including abortions. And 70 percent of health maintenance organizations [HMO's] provide abortion coverage.

Finally, a majority of people in America believe that abortion should be safe, legal and rare. These Americans do not distinguish between women who work in the private sector and women who work for the Federal Government.

A person's ability to exercise a constitutional right should not be determined by an employer—even when the

employer is the Federal Government. What we can and must do today is ensure that we do not maintain the existing two-tiered system of rights for our citizens—one for women who work for or are insured by the Federal Government, and another for those women who work in the private sector. We must not allow such discrimination to continue. And we must stop sending a signal to our Federal employees and their female dependents that we do not value their health or their reproductive rights. I urge my colleagues to join me in voting to oppose this motion to table the committee amendment.

Mr. KERRY. Mr. President, today once again the radical right has come to this Senate floor to impose their will against the wishes of a vast majority of Americans. They have come forth again to add an amendment to the Treasury, Postal Service, and general Government appropriations bill that would limit reproductive health services for 1.2 million female Federal employees.

The Treasury-postal bill provides the funding for the Federal Employees Health Benefits Program [FEHBP], our network of insurance plans that cover approximately 9 million Federal employees and their dependents. Today, there are approximately 1.2 million women of reproductive age who rely on the FEHBP for their medical care.

Mr. President, in the United States we have a Constitution that guarantees an extensive list of freedoms upon which the Government cannot infringe. Perhaps the sponsors of this amendment do not understand the issue at hand. The Supreme Court ruled in *Roe versus Wade* that abortions are constitutional. It is completely legal for a woman who wants to have an abortion to obtain the services of a doctor who is willing to provide an abortion. Congress should not have the ability to decree to a woman that she cannot obtain an insurance policy that covers abortion, which is a fully legal procedure. This is not the role of Congress. We have no right to impose ourselves and our sense of morality in this way upon the women who work for the Federal Government.

Failing to make abortion illegal, antichoice Members of Congress are trying to make this right more difficult to exercise. Singling out abortion for exclusion from health care plans that cover other reproductive health care is harmful to women's health and discriminates against women in public service.

In 1993 and 1994, Congress voted to permit Federal employees, like workers in the private sector, to choose a health care plan that covered a full range of reproductive health services, including abortion. It is my belief that health insurance is part of an employees' earned compensation. As is common in private industry, costs for insurance coverage for Federal employees are shared by the employer and the employee. This is similar to the pri-

vate sector where approximately two-thirds of private fee-for-service plans and 70 percent of health maintenance organizations provide abortion coverage.

Despite these facts, last year Congress stripped Federal employees of this right. This year, some Members are again attempting to restrict women's access to reproductive health services. Mr. President, this is not right. It is a troublesome manifestation of the Congress' well-known plantation mentality.

Mr. President, this amendment is unjustly restrictive and discriminatory. Passage of this amendment assigns an inferior status to women working in the Federal Government. It is time to stop these attempts to chip away at a woman's legal right to choose. I urge my colleagues to vote against this amendment.

Mr. DEWINE. Mr. President, would the Chair advise Members how much time remains?

The PRESIDING OFFICER. The Senator from Ohio has 8 minutes and 18 seconds under his control, and Senator BOXER has 4 minutes under her control.

Mr. DEWINE. Mr. President, let me yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DEWINE. Mr. President, we are concluding this debate and we will shortly be voting on my motion to table the amendment.

Again, I think it is important that we keep our eye focused on the ball. We can come down here in the well of the Senate and discuss for hours the issue of abortion. That is not what this debate really is about. What this debate is about is a very narrow issue, a very narrow question, which is simply this: Should this body go against the will of the American people? The vast majority of the American people, even those who really have mixed feelings on the abortion issue, the vast majority of the American people say, no, I do not want my tax dollars being used for abortion. That is what this is because 74 percent of the premium of the Federal employee is paid for by taxpayers; roughly three-fourths of the premium is paid for by taxpayers.

This is a horribly contentious issue, an issue that divides families. It is an issue that friends do not want to talk about. It is an issue, quite frankly, that the Federal taxpayers have said time and time again that they do not want to be involved in, they do not want to fund.

We are not debating a woman's right to choose today. We are not debating that. We are not debating what a person can do. We are simply debating whether taxpayers are going to pay for this very, very, controversial procedure. That is what we really are talking about.

I yield to my colleague from Indiana.

Mr. COATS. Mr. President, just to summarize so Members know exactly

what it is we are voting on. This is not, despite what has been said, this is not an issue over whether or not a woman has the right to choose to have an abortion. We do not change any constitutional rulings. We do not change anything in that regard.

This is simply an issue as to whether the taxpayer will be forced to pay for an abortion of a Federal employee's demand for an abortion. Mr. President, 70 percent or more of the citizens of the United States, whether they are pro-life, pro-choice, or neutral on the question, have consistently stated in polls and surveys that, regardless of their position, more than 70 percent have said no in an issue that is this controversial, which violates the conscience and religious beliefs of many people, or that is simply a taxpayer issue. We do not believe the taxpayer should be forced to pay for the abortion of someone else.

This goes one step further because it limits it to just Federal employees. The Senator from Ohio wants to retain the policy that has effectively been in practice, totally, almost consistently for more than 20 years, consistently supported by both Democrats and Republicans, whether Democrats have been in control of the Congress or whether Republicans have been in control of the Congress.

So I hope my colleagues will vote to maintain the current law—the current law being that we will not force taxpayers to pay for the abortions of Federal employees. And we do allow exceptions to that rule: If the life of the mother is in jeopardy or in cases of rape or incest.

I think that is a reasonable policy, and it has been consistently supported. I hope we retain that law.

Mr. DEWINE. Mr. President, I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. Mr. President, I have 4 minutes left, is that correct?

The PRESIDING OFFICER. Yes.

Mrs. BOXER. And the other side has how much?

The PRESIDING OFFICER. They have 4 minutes 23 seconds.

Mrs. BOXER. I will yield the remainder of the time to Senator KERREY, who has really worked hard in the committee to do the right thing, to give Federal employees equal treatment with the 75 million other women that have that choice in the private sector.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, first of all, all Members have made up their minds on this issue. So it is not a question of trying to persuade anybody one way or the other. It is trying to say to the American people, those of us who intend to vote for allowing Federal employee health programs—as in this bill, their insurance money—to be used to pay for reproductive services, including legal abortions.

I have a great deal of respect for the Senator from Ohio, the Senator from

Indiana, the occupant of the chair, and others who hold a different view. But when they come and say this is about using taxpayer money to pay for abortions, really, the only way you can prevent taxpayer money from being used for abortions by Federal employees would be to actually come in and prohibit their salaries to be used in any way at all for abortion, because their salaries are paid for with taxpayer money.

If my salary is paid for with taxpayer money, if I am already provided a subsidy in my salary, what good does it do to say that they can't have health insurance programs do it? We have two-thirds of the health insurance programs in the United States and 70 percent of the HMO's in the United States already providing reproductive services, as well as legal abortions.

You are not really preventing taxpayer money from being used, not at all. If their salary is used to pay for abortion, that is taxpayer money. What you are doing is—you think that is what you are accomplishing, but you are not. What you are doing, in fact, is changing the rules and saying to women who are Federal employees that you are going to be treated differently than 70 percent of the other employees that are out in the work force.

There are 9 million Federal employees, approximately 1.2 million women of reproductive age, who rely on the Federal Employee Health Benefits program for medical coverage. Until November 19, 1995, Federal employees—like workers in the private sector—were permitted to choose a health care plan that covered a full range of reproductive health benefit services. So I say to citizens out there, who say, "gee, I think we ought to restrict use of the Federal Employee Health Benefits Program for something that I don't want to pay for," that is not what you get done. All you are saying is they can't use health care benefits; you are not saying they can't use salary, which is taxpayer money as well.

In 1993 and 1994, Congress voted to permit Federal employees to choose the health care plan that covered abortion. And from 1983 until that time, Congress prohibited the Federal Employee Health Benefits Program from covering abortion services, except in cases where the woman's life was in danger.

Mr. President, one of the problems here—especially for lower income Federal employees, of whom we have a considerable number—is if you examine what the American Medical Association has said in this case. They have indicated, and they say it with evidence to back up the claim, that restrictions such as this—that deter and delay women from making a legal choice—make it more likely that women will continue a potential health-threatening pregnancy to term or undergo abortion procedures that would endanger their health. That is what the medical community has said that has examined this.

So I hope the citizens that are listening to this argument will understand that this is really not about using taxpayer money. You would have to restrict the use of salaries in order to accomplish that objective.

The PRESIDING OFFICER. The time of the Senator has expired. All time of Senator BOXER has expired.

Who yields time?

Mr. DEWINE. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 4 minutes 22 seconds.

Mr. DEWINE. I yield myself the balance of that time. In just a moment—4 minutes, roughly—I will make a motion to table this amendment. Let me, again, walk the Members through the procedure of exactly where we are.

The DeWine-Nickles motion to table will result in the following. This is what it means. First, that the status quo will remain. The law—as previously passed by this Congress, by this Senate, by the House, and signed into law by President Clinton—will remain the same. This vote, a vote to table, is consistent with what the Senate did a little over a year ago, by a vote of 50 to 44.

Again, Mr. President, we need to focus on the narrow issue before us. It is so easy for us—because we all have strong feelings about the issue—to get engaged in a debate about a woman's right to choose, pro-life issues, and even engaged in a debate about all kinds of different things connected with the abortion issue. That's not what we are here today to debate.

We are here to debate a very narrow question: Should current law prevail, which restricts from Federal coverage, health insurance coverage of Federal employees, one procedure—the abortion procedure—and allows it only in the case of rape, incest, or to save the life of the mother? That is the issue. The issue is fundamentally, with all due respect to my colleague from Nebraska, whether or not taxpayers are going to subsidize this at the rate of 74 percent. That is really what the issue is all about.

The vast majority of the American people, time and time and time again, have said "no." The country is very divided on the abortion issue, but it is overwhelmingly against using Federal tax dollars for abortions.

Again, the motion to table will simply preserve the status quo, will reaffirm what the Senate did a year ago. Frankly, it is consistent with what the law was from 1984 to 1993. It was only changed when President Clinton took office, for 2 years, and that law then was changed. So really going back to 1984, until the current time, this motion to table is consistent with what the law has been during that period of time, with the exception of 2 years.

Mr. President, I yield back the balance of my time.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Delaware [Mr. ROTH] is necessarily absent.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent due to family illness.

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

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 284 Leg.]

YEAS—53

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

NAYS—45

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

NOT VOTING—2

Pryor Roth

So the motion to lay on the table the committee amendment beginning on page 80, line 20 through page 81, line 4 was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I make a point of order the Senate is not in order.

The PRESIDING OFFICER. The Senator is correct. The Senate will come to order.

The question recurs on the second committee amendment to which is pending amendment No. 5235, offered by Mrs. KASSEBAUM, the Senator from Kansas.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I ask unanimous consent the Senator from

Arizona be permitted to speak for 5 minutes as in morning business, and the Senator from Nebraska for 5 minutes immediately thereafter.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Arizona is recognized for 5 minutes.

Mr. GRAMM. Could we have order, Mr. President.

The PRESIDING OFFICER. The Senate will come to order so the Senator from Arizona can be heard.

The Senator from Arizona.

UNITED STATES MILITARY ACTION AGAINST IRAQ

Mr. MCCAIN. Mr. President, this morning we learned that Iraq fired a surface-to-air missile at American F-16's patrolling the no-fly zone over what has now become an imaginary Kurdish safe haven in northern Iraq. This latest challenge to the safety of American pilots and to the credibility of American security guarantees in the Persian Gulf region comes on the heels of Saddam Hussein's rejection of United States warnings not to repair his air defense systems damaged by our cruise missile strikes in southern Iraq.

The necessity of further United States military action against Iraq is now obvious. And by his actions, Saddam Hussein has made the strongest argument for a disproportionate U.S. response of considerably greater military significance than our military action last week.

Furthermore, Saddam's aggressive challenges to the United States, and his success in reasserting his control in northern Iraq as his troops and the troops of his new Kurdish allies, the KDP, completed their conquest of the region on Monday, reveal the critical importance of curbing the Clinton administration's tendencies to rhetorical inconsistency in defining its objectives, disingenuous explanations of its policy choices, and exaggerated claims of success.

Our strikes last week were in response to Iraq's conquest, in alliance with the KDP, of the Kurdish city of Irbil. But by striking targets in the south, the administration chose not a disproportionate response to Iraqi aggression, but a minimal response that was disconnected from the offense it was ostensibly intended to punish. As one administration official put it: " * * * We know that we did the right thing in terms of stopping Saddam Hussein in whatever thoughts he might have about moving south and in letting him know that when he abuses his people or threatens the region, that we will be there. * * * we really whacked him."

Evident in that statement are the three harmful administration tendencies cited above. Our stated purpose to stop Saddam's abuse of his people was quickly overridden by, in the words of another administration official, the judgment that "we should not be involved in the civil war in the

north." And while administration officials at first suggested that our strikes in southern Iraq would affect Iraq's action in the north, they now emphasize that the strikes were intended only to serve our strategic interest in restricting Saddam's ability to threaten his neighbors from the south.

It is clear now that the erosion of coalition unity, evident in Turkey and Saudi Arabia's refusal to allow United States warplanes to undertake offensive operations from bases in those countries, had a far more important influence on our choice of targets and the level of force used than administration officials have admitted.

Most importantly, the President's claims that our strikes were successful in achieving their objectives are belied by the events of this week. By what measurement can we assert that Saddam has been persuaded to treat his people humanely; that he has been compelled to abide by U.N. resolutions and the terms of the cease-fire agreement; that the containment of Iraq has been further advanced; and that the United States and our allies are strategically better off since we fired 44 cruise missiles at Iraqi air defense systems in the south?

Since those strikes, Saddam's Kurdish allies have achieved a complete victory in the north, and Saddam has regained control of an area from which he has been excluded for several years. Kurdish refugees are again flooding across the border. Saddam, in utter contempt for U.S. warnings, has begun repairing the radar sites we struck last week. He, at least temporarily, split the Desert Storm coalition. And in violation of the cease-fire agreement and U.N. Security Council resolutions, he has fired missiles at U.S. planes patrolling an internationally established no-fly zone. As successes go, this one leaves much to be desired.

Clearly, Iraq's attempted downing of American planes requires a military response from us. I have little doubt that the President will order a response. Given that Iraq's action represents a challenge not just to the United States, but to the international coalition responsible for enforcing the no-fly zone, I would expect that we will have greater cooperation from our allies than we experienced last week. Thus our ability to take the disproportionate, truly punishing action which is clearly called for under the circumstances should not be limited by the consequences of our failure to maintain coalition unity.

Decisions about the dimensions of our response are, of course, the President's to make. I pray that he will choose wisely.

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

THE COMPREHENSIVE TEST BAN TREATY

Mr. EXON. Although there are many important things the U.S. Senate is in

the process of doing right now, I want to pause for just a moment, if I might, to bring to my colleagues attention that yesterday, history was made at the U.N. General Assembly. After nearly 3 years of intense negotiations at the 61. Nation Conference on Disarmament, the world community reached an agreement on a treaty to ban nuclear weapons testing. This Comprehensive Test Ban Treaty, strongly supported by all five declared nuclear states, was overwhelmingly adopted by the U.N. General Assembly on a vote of 158 to 3 with 5 abstentions, clearing the way for world's nations—actual and potential nuclear states alike—to sign the agreement later this month.

After over 40 years of nuclear weapons testing and more than 2,000 detonations, this valuable tool in stemming nuclear weapons proliferation is finally within reach. In order for the treaty to enter into force, each of the world's 44 nations identified as possessing nuclear weapons or the research capability necessary to develop them must sign the comprehensive test ban agreement. As my colleagues are aware, India has led a high-profile campaign to prevent this from happening and frustrate the will of the world community to close the nuclear weapons Pandora's box. This temporary setback should not diminish, however, the significance of yesterday's truly historic vote. I am confident that India will see the wisdom of halting the spread of nuclear weapons and sign the Comprehensive Test Ban Treaty before too long. In the meantime, mankind can celebrate the fact that for the first time in history, the world's superpowers have agreed to end the testing of nuclear weapons forever.

Many of our allies played critical roles over the past 3 years in making passage of the Comprehensive Test Ban Treaty a reality. But I wish to take this opportunity to praise President Bill Clinton for his leadership on the issue of the Test Ban Treaty and nuclear weapons proliferation. The United States has been a world leader in halting the spread of nuclear weapons technology during the tenure of the Clinton administration. The earlier extension of the Nuclear Non-Proliferation Treaty and now the completion of the Comprehensive Test Ban Treaty are important milestones in the history of arms control, and the President deserves a great deal of credit in making it happen.

In addition to lauding President Clinton's dedication to this important aspect of our national security, I wish to praise the efforts of Secretary of State Warren Christopher, Arms Control and Disarmament Agency head John Holum, and U.S. negotiator to the conference on disarmament Stephen Ledogar.

I wish also to single out the tireless dedication of Senator MARK HATFIELD to the cause of a verifiable Comprehensive Test Ban Treaty. As my colleagues know, Senator HATFIELD will be leaving the U.S. Senate at the conclusion