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Senate

The Senate met at 9:20 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:

God of hope, You have shown us that authentic hope always is rooted in Your faithfulness in keeping Your promises. We hear Your assurance, ''Be not afraid, I am with you.'' We place our hope in Your problem-solving power, Your conflict-resolving presence, and Your anxiety-dissolving peace.

Lord, You have helped us discover the liberating power of an unreserved commitment to You. When we commit to You our lives and each of the challenges we face, we are not only released from the tension of living on our own limited resources, but a mysterious movement of Your providence begins. The company of heaven, plus people and circumstances begin to rally to our aid. Unexpected resources are released; unexplainable good things start happening. We claim the promise of Psalm 37:5,7 ''Commit your way to the Lord, trust also in Him, and He will bring it to pass.'' In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator STEVENS of Alaska, is recognized.

SCHEDULE

Mr. STEVENS. Thank you, Mr. President pro tempore. I have a message here from the majority leader.

For the information of all Senators, this morning, following remarks that I will make, the Senate will resume consideration of the reconciliation bill. At approximately 9:30 a.m. this morning the Senate will proceed to a series of back-to-back rollcall votes on or in relation to a number of amendments which were offered last evening, alternating between each side of the aisle and ending with the final passage of the Balanced Budget Act. Also, by consent, there will be 2 minutes of debate equally divided on each amendment prior to each vote. Therefore, Senators can expect a lengthy series of back-to-back rollcall votes as the Senate disposes of all amendments in order to the budget reconciliation bill.

Following final passage, the Senate is expected to proceed to consideration of S. 949, the Tax Fairness Act. As previously announced, all Members may expect busy sessions of the Senate the next couple of days as the Senate works to complete action on the budget reconciliation process prior to the Fourth of July recess.

THE RETIREMENT OF ROBERT J. OPINSKY

Mr. STEVENS. Mr. President, after a distinguished 40-year career with the U.S. Postal Service and its predecessor the Post Office Department, my good friend Robert J. Opinsky is retiring.

Bob traveled to Alaska in 1956 for a summer vacation. By the time the vacation was over, Bob was ready to become a full-time Alaskan.

He began working with the Post Office Department in Anchorage that year in 1956. By 1970, having served in almost every capacity at the Post Office, he was named Anchorage Postmaster.

When the Anchorage Division was created in 1986, Bob became Division Manager. He was the top Postal Service official in our state, responsible for the delivery and retail operations of all 209 post offices in Alaska.

There have been tremendous challenges during Bob's career, and he's met them with his characteristic quiet efficiency.

One example is how he managed to keep the mail flowing after Alaska's 1964 earthquake, which I remind the Senate measured 9.2 on the Richter scale.

Bob was foreman of delivery and collection at that time.

He worked around the clock and kept the mail moving, even though much of what we call southcentral Alaska was brought to its knees by the disaster.

As our population increased after North Slope oil was discovered and production began, Bob led a team which built and updated more than 50 post offices in a hurry to keep up with the growing number of Alaskans.

In his quiet manner, Bob made sure the task was accomplished quickly and efficiently.

Bob has also ensured that distinguished postal officials learn about Alaska.

Hosting several Postmasters General, the entire Postal Service Board of Governors and members of the Postal Rate Commission on their visits to Alaska, Bob has given them a firsthand view of the beauty of our State, and also an awareness of our unique problems.

I have traveled with Bob to postal functions all over our State: post office dedications, stamp ceremonies, or town meetings to discuss new facilities.

Everywhere we have gone together, it has been obvious how well-liked and respected Bob Opinsky is. He is an Alaskan's Alaskan, with a real can-do spirit.

While working his way up the ladder at the Post Office, Bob put himself through college. He worked hard to become the best manager in the Postal Service, and he has succeeded.

Many awards have come his way over four decades, but perhaps the recognition he most treasures is the Postmaster General Award for Executive Achievement, presented to him in 1991 by Postmaster General Tony Frank.

Bob is married to a lifelong Alaskan, the former Edith Jordet—Edie to many of our friends. They have raised three great children, William, John, and Celine.

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

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Bob's Opinsky's kindness is legendary. His knowledge of the Postal Service is absolutely incredible. His gentleness has earned him the special respect of coworkers, neighbors, and friends. His unassuming demeanor masks a true competitor—a man who works to make sure that he and his people are at the top.

Retirement may mean that Bob's golf game may get a little better, and that he and Edie may have a chance to seek some sunshine during the winter months.

Best of all for me, Mr. President, Bob is my friend. Retirement won't change that.

On behalf of all Alaskans, whose lives have been enriched through the great postal services Bob has ensured for them through the years, I commend Bob Opinsky for a job well done, and wish him well as he explores new horizons.

I thank the Chair and yield back any time I might have.

BALANCED BUDGET ACT OF 1997

The PRESIDING OFFICER (Mr. ENZI). The Senate will now resume consideration of S. 947, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 947) to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for the fiscal year 1998.

The Senate resumed the consideration of the bill.

Pending:

Harkin amendment No. 428, to reduce health care fraud, waste, and abuse

Gramm amendment No. 444, to provide waiver authority for penalties relating to failure to satisfy minimum participation rate.

Reed amendment No. 445, in the nature of a substitute.

Hutchison amendment No. 447, to modify the reductions for disproportionate share hospital payments.

Chafee/Rockefeller/Jeffords amendment No. 448, to clarify the standard benefits package and the cost-sharing requirements for the children's health initiative.

Durbin/Wellstone amendment No. 450, to provide food stamp benefits to child immigrants.

D'Amato/Harkin amendment No. 451, to improve health care quality and reduce health care costs by establishing a National Fund for Health Research.

Domenici (for Murkowski) amendment No. 455, to confirm Title IV, Energy Title, to the provisions of the bill, with respect to the use of underutilized Strategic Petroleum Reserve facilities.

Domenici (for Abraham/Levin) amendment No. 456, to extend the moratorium regarding HealthSource Saginaw until December 31, 2002.

Domenici (for Helms) amendment No. 458, to provide for inclusion of Stanly County, North Carolina in a large urban area under the Medicare program.

Domenici (for Helms) amendment No. 459, to provide for inclusion of Stanly County, North Carolina in a large urban area under the Medicare program.

Domenici (for McCain/Wyden) amendment No. 460, to provide for the continuation of certain State-wide medicaid waivers.

Domenici (for McCain) amendment No. 461, to provide for the treatment of certain Amerasian immigrants as refugees.

Domenici (for Jeffords) amendment No. 462, to require the Secretary of Health and Human Services to provide medicare beneficiaries with notice of the medicare cost-sharing assistance available under the medicaid program for specified low-income medicare beneficiaries.

Domenici (for Jeffords) amendment No. 463, to provide for the evaluation and quality assurance of the children's health insurance initiative.

Domenici (for Brownback) amendment No. 464, to establish procedures to ensure a balanced Federal budget by fiscal year 2002.

Domenici (for Allard) amendment No. 465, to expand medical savings accounts to families with uninsured children.

Domenici (for Chafee) amendment No. 466, to extend the authority of the Nuclear Regulatory Commission to collect fees through September 30, 2002.

Domenici (for Grassley) amendment No. 467, to preserve religious choice in long-term care.

Domenici (for Kyl) amendment No. 468, to allow medicare beneficiaries to enter into private contracts for services.

Domenici (for Specter) amendment No. 469, to extend premium protection for low-income medicare beneficiaries under the medicaid program.

Domenici (for Specter) amendment No. 470, to strike the limitations on DSH payments to institutions for mental diseases under the medicaid program.

Domenici (for Specter) amendment No. 471, to strike the limitations on Indirect Graduate Medical Education payments to teaching hospitals.

Domenici (for Burns) amendment No. 472, to provide that information contained in the National Directory of New Hires be deleted after 6 months.

Domenici (for Hutchinson) amendment No. 473, to clarify the number of individuals that may be treated as engaged in work for purposes of the mandatory work requirement for TANF block grants.

Domenici (for McCain) amendment No. 474, to provide for the extension and expansion of spectrum auction authority and to provide for the flexible use of electromagnetic spectrum.

Lautenberg amendment No. 475, to ensure that certain legal immigrants who become disabled are eligible for disability benefits.

Lautenberg (for Kerrey) amendment No. 476, to enhance taxpayer value in auctions conducted by the Federal Communications Commission.

Lautenberg (for Durbin) amendment No. 477, to provide food stamp benefits to child immigrants.

Lautenberg (for Rockefeller) amendment No. 478, to require balance billing protections for individuals enrolled in fee-for-service plans under the Medicare Choice program under part C of title XVIII of the Social Security Act.

Lautenberg (for Dodd) amendment No. 479, to provide for medicaid eligibility of disabled children who lose SSI benefits.

Lautenberg (for Murray) amendment No. 480, to clarify the family violence option under the temporary assistance to needy families program.

Lautenberg (for Dodd) amendment No. 481, to amend the provision with regard to transfer cases.

Lautenberg (for Levin) amendment No. 482, to allow vocational educational training to be counted as a work activity under the temporary assistance for needy families program for 24 months.

Lautenberg (for Wyden) amendment No. 483, to provide for the continuation of certain State-wide medicaid waivers.

Lautenberg (for Harkin) amendment No. 484, to make community action agencies, community development corporations and other non-profit organization eligible for welfare-to-work grants.

Lautenberg (for Feinstein) amendment No. 485, to provide that the hospital length of stay with respect to an individual shall be determined by the attending physician.

Lautenberg (for Feinstein) amendment No. 486, to provide additional funding for State emergency health services furnished to undocumented aliens.

Lautenberg (for Feinstein) amendment No. 487, to provide for the application of disproportionate share hospital-specific payment adjustments with respect to California.

Lautenberg (for Wellstone) amendment No. 488, to provide for actuarially sufficient reimbursement rates for providers.

Lautenberg (for Mikulski) amendment No. 489, to reinstate the requirements for provider payment rates.

Lautenberg (for Kennedy) amendment No. 490, to improve the provisions relating to the Higher Education Act of 1965.

Lautenberg (for Baucus) amendment No. 491, to prohibit cost-sharing for children in families with incomes that are less than 150 percent of the poverty line.

Lautenberg (for Kennedy) amendment No. 492, to ensure the provision of appropriate benefits for uninsured children with special needs.

Lautenberg (for Kennedy) amendment No. 493, to exempt severely disabled aliens from the ban on receipt of supplemental security income.

Lautenberg (for Conrad) amendment No. 494, to provide for medicaid eligibility of disabled children who lose SSI benefits.

Lautenberg (for Conrad) amendment No. 495, to establish a process to permit a nurse aide petition to have his or her name removed from the nurse aide registry under certain circumstances.

Lautenberg (for Kerrey) amendment No. 496, to strike the limitation on the coverage of abortions.

Lautenberg (for Kohl) amendment No. 497, to clarify that risk solvency standards established for managed care entities under the medicaid program shall not preempt any State standards that are more stringent.

Lautenberg (for Harkin) amendment No. 498, to allow funds provided under the welfare-to-work grant program to be used for the microloan demonstration program under the Small Business Act.

Domenici amendment No. 499, to provide SSI eligibility for disabled legal aliens.

Domenici (for Chafee/Rockefeller) amendment No. 500, to require that any benefits package offered under the block grant option for the children's health initiative includes hearing and vision services.

Domenici (for Chafee/Rockefeller) amendment No. 501, to require that nay benefits package offered under the block grant option for the children's health initiative includes hearing and vision services.

Roth (for D'Amato) amendment No. 502, to establish a Medicare anti-duplication provision.

Lautenberg (for Rockefeller) modified amendment No. 503, to extend premium protection for low-income medicare beneficiaries under the medicaid program.

Lautenberg (for Kennedy) amendment No. 504, to immediately transfer to part B certain home health benefits.

Roth (for Lott) amendment No. 505 (to amendment No. 448), to improve the children's health initiative.

Roth amendment No. 506, to make technical corrections and revisions.

Roth (for Lott) amendment No. 507 (to amendment No. 501), in the nature of a substitute.

Roth (for Lott) amendment No. 508 (to amendment No. 500), in the nature of a substitute.

Roth (for Lott) amendment No. 509 (to amendment No. 492), in the nature of a substitute.

Lautenberg (for Rockefeller) amendment No. 510, to require that any benefits package offered under the block grant option for the children's health initiative includes hearing and vision services.

Roth amendment No. 511, to provide a substitute for the children's health insurance initiatives.

Chafee amendment No. 512 (to amendment No. 511), to clarify the standard benefits package and the cost-sharing requirement for the children's health initiative.

Roth (for Lott) amendment No. 513 (to amendment No. 510), in the nature of a substitute.

Roth (for DeWine) amendment No. 427, to continue full-time-equivalent resident reimbursement for an additional one year under medicare for direct graduate medical education for residents enrolled in combined approved primary care medical residency training programs.

Motion to waive a point of order that Section 5822 of the bill violates section 313(b)(1)(A) of the Congressional Budget Act.

Motion to waive section 310(d) of the Congressional Budget Act with respect to consideration of Reed amendment No. 445, listed above.

Motion to waive section 305(b)(2) of the Congressional Budget Act with respect to consideration of D'Amato amendment No. 451, listed above.

The PRESIDING OFFICER. There will now be a series of votes on or in relation to the amendments not yet disposed of, in the order they were offered but alternating between parties.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum until the floor leader arrives.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

● Mr. STEVENS. 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. STEVENS. What is the pending business, Mr. President?

AMENDMENT NO. 428

The PRESIDING OFFICER. The question is on agreeing to the Harkin amendment No. 428.

The amendment (No. 428) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 444

Mr. STEVENS. Now what is the pending business, Mr. President?

The PRESIDING OFFICER. The Gramm amendment No. 444.

Mr. STEVENS. It is my understanding there is 1 minute on each side before it is voted upon.

The PRESIDING OFFICER. That is correct, 2 minutes equally divided.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. GRAMM. We don't need the yeas and nays.

Mr. STEVENS. I withdraw that.

Mr. GRAMM. Mr. President, I will be brief. I don't think this amendment is controversial anymore. We had a technical drafting error in the welfare bill last year where, after the conference had concluded, the staff added words that, in essence, made the work requirement discretionary with the Secretary. We were going to correct it in the welfare bill. However, Senator BOB GRAHAM raised some legitimate concerns about giving flexibility for regional recessions and for natural disasters. We have corrected that in this technical amendment. I submit it to my colleagues, and I thank the Chair.

The PRESIDING OFFICER. One minute in opposition?

Mr. GRAMM. There is no opposition that we know of.

Mr. STEVENS. 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. STEVENS. 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. STEVENS. Mr. President, I am authorized to yield back the remainder of the time on the other side and ask for adoption on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 444.

The amendment (No. 444) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 445

The PRESIDING OFFICER. The question is on the Reed amendment No. 445. There is a motion to waive the Budget Act, and there is a request for the yeas and nays. There will be 1 minute for debate to a side.

Mr. STEVENS. Mr. President, Senator DOMINICI raised a budget point of order that the Reed amendment violated the Budget Act. This Reed substitute proposes to strike the Medicare age increase, means testing, copayment and adds balanced billing provisions and eliminates the medical savings accounts. The vote will occur on that point of order, is that correct?

The PRESIDING OFFICER. On the motion to waive, that is correct.

Mr. STEVENS. Is there 1 minute on the other side?

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

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

The Senator has 1 minute.

Mr. REED. Thank you, Mr. President. My amendment is simply the Finance Committee amendment with the correction of several factors: removal of the Medicare eligibility age, striking the home health care copayment, adds provisions for balanced billing, eliminates the means-testing provisions and also eliminates the medical savings accounts. This is a vote for solvency of the system, restoring those cuts necessary to maintain the system is solvent but rejecting those issues——

Mr. DOMENICI. May we have order in the Senate?

The PRESIDING OFFICER. Can we please have conversations cease so the Senator can be heard?

Mr. DOMENICI. Mr. President, I ask his 1 minute start over again. Nobody could hear because there wasn't order.

Mr. REED. I thank the Senator for his graciousness. Mr. President, my amendment would take the Finance Committee bill with its cuts to Medicare of about $115 billion and simply remove several provisions which I think jeopardize the long-term well-being and health of the Medicare system.

These provisions are: raising the age limit to 67; striking the home health care payment; it would add my amendment, the Medicare balanced billing protection; my amendment would also eliminate the provisions that means tests Medicare; and finally, it would eliminate the medical savings account.

This amendment would allow the Senate to vote for solvency of the Medicare system but not engage in some of these experiments that are in the Finance Committee bill, experiments which I think will weaken the overall system by driving healthy seniors away from Medicare and leaving the Medicare system to deal with very sick seniors, which is not a way to run a proper insurance program.

This measure, I believe, will restore solvency and allow a more comprehensive review of the Medicare system.

The PRESIDING OFFICER. All time has expired.

Mr. DOMENICI. Mr. President, I say to my fellow Senators, I raised a budget point of order that the Reed amendment violates the Budget Act. The Reed substitute proposes to undo everything we did yesterday. It proposes to strike the Medicare age increase, means testing, copayment, adds balanced billing provisions and eliminates medical savings accounts.

I ask for the yeas and nays, and I yield back whatever time I have remaining.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the motion to waive the Budget Act with

respect to amendment No. 445. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 25, nays 75, as follows:

[Rollcall Vote No. 115 Leg.]

YEAS—25

Akaka	Ford	Mikulski
Biden	Harkin	Murray
Boxer	Hollings	Reed
Byrd	Inouye	Reid
Cleland	Johnson	Rockefeller
Daschle	Kennedy	Sarbanes
Dorgan	Lautenberg	Wellstone
Durbin	Leahy	
Feingold	Levin	

NAYS—75

Abraham	Faircloth	Lugar
Allard	Feinstein	Mack
Ashcroft	Frist	McCain
Baucus	Glenn	McConnell
Bennett	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Breaux	Grams	Nickles
Brownback	Grassley	Robb
Bryan	Gregg	Roberts
Bumpers	Hagel	Roth
Burns	Hatch	Santorum
Campbell	Helms	Sessions
Chafee	Hutchinson	Shelby
Coats	Hutchison	Smith (NH)
Cochran	Inhofe	Smith (OR)
Collins	Jeffords	Snowe
Conrad	Kempthorne	Specter
Coverdell	Kerrey	Stevens
Craig	Kerry	Thomas
D'Amato	Kohl	Thompson
DeWine	Kyl	Thurmond
Dodd	Landrieu	Torricelli
Domenici	Lieberman	Warner
Enzi	Lott	Wyden

The PRESIDING OFFICER (Mr. ALLARD). On this question, the yeas are 25, the nays are 75. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected, the point of order is sustained and the amendment falls.

Mr. LOTT. I move to reconsider the vote.

Mr. STEVENS. I move to table the motion.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I ask unanimous consent the remainder of the votes in the stacked sequence including final passage be limited to 10 minutes in length.

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

Mr. DOMENICI. Mr. President, I want the Senators to know, and I am not sure they will all come up, we have 55 amendments that have been filed with numerous second degrees. We have a list here if anybody is interested. We have a few extra copies if Senators want to know what the agenda is.

What I would like to do, I say to Senator LAUTENBERG, Senator CHAFEE is negotiating and working on amendment No. 448. I would like to set it aside temporarily and move to the Durbin food stamps benefiting immigrant children.

Mr. LAUTENBERG. We have no problem with that.

The PRESIDING OFFICER. Without objection, the amendment will be laid aside.

The Senator from New Mexico.

The PRESIDING OFFICER. Without objection, the Hutchison amendment is laid aside.

AMENDMENT NO. 450

The PRESIDING OFFICER. The question now is on amendment No. 450.

Mr. DOMENICI. Mr. President, I make a point of order that the Durbin amendment is not germane.

Mr. BREAUX. I have a unanimous consent. I ask unanimous consent Michelle Prejean, a member of my staff, be allowed floor privileges today.

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

Mr. DOMENICI. I make a point of order that the Durbin amendment No. 450 is out of order, is not germane.

Mr. DURBIN. Mr. President, I object to that.

First, I make a unanimous-consent request.

Mr. President, I ask unanimous consent that Anne Marie Murphy be allowed privileges of the floor during the debate.

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

Is the Senator from Illinois moving to waive?

Mr. DURBIN. Mr. President, I am moving to waive the provisions of the Budget Act for consideration of this amendment, and I ask for the yeas and nays after the debate on this amendment.

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

The yeas and nays were ordered.

There are 2 minutes equally divided. The Senator from Illinois.

Mr. DURBIN. Mr. President, I might say to my colleagues in the Senate this amendment seeks to right a wrong. It seeks to provide food stamp coverage for the children of legal immigrants to the United States. The welfare reform bill cut off food stamp protection for children—deserving qualified children—and really relegated over 200,000 children across the United States into a position where they do not have adequate nutrition.

It does not do our Nation a bit of good to deny these children food at a moment in their lives when it is important to their development. These kids are likely to become American citizens. They are likely to be our neighbors. They are likely to be our future workers.

Let us resolve that although we are trying to eradicate welfare as we know it, we will not take it out on the kids. The money that is used to pay for the food stamps for the children of these legal immigrants is an offset that comes from the administrative costs sent to the States. This is money that should be dedicated for the better purpose of feeding hungry, deserving children.

I ask my friends, regardless of your position on welfare reform, to make sure that we are dedicated in America to healthy children, not hungry children. I hope you will consider voting to waive the provisions of the Budget Act and approval of this amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the agreement that was put together with the President contains some food stamp changes. They have been adopted by the committees. We have never agreed on this one. In fact, it was not even brought up by the administration.

This amendment amends the welfare reform bill of last year by requiring food stamp benefits to child immigrants, paid for with State administrative moneys.

I yield remaining time on our side.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion of Senator DURBIN to waive the Budget Act for the consideration of amendment No. 450.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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

The yeas and nays resulted—yeas 48, nays 52, as follows:

[Rollcall Vote No. 116 Leg.]

YEAS—48

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

NAYS—52

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

The PRESIDING OFFICER. On this vote the yeas are 48, the nays are 52.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the amendment falls.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The question before us now is the D'Amato-Harkin amendment. There will be 2 minutes of debate, equally divided.

Mr. DOMENICI. Mr. President, will Senator D'AMATO yield for a moment?

Mr. D'AMATO. Yes.

AMENDMENT NO. 476, AS MODIFIED

Mr. DOMENICI. We would like to move to amendment No. 476, the Kerrey amendment, because we are going to accept that. We like to do that from time to time.

I yield the floor.

The PRESIDING OFFICER. Without objection, we will move to the Kerrey amendment.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. This amendment deals with FCC auctions of spectrum. They had an action about a month ago where they auctioned off spectrum for about a dollar. Some of these spectrums went for that. This amendment establishes that the FCC shall have a floor, and the suggestion was that we modify it.

I ask unanimous consent that this amendment be modified to allow the FCC to establish a floor, unless it is in the national interest not to.

The PRESIDING OFFICER. Is there any objection?

Without objection, the amendment is so modified.

The amendment (No. 476), as modified, is as follows:

At the appropriate place in the bill insert the following:

SEC. . RESERVE PRICE.

In any auction conducted or supervised by the Federal Communications Commission (hereinafter the Commission) for any license, permit or right which has value, a reasonable reserve price shall be set by the Commission for each unit in the auction, unless the Commission determines it not to be in the public interest. The reserve price shall establish a minimum bid for the unit to be auctioned. If no bid is received above the reserve price for a unit, the unit shall be retained. The Commission shall re-assess the reserve price for that unit and place the unit in the next scheduled or next appropriate auction.

Mr. DOMENICI. We have no objection. It is cleared by the Commerce Committee on both sides.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 476), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 451

Mr. DOMENICI. Now we can return to the D'Amato amendment.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President on behalf of Senator HARKIN, myself, Senators MACK, JEFFORDS, SPECTER, and ROCKEFELLER, we offer an amendment that will fulfill this Chamber's commitment, a commitment that it made on January 21 when it voted 89–0 to double the amount of funding for the National Institutes of Health to provide medical research. Everybody says we need more money for cancer research, heart research, and for Alzheimer's and diabetes. We say we are going to do it and we never do it.

This amendment says that any excessive funds that are saved, over and above that anticipated by this budget resolution, by Medicare and Medicaid, certified by the CBO, will then be utilized to meet these functions. Only after CBO has certified that there are excess savings will those savings be placed in this account.

Mr. President, that is keeping our commitment.

Mr. HARKIN. Mr. President, are there 10 seconds left?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Could we have order, please?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this amendment, I regret to say, should be defeated. It creates a new overbudget trust fund for medical research. It is based on estimates. The biggest argument against it is if we save more money in Medicare than we expect under the budget agreement, it ought to go to Medicare. It ought not go to be used in an appropriated account.

Essentially, this says, if we save more money than was agreed upon by the White House and the Congress in Medicare, the extra money goes to a trust fund for NIH. I believe it ought to stay right where it is and be used by the Finance Committee for Medicare and other purposes.

I make a point of order that the amendment is not germane.

Mr. D'AMATO. I move to waive.

The PRESIDING OFFICER. The point of order has already been made.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act in relation to the D'Amato amendment No. 451. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislation clerk proceeded to call the roll.

The yeas and nays resulted—yeas 46, nays 54, as follows:

[Rollcall Vote No. 117 Leg.]

YEAS—46

Akaka	Harkin	Murkowski
Biden	Hollings	Murray
Boxer	Inouye	Reed
Breaux	Jeffords	Reid
Cleland	Johnson	Robb
Conrad	Kennedy	Rockefeller
D'Amato	Kerry	Sarbanes
Daschle	Kohl	Specter
DeWine	Landrieu	Stevens
Dorgan	Lautenberg	Thurmond
Durbin	Leahy	Torricelli
Faircloth	Levin	Warner
Feinstein	Lieberman	Wellstone
Ford	Mack	Wyden
Graham	Moseley-Braun	
Grassley	Moynihan	

NAYS—54

Abraham	Brownback	Coats
Allard	Bryan	Cochran
Ashcroft	Bumpers	Collins
Baucus	Burns	Coverdell
Bennett	Byrd	Craig
Bingaman	Campbell	Dodd
Bond	Chafee	Domenici
Enzi	Hutchinson	Nickles
Feingold	Hutchison	Roberts
Frist	Inhofe	Roth
Glenn	Kempthorne	Santorum
Gorton	Kerrey	Sessions
Gramm	Kyl	Shelby
Grams	Lott	Smith (NH)
Gregg	Lugar	Smith (OR)
Hagel	McCain	Snowe
Hatch	McConnell	Thomas
Helms	Mikulski	Thompson

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 54. 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 and the amendment falls.

The question is on agreeing to the Murkowski amendment No. 455.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I would ask on behalf of Senator AKAKA, who wants to discuss it with us, that the Murkowski amendment be set aside and we proceed to the Abraham-Levin amendment, which will be a voice vote.

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

AMENDMENT NO. 456

The PRESIDING OFFICER. The question before the Senate now is on agreeing to the Abraham-Levin amendment No. 456.

The amendment (No. 456) was agreed to.

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

The PRESIDING OFFICER. The question now is on agreeing to the Helms amendment No. 459, 1 minute equally divided.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

The Senate will please come to order.

The Chair now recognizes the Senator from New Mexico.

Mr. DOMINICI. Could I have a quorum for just 2 minutes.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 455

Mr. DOMINICI. Mr. President, I believe we are ready to go to the Murkowski amendment No. 455, which will be accepted.

The PRESIDING OFFICER. Without objection.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. With reluctance, I ask support of this amendment, and obviously it has been done. But I want to make the point that the provision in the current bill is one that we have all committed to, and that is of having the strategic petroleum reserve and the reality that we are addressing it with the crisis on the budget. That is not the purpose. The Akaka amendment provided a purchase mechanism after 2002.

I think it is the right policy for this Nation, and we are only talking about $13 million a year. I think that is a small price to pay for energy security, but nevertheless recognizing the circumstances, why, I reluctantly ask support.

Mr. DOMENICI. We have no objection to the amendment.

Mr. MURKOWSKI. I thank Senator AKAKA for his role in encouraging the support of the strategic petroleum reserve.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

The Senate will please come to order. The Senator from Hawaii.

Mr. AKAKA. According to the Energy Committee, in the reconciliation proposal, this was supposed to be for 5 years. The committee is now recommending that it be extended to 10 years. My reason for keeping it at 5 years would be to have the other 5 years to be used for purchasing excess oil, and for that reason I am opposing this. But I am not objecting to it because Chairman MURKOWSKI is supporting this.

The PRESIDING OFFICER. The question is on agreeing to the amendment. Without objection, the amendment is agreed to.

The amendment (No. 455) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 459 WITHDRAWN

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I, in behalf of Senator HELMS, withdraw amendment No. 459.

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

The amendment (No. 459) was withdrawn.

Mr. DOMINICI. Now, I believe, according to the regular order, the Lautenberg amendment No. 475 on legal immigrants is next.

The PRESIDING OFFICER. The Senator is correct. The question before the Senate is on agreeing to the Lautenberg amendment No. 475. Time is evenly divided.

The Senator from New Mexico.

AMENDMENT NO 458

Mr. DOMENICI. Mr. President, I made a mistake. If Senator LAUTENBERG would permit me to correct it. In withdrawing the Helms amendment, I failed to then proceed to take up the amendment that he has that remains, and that is No. 458.

Could we make that in order right now?

The PRESIDING OFFICER. Without objection, amendment No. 458 is in order.

The question before the Senate is on agreeing to Helms amendment No. 458.

Mr. HELMS. Mr. President, in 1993, Stanly Memorial Hospital in Albermarle, NC, was reclassified as a rural instead of an urban hospital, resulting in a loss of $1.3 million each year in Medicare reimbursement.

Stanly County is the only county in North Carolina, and, I believe, in the Nation, that is touched by four different urban counties and two different Metropolitan Statistical Areas. SMH's primary competitors are in the adjacent large urban MSA's which include Davidson, Rowan, Cabarrus, and Union Counties.

By a purely bureaucratic decision, Stanley Memorial has been put in a position of having to compete with all of the Charlotte hospitals in recruitment of employees, managed care contracts, and doctors.

But since Stanly Memorial is not included in the Charlotte MSA, it receives 20 percent less for the very same Medicare services as delivered by competing hospitals in surrounding areas.

This amendment will correct this inequity by deeming Stanly County as part of the large urban area of Charlotte-Gastonia-Rock Hill, NC/SC.

Mr. DOMENICI. This amendment has been worked out on both sides, and it is acceptable.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 458) was agreed to.

Mr. DOMENICI. Now, under the regular order, would we return to Lautenberg 475?

The PRESIDING OFFICER. The question now before the Senate is on agreeing to the Lautenberg amendment No. 475.

Mr. DOMENICI. I need 2 minutes for a quorum to discuss this. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The Senator will suspend. The Senate will please come to order. Senators will please carry their conversations to the cloakrooms.

The Senator from New Mexico.

AMENDMENT NO. 499 WITHDRAWN

Mr. DOMENICI. Mr. President, I withdraw my amendment No. 49 regarding the subject matter of the Lautenberg amendment. It is amendment 499, excuse me. It is 49 on our list. No. 499.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 499) was withdrawn.

AMENDMENT NO. 475

Mr. DOMENICI. We have agreed to accept the Lautenberg amendment and taking it to conference. We think it is the best way to resolve this issue which is between the two Houses and the White House. We all have different versions. And we agree to accept the amendment. I yield to him now for his minute.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Chair. I thank the chairman of the committee for accepting this.

The purpose of the amendment is very simple. It is to provide fairness for people who come to this country legally, who paid their taxes in good faith and played by the rules, and then perhaps suffer from a serious disability caused by an accident or a serious illness.

Whatever the cause, they are here at our invitation, left unable to work and unable to support themselves. And so, Mr. President, the budget agreement includes a very specific provision to ensure that these people get help. Unfortunately, the bill before us provides funding for only 1 year of these benefits. I hope we will be able to hold this amendment. It is very important. I think it establishes our attitude about those who have come here at our invitation, and we say, pay your taxes, do your work, and then we want to take them out of the protection stream.

So I hope that this amendment, which will restore them personally, will take care of it.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 475) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 460

The PRESIDING OFFICER. The question is on agreeing to the McCain amendment No. 460.

Mr. DOMENICI. Could we have order?

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, this amendment allows several States to go forward with some of the most innovative work being done in health care in America—in Senator MCCAIN's State and my own, several others. This amendment is budget neutral, but in our home State of Oregon, through the Oregon Health Plan, we have been able to serve upwards of 100,000 low-income families with an innovative approach. The administration supports these efforts. It is a chance to go forward in innovative health care, a critically important issue at this time.

I hope my colleagues will support this budget-neutral measure. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Let me talk with Senator WYDEN for a minute about this. I understand from the distinguished chairman of the Finance Committee that the McCain-Wyden amendment, with reference to statewide Medicaid waivers, is in the chairman's, the

managers' amendment which will be offered and accepted. And based on that, we would ask the Senator if he would withdraw the amendment. He can leave it on the list pending the adoption of that, if he would like.

Mr. WYDEN. Mr. President, with that assurance of the chairman of the full committee, Mr. ROTH, and the chairman of the Budget Committee, Mr. DOMENICI, who have been very helpful to Mr. SMITH and myself on behalf of our State, we are very pleased with this, and with that assurance, I am pleased to withdraw the amendment at this time and look forward to voting for the managers' amendment. I yield the floor.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 460) was withdrawn.

AMENDMENT NO. 478

The PRESIDING OFFICER. The question now before the Senate is the Rockefeller amendment No. 478. Time is equally divided.

The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, pursuant to section 313 of the Congressional Budget Act, I make a point of order that section 5001, creating section 1852(a)(5)(B), section 5001 creating section 1852(k)(2), and section 5001 creating section 1854(e)(3) of the pending bill are extraneous under section 313(b)(1)(A).

The PRESIDING OFFICER. Does the Senator yield the floor? The Senator from New Mexico.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, I don't really understand where we are. We thought the Senator was calling up an amendment, No. 478, requiring balanced billing protection for individuals enrolled in fee-for-service plans. Did the Senator call that amendment up? That is the order, the regular order.

Mr. ROCKEFELLER. I am making a point of order against the bill.

The PRESIDING OFFICER. The Senator from West Virginia made two points of order. Those points cannot be made while an amendment is pending.

Mr. DOMENICI. Which amendment is pending, No. 478?

The PRESIDING OFFICER. The amendment is No. 478, Senator ROCKEFELLER's amendment.

Mr. DOMENICI. Will the Chair state the ruling again, please? It is hard to hear.

The PRESIDING OFFICER. Those points of order cannot be made while this amendment is pending.

Mr. ROCKEFELLER. I say to the distinguished Senator from New Mexico, in lieu, then, of a point of order I would like to make a point of order against the balanced billing portion of the FFS section of the bill.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I understand. Is what you are suggesting that you want to withdraw your amendment and in lieu thereof make a point of order?

Mr. ROCKEFELLER. The Senator is correct.

Mr. DOMENICI. Will the Senator call that to the attention of the Chair that that is what he would like to do?

On behalf of Senator ROCKEFELLER, I ask his amendment be withdrawn and it be in order for him to make a point of order.

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

The amendment (No. 478) was withdrawn.

Mr. DOMENICI. Now we need a clarification of what the point of order is.

The PRESIDING OFFICER. Would the Senator from West Virginia send the point of order to the desk?

Mr. ROCKEFELLER. It is on its way.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, I ask unanimous consent, and ask the distinguished Senator if he would accommodate us, that we set aside his point of order for just a moment and go to the next amendment while we work on it. The next amendment is going to be accepted.

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

AMENDMENT NO. 461

Mr. DOMENICI. The amendment we are going to is amendment No. 461, the McCain amendment.

Might we proceed to amendment 461? We have just received a unanimous consent to set this aside.

The PRESIDING OFFICER. Who yields time on the McCain amendment?

Mr. DOMENICI. I do.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this is going to be accepted. This amendment will reclassify certain Amerasian immigrants as refugees to exempt them from the restrictions on receiving benefits under the welfare reform bill. It costs about $1 million and has been accepted on both sides.

Mr. LAUTENBERG. We have no objection.

Mr. BYRD. Mr. President, we cannot hear the explanation by the distinguished manager.

The PRESIDING OFFICER. The Senator is correct. The Senate be in order.

The Senator from New Jersey?

Mr. LAUTENBERG. Mr. President, I was saying we have no objection. We ought to move on, move this along.

Mr. DOMENICI. We yield any time we have.

Mr. BYRD. Mr. President, will the distinguished Senator repeat the statement? There is so much noise and confusion that I for one could not understand what Senator DOMENICI was saying.

Mr. DOMENICI. This McCain amendment would reclassify certain Amerasian immigrants as refugees. Thus, they would be entitled to benefits of people similarly situated. The amendment costs about $1 million per year, and those on our side who handle these matters have indicated they are willing to accept it. I understand the minority is willing to accept it.

Mr. LAUTENBERG. We have no objection.

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

The amendment (No. 461) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 479

The PRESIDING OFFICER. The question occurs on the Dodd amendment, No. 479. The Senator from Connecticut.

Mr. DODD. Mr. President, I hope this amendment will be agreed to. This is an amendment I think all of our colleagues can support. I am offering it on behalf of myself and the Senator from North Dakota, Senator CONRAD. It will preserve the Medicaid coverage for some 30,000 children who, if we do nothing else, are going to lose it. These are the most severe disabled children in the country. This was a slip, more than anything else, I think, when we passed the welfare reform law last year. We learned these children might lose their Medicaid coverage as a consequence of losing their SSI. Since then there has been a broad agreement we should step in and try to preserve health care for the most needy of all children. In fact, the bipartisan budget agreement called for continued Medicaid coverage for these children. So, this amendment merely plugs that gap that we had all agreed on. It simply honors the agreement. Its cost is modest. It is about $100 million over 5 years.

I can argue if we can find $16 billion to provide insurance for kids who lack it, surely we could set aside a fraction of that to provide insurance for children who stand to lose it. That is what we are faced with. If we do not do this, these 30,000 severely disabled children would be cut off.

Mr. LAUTENBERG. Mr. President, I rise in support of this amendment to

restore Medicaid coverage for children who were removed from the SSI rolls in last year's welfare bill.

Mr. President, last year's welfare bill significantly restricted the types of disabilities that enable a child to qualify for the Supplemental Security Income Program. In some cases, the same disability that will qualify an adult for SSI now will be insufficient to quality a child. Among the children most likely to lose benefits are those who suffer from multiple problems, no one of which is severe enough to meet the more restrictive legal criteria, but the combined effect of which is substantial.

The Social Security Administration estimates that 135,000 low-income disabled children will be removed from the SSI as a result of the new law. Others put the number much higher.

In any case, since SSI eligibility is linked to Medicaid eligibility, many of these children will be terminated from the Medicaid Program, unless they qualify on other grounds. The administration believes that, in the end, about 30,000 disabled children from low income families will lose Medicaid coverage.

Mr. President, the loss of Medicaid coverage is likely to create serious problems for these families. Private insurance will be very difficult to find And even it it's available, the costs will reflect the conditions that these children have.

Compounding matters, these families also will be suffering large income losses because of the loss of their children's SSI benefits.

Mr. President, these families had low incomes even before these benefits were withdrawn. And now they are facing severe financial hardships. Allowing these to keep Medicaid coverage is the right thing to do. Otherwise, we are likely to see even more children become uninsured.

Mr. President, one of the core principles of the bipartisan budget agreement was to provide health care coverage for as many as 5 million uninsured children. And it was my understanding that the budget negotiators agreed to restore Medicaid for these roughly 30,000 SSI kids. Not as part of the $16 billion child health initiative, but as a separate, binding commitment. That is clearly the understanding of the administration, as well.

Unfortunately, Mr. President, Senator DOMENICI has a different recollection of what was agreed to, and I know he holds that view in good faith. So we have an honest disagreement.

But regardless of whose recollection is more accurate, Mr. President, I would urge my colleagues to protect these vulnerable children and their families.

Mr. President, I know that Senators on both sides of the aisle share a commitment to covering all of America's children. And so I hope that this amendment will win broad support.

Keep in mind that that these children don't just come from low-income families. They are disabled, even though they don't meet the new eligibility standards for SSI. And many of them will be become completely uninsured if we do not correct this problem.

I also want to make sure that Senators understand that this amendment would not restore any SSI benefits. All it would do is restore Medicaid coverage for these children. But that would greatly ease the hardships facing many of these families, and reduce the number of children who otherwise would join the ranks of the uninsured.

So, Mr. President, I hope my colleagues will stand with these 30,000 disabled children and their families, and will support this amendment.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first of all let me say it is the position of the committee of jurisdiction that these children are covered under the $16 billion child care provisions of the bill. Since that is the case, I first would ask the Senator if he would like to withdraw the amendment and confirm that. If not, I would make a point of order against the amendment and he would have to get 60 votes to pass it.

Mr. DODD. I realize we are running out of time. Let me, on the Senator's time—I raised this earlier, I say to the distinguished chairman of the Budget Committee. We are not convinced that is the case. I understood that was the argument made to me and that has not been confirmed. So we are running the risk here, if it is not the case. I would rather adopt the amendment. If it turns out it is OK, then we protected these children. If you do not do it, it's not part of the $16 billion, 30,000 disabled children lose their Medicaid benefits. We have to do it by law, and I would rather err on that side than err on the other side.

Mr. DOMENICI. I do greatly respect the Senator. I respect all Senators. But we really are operating on a 1-minute rule for each side. I think if we are going to speak longer we ought to get consent of the Senate to do that, and I do not address that just to Senator DODD.

We contend they are covered. I make a point of order under section 310 of the Budget Act.

Mr. DODD. I move to waive that.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act, section 310. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 49, nays 51, as follows:

[Rollcall Vote No. 118 Leg.]

YEAS—49

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

NAYS—51

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

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. May I have the attention of the Senate for just a moment?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New Mexico.

Mr. DOMENICI. Could I ask the clerk, how long have we been taking in terms of time on the rollcalls on the amendments?

The PRESIDING OFFICER. Votes are taking approximately 15 minutes.

Mr. DOMENICI. We are on 10-minute rollcall votes, I say to the Senators. The longer we take for these, the longer we go into the evening tonight. I really urge you to do your best to get here quickly so we can wrap them up in 10 minutes. I understand 10 to 11 is sufficient. I thank the Senate.

AMENDMENTS NOS. 462, 465, AND 466, WITHDRAWN

Mr. President, we can dispose of a number of amendments now. I ask unanimous consent, on behalf of Senator CHAFEE, that amendment No. 466 be withdrawn; on behalf of Senator JEFFORDS that amendment No. 462 be withdrawn.

On behalf of Senator ALLARD, are you going to withdraw your amendment, I ask the Senator?

Mr. ALLARD. Is the chairman going to make a point of order on my amendment?

Mr. DOMENICI. I have to, yes.

Mr. ALLARD. OK. I appreciate the chairman, Mr. President, giving me an

opportunity just to speak a minute or two about this amendment.

Mr. President, I would like to take this time to discuss this amendment that would give families with uninsured children the opportunity to obtain proper health coverage.

My amendment would allow families with uninsured children to deposit money in a medical savings account to use for health care services. I believe it is critical to provide lower income families with the option to establish medical savings accounts. MSA's allow consumers to pay for medical expenses through affordable tax-deductible plans that are most suited to their needs.

Americans want choice in health care. It is time for the Federal Government to listen to the American people and make medical savings accounts an available option. Medical savings accounts are a viable free-market approach to ensuring greater access to affordable health care coverage for the uninsured.

I believe our efforts need to be focused on providing uninsured children with accessible health care services. My amendment would give these families the opportunity of setting aside MSA funds, especially benefiting those who are self-employed, between jobs, or employed where health coverage is not available.

I am hopeful that in the 105th Congress, we will be able to expand the availability of medical savings accounts.

My amendment is one step to achieving the goal of decreasing the number of uninsured children by providing families with the option to receive much needed health care coverage. By making more MSA's available, we can make it easier for parents to finance their children's health care; afterall, the health of our Nation's children is at stake.

I understand the position of the chairman having to raise this point of order. I just hope that the Finance Committee takes a closer look at medical savings accounts and the problem we have with uninsured children.

With that, I will go ahead and withdraw my amendment.

Mr. DOMENICI. I thank the Senator. Have they been withdrawn?

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

Mr. DOMENICI. We are prepared to——

The PRESIDING OFFICER. If the Senator will suspend, is amendment No. 465, included in the package of amendments to be withdrawn?

Mr. DOMENICI. It is; 466, 462, and 465

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

The amendments (Nos. 462, 465 and 466) were withdrawn.

AMENDMENTS NOS. 463, 480, AND 481, EN BLOC

Mr. DOMENICI. Now we are prepared to accept, en bloc—the Senators will use a minimum of time—amendment No. 480, Senator MURRAY'S amendment; amendment No. 463, Senator JEFFORDS on child health; and 481, Senator DODD'S amendment regarding transfers.

The PRESIDING OFFICER. Is there objection to agreeing to the amendments en bloc?

Mr. DODD. Do you want to explain them or not?

Mr. DOMENICI. I would feel very good if you did not explain them. But if you want to, it would be great. We can keep the three of you to 1 minute combined.

Mr. JEFFORDS. Mr. President, I waive explanation.

Mr. DOMENICI. I ask the Senator, will you waive explanation?

Mr. BYRD. Could we have an explanation?

Mr. DOMENICI. The first amendment is amendment No. 480 offered by the Senator from Washington [Mrs. MURRAY].

Mr. BYRD. Could we have an explanation?

Mr. DOMENICI. She is going to do that right now.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Thank you, Mr. President.

Mr. President, the amendment that I am offering simply clarifies that they can waive victims of domestic violence from the Welfare Act. This was an amendment that was unanimously accepted in the fiscal year 1998 budget resolution and in the welfare reform bill.

I thank my colleague from New Mexico, Senator DOMENICI, for his work on this issue and appreciate the acceptance by the Senate.

Mr. DOMENICI. Thank you, Mr. President.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, my amendment tells Governors that they should report how well their child health development grant that we gave them—the block grant—how well it is working. That is basically what it does.

Mr. DOMENICI. And Senator DODD.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, this amendment is very important to the hospitals across the country. Under the law, the first hospital that cannot provide care would have its fees reduced if the patient is sent to a second hospital that can provide acute care. That is a good idea. What happens, however, is that patients that are moved from the first hospital to a home setting, no longer needing acute care, the fees of the first hospital are also reduced. We did not intend that to be the case. This amendment corrects that mistake. This is broadly supported by every hospital across the country.

My colleague from New York, Senator D'AMATO, is my cosponsor on this, along with Senator LEAHY. We hope it will be accepted.

The PRESIDING OFFICER. Is there objection to considering the amendments en bloc?

Without objection, it is so ordered.

The question occurs on amendments 463, 480, and 481 en bloc.

Mr. BYRD. Mr. President, may we have an explanation of the other two amendments?

Mr. DOMENICI. We have had all three explained.

Mr. BYRD. All three have been explained?

The PRESIDING OFFICER. All three amendments were explained.

Mr. DOMENICI. Senator MURRAY has a freestanding amendment. She explained it. Senator JEFFORDS' is freestanding; and Senator DODD.

The amendments (Nos. 463, 480, and 481) were agreed to en bloc.

Mr. LAUTENBERG. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 483, WITHDRAWN

Mr. DOMENICI. I have another amendment to withdraw, Senator WYDEN's, No. 483.

Mr. WYDEN. Mr. President, because of its inclusion in the managers' package, that is appropriate at this time.

The PRESIDING OFFICER. Is there objection to withdrawing the amendment?

Mr. LAUTENBERG. No objection.

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

The amendment (No. 483) was withdrawn.

Mr. DOMENICI. I wonder if we could try one other one to see if we could dispose of it before we have a debate on the Levin amendment.

Senator GRASSLEY has an amendment that I would ask, is it acceptable on the other side, long-term care? It has to do with religious choice.

Mr. LAUTENBERG. We are looking at that, Mr. President. If we can just defer for a few minutes, if it is all right with Senator GRASSLEY, and go on to some other business and come back to it.

Mr. DOMENICI. All right.

Regular order.

AMENDMENT NO. 482

The PRESIDING OFFICER. The question occurs on the Levin amendment No. 482.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, the National Governors' Association strongly supports allowing vocational education training to count toward meeting the work requirement under the welfare law. The current law allows a 12-month limit. The old requirement was 24 months. The Governors argue and the community colleges argue—and I think it is very persuasive—that being in vocational education should count toward that work requirement. There is no cost to the Treasury.

It will help people to complete a community college education and to count that toward the work requirement under the welfare bill.

Mr. JEFFORDS. Will the Senator yield?

Mr. LEVIN. I am happy to yield to the Senator from Vermont. He is a cosponsor of this amendment.

Mr. JEFFORDS. I support the amendment and have no problems with it being in our jurisdiction. Senator CHAFEE also supports it. He asked me to inform the Senate.

The PRESIDING OFFICER. Who wishes to speak in opposition to the amendment?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. I yield the time in opposition to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, we had this debate during the welfare reform bill in the last session of Congress. We said we wanted people who are on welfare to work, not to go into more education and training. There is a time for that. We allow for education and training, but at a certain point in time we are going to require people to go to work.

Now, what this amendment says is, no, you do not have to go to work; continue education and training. This is a weakening of the work requirement. This is not going to get people into the workplace to learn the skills necessary to be competitive and to get good jobs and to improve their future.

This is more of the same what we have been doing here in Washington prior to the welfare reform bill. The President did not request this change. It is not in the budget agreement. It was not anything that anyone advocated. It should be defeated.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I make a point of order that the amendment violates section 313(b)(1)(A) of the Budget Act.

Mr. LEVIN. I move to waive the Budget Act for this amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

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

The legislative clerk called the roll.

The yeas and nays resulted—yeas 55, nays 45, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—55

Abraham	Feingold	Lugar
Akaka	Feinstein	Mikulski
Baucus	Ford	Moseley-Braun
Biden	Glenn	Moynihan
Bingaman	Graham	Murray
Boxer	Harkin	Reed
Breaux	Hollings	Reid
Bryan	Inouye	Robb
Bumpers	Jeffords	Rockefeller
Byrd	Johnson	Sarbanes
Chafee	Kennedy	Smith (OR)
Cleland	Kerrey	Snowe
Collins	Kerry	Specter
Conrad	Kohl	Stevens
D'Amato	Landrieu	Torricelli
Daschle	Lautenberg	Wellstone
Dodd	Leahy	Wyden
Dorgan	Levin	
Durbin	Lieberman	

NAYS—45

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

The PRESIDING OFFICER. On this question, the yeas are 55, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained. The amendment falls.

Mr. DOMENICI. I move to reconsider the vote.

Mr. GRAMM. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NOS. 485, 486, AND 487 WITHDRAWN

Mr. DOMENICI. Mr. President, on behalf of Senator FEINSTEIN, I withdraw amendments numbered 485, 486, and 487.

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

The amendments (Nos. 485, 486, and 487) were withdrawn.

AMENDMENT NO. 484

Mr. DOMENICI. There is a Harkin amendment numbered 484 which we are prepared to accept, and then we will proceed to Senator KYL's amendment, and we will have a vote.

The PRESIDING OFFICER. Is there debate on the Harkin amendment No. 484?

Mr. DOMENICI. We yield back any time remaining.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the Harkin amendment numbered 484.

The amendment (No. 484) was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 468

Mr. KYL. Mr. President, if I could have my colleagues' attention, this is amendment No. 468, designed to correct a technical corrections problem which ironically arose out of the Medicare Technical Act of 1994.

To describe it, you have been going to your doctor for 50 years. He says you need something done.

You say, ''OK, do it.''

He says, ''Wait a minute, aren't you 65 years old now?''

You say, ''Yes.''

And he says, ''I am sorry, I cannot treat you anymore.''

''Why not?''

''Well, I don't treat Medicare patients.''

''You do not have to submit the bill to Medicare. I will not submit the bill to Medicare. Let me pay you like I always have.''

Sorry, HCFA says we cannot do that.

Mr. President, this is very simple. It allows for those 9 percent of the physicians who do not treat Medicare patients to continue to treat their patients as they always have. Those parties do not make a claim to Medicare, Medicare does not pay it, they simply go ahead and pay the doctor like they always have. This is not what was intended in the 1994 act, but because of the way HCFA's regulations have interpreted it, we need to make this technical correction.

I urge my colleagues to support the change.

Mr. LAUTENBERG. Mr. President, the Kyl amendment would allow something that is similar to balanced billing. It is, frankly, quite controversial. It does not belong, in my view, on a fast-track reconciliation bill. I hope we will oppose the amendment.

Mr. President, it is my view that the amendment is not germane. Therefore, I raise a point of order that the amendment violates section 305(b)(2) of the Congressional Budget Act of 1974.

Mr. KYL. Mr. President, I am going to move to waive the point of order. I wanted to indicate that this amendment has the support of sponsors, such as Senator LOTT, Senator DOMENICI, Senator ROTH, and others on our side. I hope we can do it.

Mr. DOMENICI. Does the Senator have any time remaining?

The PRESIDING OFFICER. All time has expired.

Does the Senator wish to make a motion?

Mr. KYL. I move to waive the point of order.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act on the amendment offered by the Senator from Arizona.

The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

The yeas and nays resulted—yeas 64, nays 35, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—64

Abraham	Feinstein	Mack
Allard	Frist	McCain
Ashcroft	Glenn	McConnell
Bennett	Gorton	Murkowski
Biden	Gramm	Nickles
Bond	Grams	Robb
Breaux	Grassley	Roberts
Brownback	Gregg	Roth
Burns	Hagel	Santorum
Campbell	Hatch	Sessions
Chafee	Helms	Shelby
Coats	Hollings	Smith (NH)
Cochran	Hutchinson	Smith (OR)
Collins	Hutchison	Snowe
Coverdell	Inhofe	Specter
Craig	Jeffords	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Dodd	Landrieu	Thurmond
Domenici	Lieberman	Warner
Enzi	Lott	
Faircloth	Lugar	

NAYS—35

Akaka	Feingold	Mikulski
Baucus	Ford	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bryan	Johnson	Reed
Bumpers	Kennedy	Reid
Byrd	Kerrey	Rockefeller
Cleland	Kerry	Sarbanes
Conrad	Kohl	Torricelli
Daschle	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Durbin	Levin	

NOT VOTING—1

Inouye

The PRESIDING OFFICER. On this vote, the yeas are 64, the nays are 35. Three-fifths of the Senators duly chosen and having voted in the affirmative, the motion is agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 468

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Arizona.

The amendment (No. 468) was agreed to.

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

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, I think we have been making good progress. Unfortunately, we have had far too many amendments that were carried over from last night.

I hope that at some point in the future we can come together with the leadership on both sides and come to an agreement on a better system of doing business than having these votes on important matters of 10 minutes. But for now we have been making good progress.

The managers on both sides and the staff have been working very hard to understand what these amendments are and to see if agreements can be worked out on them and to see if they can be accepted or whether or not they should be passed or defeated. But they need a little time now.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask that there now be a period for the transaction of morning business until the hour of 12:45 with Senators permitted to speak for up to 5 minutes each.

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

Mr. LOTT. Mr. President, when the Senate resumes, the voting sequence will start at approximately 12:45. I urge all Senators to please be back in the Chamber in order to make the process as orderly as possible. This will give us a chance to get a bite to eat and for the staff to assess which one of these amendments we can accept or reject.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. Thank you, Mr. President.

MFN STATUS FOR CHINA

Mr. ABRAHAM. Mr. President, I take this opportunity in morning business to talk briefly about an issue that I know a number of Members on both sides of the aisle care very much about.

Yesterday in the House of Representatives a resolution which would have opposed or ended America's most-favored-nation status relationship with the People's Republic of China was defeated. But in the wake of that defeat, I think we still have an obligation to examine closely the policies of the Chinese Government and to not simply criticize those policies in word but also act with respect to those policies indeed. To that end, I urge my colleagues to begin the examination process of what, separate from acting in the context of most-favored-nation status, we might do as a matter of American policy.

The concerns that many of us have with respect to human rights abuses in China, ranging from coercive family planning practices to religious persecution, to the events that occurred in Tiananmen Square just a few years ago, combined with a variety of other things, such as the activities in this country of certain Chinese companies that operate under the auspices of the People's Liberation Army—most recently the incidence in which AK–47 assault rifles were on their way to street gangs in Los Angeles, and happily that was prevented from occurring—but a variety of actions that I think demand a response from this country that goes beyond rhetoric.

To that end, I recently introduced legislation here in the Senate, the China Sanctions and Human Rights Advancement Act. I ask my colleagues to take a look at that legislation. Now that it is clear that the most-favored-nation status debate is over for this year, I think we should be looking at other options.

I believe this legislation embodies a variety of very targeted responses to the things that have gone on in the People's Republic of China that Americans are concerned about. It would, among other things, deny visas to those high-ranking Government officials who have engaged in some of the policies and practices that we deplore. It would upon the United States to vote ''no'' with respect to votes on loans to China by international multilateral development banks so that we will not have American taxpayers subsidizing the Chinese Government.

It would identify those Chinese companies who are operating in this country and take specific sanctions against those who have been identified as having engaged in inappropriate and illegal activities.

It would attempt to deal in a very specific way with the issues of the proliferation of weapons technologies that has gone on between the Government of China and nations such as Iran.

It has a wide array of components to it.

I ask that all Members who are concerned about the actions of the Chinese Government look at this legislation. This Senator is anxious to look at other ideas, because I think a response is warranted beyond the MFN debate itself.

Mr. President, with that I yield the floor. 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. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

WELFARE REFORM

Mr. SANTORUM. Mr. President, after listening to some of the debate on amendments that are being offered and having the opportunity to come to the floor and defend what we did last year on the welfare reform bill, you would think by all of the amendments that are being discussed and by all of the gnashing of teeth that is going on here in the U.S. Senate today, that we have a welfare reform bill—the bill that passed this Congress last session and implemented by the States' 50 Governors—that we are having an abject failure; that horrible things are happening out there in the area of welfare

that we have to now come back and save all of these people. I hate to disappoint anybody's party here. But the fact of the matter is that things are not all that bad. In fact, things are doing very, very well in the area of welfare. I will point to a couple of things as illustrations.

First, I have not seen one major newspaper write one bad article or editorial on the devastating effects of welfare reform passed by the last Congress. I assure you that if there were any devastating stories to be told, they would be telling them because of all these papers that were against the welfare reform bill that went through. The fact that we have not heard of horror stories and that we have not heard any gnashing of teeth from the media about what is going on is certainly a positive sign that things are actually going well.

I might also add that none of the press has come and said, ''Gee, we were wrong.'' Welfare in Wisconsin—50 percent of the people have been dropped off the rolls, and are working. Across the country the average is 20 percent of welfare rolls have been reduced, and people are working—in case after case after case.

I spend at least one visit a week when I am back in the State of Pennsylvania going in and talking to people in education and training programs, homeless shelters—you name it—talking to the people who are intersecting with the welfare programs. And almost unanimously what I have gotten as feedback is, ''This program is a program I wish you had passed earlier. I wouldn't be here today working. I wouldn't be here today getting the education and training I need, succeeding, and feeling better about myself had this bill not passed.''

We have an unmitigated success in welfare. We threw the ball up in the air. The Governors of the 50 States jumped. They caught it, and they are running with the ball. They are doing positive things for the poor and for the disadvantaged all across America. I just think that we need to take some time here today in the midst of all of these amendments that says all of these people are being hurt. The fact of the matter is a vast majority are being helped tremendously by what went on in welfare reform.

I hope Members—frankly, those who supported welfare reform and those who did not—I hope that they will come to the floor and say, ''Look, this program is working.'' From any objective criteria, people are working; people are going in and getting education and training that they never would have had before because, frankly, they needed that little shove. We are giving it to them. We are supplying them, and the Governors, with the child care that they need.

We have a lot of work to continue to do on that front and on some other fronts in the area of Medicare and other kinds of health coverage. But the Governors are working on that. They are taking this responsibility that we have given them—this flexibility that we have given them—very seriously and are doing a terrific job.

So I just want to set the record straight here on a day that might otherwise be seen as a day where welfare reform came under attack here in the U.S. Senate. What we are seeing in reality outside of Washington DC, outside of the Senate Chamber, where we continue to think of the welfare of the past and look to the future—go out there in those communities and find out the success stories, the wonderful, heartfelt stories of people who needed this piece of legislation and who needed this change in the welfare culture.

I think probably the most dramatic thing that I heard from someone who is not on welfare but someone who worked in the system is from two people who had been in the welfare casework role for 25 years in New Castle, PA. They came to me and said, ''I can't thank you enough for changing the law to let me do what I wanted to do 25 years ago but never had the chance''—that is, help people get off welfare, help people actually use their ability and get the respect for themselves instead of just passing out checks and creating dependency. The person was actually thanking me, almost in tears, thanking us for giving him the opportunity to do what 30 years of welfare policy wouldn't let him do—that is, get people off of welfare, give them the incentive and the tools to make it off the dependency of the Government instead of ensuring that they would never leave by creating a meal ticket forever on welfare.

So I just want to reiterate one last time that anyone in this Chamber who believes that welfare reform is in bad shape and we need to go and rewrite the welfare bill because of all the terrible things that are going on out there, I suggest you go out there and you talk to the Nation's Governors, you talk to the people who are working in the system, you talk to the people who are going through the system, and you will hear a very different story than what you are hearing here today in the Senate.

I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. Who seeks time?

The Senator from Illinois is recognized.

Mr. DURBIN. I thank the Chair. I would like to respond to my colleague from Pennsylvania.

I voted for the welfare reform bill, and I thought it was long overdue. The welfare system in America definitely needs to be changed, reformed, and in many areas just plain abandoned. It was a system which had sustained many families, but it also captured many families and ensnared them in welfare dependency, and we knew it. And that is why on a bipartisan basis we voted for welfare reform. But I do not believe that it is accurate to assess the success of welfare reform strictly on the wisdom of that legislation.

Fortunately, we live in a time of an expanding economy that is creating jobs, creating opportunities for small businesses, for new housing starts. We are seeing the lowest controlled inflation in a long, long period of time. We are seeing the deficit come into control. And I have to say to my friend, the Republican from Pennsylvania, I don't think you can take any credit for that because, unfortunately, not a single Republican Member of this Senate at the time supported the President's plan for deficit reduction. It passed with all Democratic votes and the vote of the Vice President and passed by a scant margin in the House of Representatives with no Republican support. And because of the President's plan, we have had 5 straight years of deficit reduction and economic expansion, something the other party speaks of a lot but something the Democrats delivered.

And so when we talk about opportunities to come off welfare, what opportunity would there be if we were in a recession with fewer jobs for people who are searching for that first-time job opportunity. I am afraid very, very few. And I also have to take exception to the idea that this welfare reform was somewhere hammered into marble, Holy Writ, that should not be changed or addressed. The success of a man like Franklin Roosevelt as President of the United States was his recognition that he was not perfect. He would come up with good ideas and he would try to implement them. Some turned out to be wildly successful, like Social Security, others fell on their face. He had at least the good sense to come forward and say there are times when you should abandon a program or change it. The same is true when it comes to welfare reform.

I might remind my colleague from Pennsylvania that even this year the Republican leadership in the House and Senate acknowledged the shortcomings of our welfare reform bill, particularly when it came to those who are legal immigrants to the United States. That was a very unfair provision, to force people off of disability income because they were here strictly on the basis of being legal immigrants. These are not illegals but legally here in the United States. I offered an amendment today. I tried to correct another failing, as I see it, in the welfare reform bill and it relates to food for children, food stamps for children. These are children of legal immigrants living in the United States who were cut off their food stamps in April of this year. I will tell the Senator from Pennsylvania the decision of this Chamber today I think was the wrong one, to deny food stamps to these children. It is one that we will pay for over and over and over again. A hungry child in this country without appropriate nutrition is a child who is likely to have more medical problems,

likely to fall behind in school, more likely to become a future welfare or crime statistic.

I cannot understand why this Congress, like so many businesses, and I guess so many people, cannot look ahead beyond the next budget. We live in a country where the biggest growth industry is the construction of prisons. There are 19 cities in my home State of Illinois competing right now not for a new business but for the latest prison to be built by our State. We have more people under lock and key in America than in any country other than Russia. Why?

Is it because we are just more violent, more prone to criminal activity? I think it is a much deeper question. It goes to our children, whether or not some of these kids can be rescued, can be saved, can be put on the right path in their lives. It involves a commitment. Yes, I believe in three strikes you're out, but I also believe in taking the necessary action to avoid the first strike. Give a child a chance with prenatal nutrition, with appropriate infant nutrition, with Head Start, with education, with mentoring, the kind of community support that counts. And yet this body I am afraid considers that to be squandering of national assets. We have all the money in the world to build a prison. We do not have all the money in the world to improve our schools. When my colleague, Senator CAROL MOSELEY-BRAUN, comes forward with the crumbling schools proposal that says let us make sure the schools our kids attend are safe, that they have appropriate care for the children there, we find out that there are many people particularly on the Republican side of the aisle who say that is something that our Government should not worry about. I disagree. The shiniest new building in many cities across America is a prison; the one that is crumbling down is a school. What message does that send to children, to families and to our Nation?

When this Senate decided today to defeat my amendment not to send food stamps to these children, I am afraid it is a decision we will pay for for years to come. These kids are likely to become citizens of the United States. They are likely to be our neighbors, kids seeking jobs in the future. We are penny-wise and pound-foolish when we do not provide the basic necessities of life like food and health care and education for children.

So, yes, I supported welfare reform. I think the economy has sustained the kind of growth which has given welfare reform an opportunity to flourish but, for goodness sakes, why aren't we investing in our children? Why has this become so partisan and so strident that when we stand up with the Levin amendment and talk about more time for vocational education so that kids can get off welfare and go to work, it becomes a partisan vote? The Republicans say no; the Democrats say yes. Nothing happens. For the kid, the young man, the young woman who needs a chance at education, that was an important vote. And this Senate said no. That does not make sense. End welfare but end it responsibly. Make an investment in America's kids, an investment that will pay off for many generations to come.

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

The PRESIDING OFFICER. The time of the Senator from Illinois has expired. Who seeks time?

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. I would like to quickly respond, if I could, to just a couple of comments. I hope we will not stand here and say that the welfare program, the changes that we made in the last Congress have been a failure. They have been a great success. Look in my home State of Kansas where welfare rolls have gone down 30 percent. And, yes, we have had a strong economy, but in the past we have had a strong economy when the welfare rolls have gone up. You have to change the incentives in the program. That is what we did in the last Congress. It was a positive step to move forward. So I hope that we do not make something a failure when it has been a strong success and people are working now rather than receiving payments from the Government and they are having more self-confidence themselves.

I think this is good for people, too, because with the past system the people on welfare, along with the people that paid for welfare, thought it was a horrible failure and a horrible system. We have changed the dynamics, and we have changed the incentives in this program to where the people are incentivized to work. And they feel good about it. They feel better about it. And this is a program that is going to work.

I think there are a lot of things we could spend money on that might well be good, but we have tended to do a lot of that in the past, to the point we are over $5 trillion in the hole. So that we just cannot keep voting for everything to be able to do it or else we are not going to get in balance.

MOST-FAVORED-NATION STATUS FOR CHINA

Mr. BROWNBACK. Mr. President, I would like to comment on the comments of the Senator from Michigan where he was addressing a foreign policy concern, and that is China.

Yesterday, the House voted on most-favored-nation status and extended that status toward China even though we are having a great deal of difficulty in that country, and I do think we need to take additional steps in addressing this issue of China and our relationships back and forth.

We have had problems with that nation expanding weapons of mass destruction, selling them to some of our enemies that we have around the world, particularly Iran. We have had problems with religious persecution, with forced abortion in that nation, and I think we need to step up and pass the issue of MFN.

The Senator from Michigan has a start in his bill when he is talking about some different areas where we can put pressure on that nation in our relationship there to encourage more religious freedom taking place and to discourage things like weapons proliferation.

RELIGIOUS PERSECUTION

On Monday of this week, Senators JOE LIEBERMAN and ROBERT BENNETT, along with myself, hosted a forum on religious persecution around the world. We found this was not just a problem in China. It is in the Middle East. It is in Africa. And we are talking about an issue that goes beyond just certain levels of discrimination, all the way to the point of slavery, to murder that is taking place in those countries.

A number of us came forward with solutions. Let's create a register of those people who are being persecuted around the world, and let's start to highlight it. Let's start a commission in areas of the Middle East, in Africa, focusing on this issue of the need for religious freedom. It is a founding principle of this country. People came here seeking freedom, seeking religious freedom. We are and we always will be best as a nation when we talk about principles. This is a guiding principle that we need to continue to move forward beyond this debate of MFN and focus nationally on this issue of what is taking place there. Create the register, create the commissions, focusing on this area. And I look forward to working with my colleagues, Senator LIEBERMAN and many others. I hope it will begin in us talking about something that is so basic to America, religious freedom. We need to implement that and move those around the world.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

(The remarks of Mr. KERRY pertaining to the introduction of S. 956 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

BALANCED BUDGET ACT OF 1997

Mr. DOMENICI. Parliamentary inquiry. Is it not time to return to consideration of the bill?

The PRESIDING OFFICER. Under the previous agreement, the Senate resumes consideration of S. 947. The Senator is correct.

The Senate continued with the consideration of the bill.

AMENDMENT NO. 467, AS MODIFIED

(Purpose: To preserve religious choice in long-term care)

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, in behalf of Senator GRASSLEY, I submit a modified amendment, No. 467. It has been cleared on both sides. I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. GRASSLEY, proposes an amendment numbered 467, as modified.

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

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

The amendment, as modified, is as follows:

On page 689, between lines 2 and 3, insert the following:

''(iii) RELIGIOUS CHOICE.—The State, in permitting an individual to choose a managed care entity under clause (i) shall permit the individual to have access to appropriate religiously-affiliated long-term care facilities that are not pervasively sectarian and that provide comparable non-sectarian medical care. With respect to such access, the State shall permit an individual to select a facility that is not a part of the network of the managed care entity if such network does not provide access to appropriate faith-based facilities. Such facility that provides care under this clause shall accept the terms and conditions offered by the managed care entity to other providers in the network. No facility may be compelled to admit an individual if the medical director of that facility believes that the facility cannot provide the specific nursing care and services an enrollee requires.

Mr. DOMENICI. I yield any time we have on the amendment.

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

The amendment (No. 467), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 473, WITHDRAWN

Mr. DOMENICI. Mr. President, in behalf of Senator HUTCHISON, I seek the withdrawal of amendment No. 473. I ask it be withdrawn.

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

The amendment (No. 473) was withdrawn.

AMENDMENT NO. 493

Mr. DOMENICI. Senator KENNEDY has an amendment, No. 493, Kennedy-Lautenberg. Senator LAUTENBERG introduced it for Senator KENNEDY, to exempt severely disabled aliens from the ban on receipt of supplemental income. It is at the desk. I indicate from our side that there is no objection. I understand from the Democratic side there is no objection.

Senator KENNEDY, is that correct?

Mr. KENNEDY. That is correct. I thank the chairman of the committee for his consideration. It is a serious issue and a heartrending issue for many different individuals. The willingness to accept this amendment is something we are very, very appreciative of. If I might just say a few words about it.

Under the budget reconciliation bill, legal immigrants who are already in this country can keep their SSI benefits. But for those who come in the future, SSI is only for citizens. They have to become citizens to qualify in the future, so your sponsor must take care of you until then.

This amendment creates a small exception to that rule. It enables immigrants who are too disabled to qualify for citizenship to retain their SSI eligibility.

Some immigrants and refugees—though not many—become too disabled to qualify for citizenship. Under this bill, their sponsors have to care for them for life. If they don't have sponsors, they have nowhere to turn.

One example is Vien Vu. His family fled Vietnam after years of serving side-by-side with the United States Armed Forces. But Vien Vu has Downs syndrome. He is 34 years old. The rest of his family has become American citizens but Vien will never qualify for citizenship. His family needs SSI to care for him for the rest of his life.

Mendel Tsadovich is a Latvian Holocaust survivor who is too mentally retarded to qualify for naturalization. In 1992, he and his family escaped as refugees from the anti-Semitism of the former Soviet Union. He is now 61 and living in New York. He is the only surviving member of his family, and depends on SSI for assistance. He has no sponsor.

Vien and Mendel are the lucky ones. They arrived before passage of last year's welfare law. So the reconciliation bill will continue their SSI coverage. But what about the Viens and Mendels who arrive in the future?

With the passage of the Lautenberg amendment this morning, my amendment costs almost nothing. CBO scores it as having little budget impact. So, we can help all those like Vien and Mendel and still balance the budget by 2002.

The number of immigrants this amendment affects is small, perhaps only a few thousand people a year. But these immigrants often depend on SSI benefits for their survival. If they do not have the ability to become citizens, Congress should not deny them the SSI benefits they need.

Mr. DOMENICI. Mr. President, I have a couple of seconds. I want to say, some may ask why I accepted this. Actually, it's a very tiny group of people. It covers those who are so seriously disabled that the disability disqualifies them from completing their naturalization process. Therefore, they cannot become citizens. They are noncitizens, but legal. As a result, they are denied benefits described in the Kennedy amendment for only that reason. So I agree to accept that.

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

The amendment (No. 493) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 469

Mr. DOMENICI. I understand the next amendment in order is by Senator SPECTER, No. 469. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I am offering this amendment on behalf of Senator ROCKEFELLER, Senator SANTORUM, Senator SNOWE, Senator COLLINS, and Senator CAMPBELL. It would ensure that $1.5 billion over 5 years of Medicare premium subsidies is provided to the low-income elderly with annual incomes up to $12,000 through expansion of the existing Medicaid Program, instead of what is in the current bill, to add $1.5 billion through a new State block grant program.

This amendment is preferable, by doing it on an existing program instead of setting up a new bureaucracy. It is necessary because the premium increases in the bill are permanent, but there is no guarantee of permanent subsidies for the 3.2 million poor senior citizens covered unless this amendment would be adopted.

I yield the remainder of my time to Senator ROCKEFELLER.

Mr. ROCKEFELLER. Mr. President, I point out that this amendment would help seniors making, on an annual basis, between $9,500 a year and $11,900 a year. It would simply take the principles of the Medicaid Program and carry them forward, and simply say those folks deserve to get help in the Medicare payment because they are so desperately poor. This is well established in Medicaid. We are now applying it to a new area and saying, rather than 120 percent of poverty, we are saying 120 percent of poverty to 150 percent of poverty. It is very sensible. It helps people.

This program is going to sunset in 5 years, but their costs are not going to sunset in 5 years. We think it is an amendment which both sides are willing to vote for.

The PRESIDING OFFICER. The time has expired. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first I make a point of order that the amendment is not germane.

Mr. SPECTER. Mr. President, I move to waive.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, yesterday we provided $1.5 billion in new funds to assist Medicare beneficiaries between 120 and 150 percent of the poverty line with their part B premiums. That was expected under the agreement that we entered into with the White House. We provided these funds as a State program, providing maximum flexibility to reach these individuals in the greatest need. We do not need this additional program, which would create a new entitlement, which we can't afford. I urge my colleagues to oppose the amendment, or to support the point of order.

I yield the floor.

MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on the motion of the Senator from Pennsylvania to waive the Budget Act. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

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

The yeas and nays resulted, yeas 52, nays 48, as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—52

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

NAYS—48

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

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, how much time did that vote take?

The PRESIDING OFFICER. That vote took 17 minutes.

Mr. DOMENICI. I understand the leader will be—

The PRESIDING OFFICER. If the Senator will suspend, I ask that there be order in the Chamber and that Members wishing to pursue discussions, and especially staff wishing to pursue discussions, take those discussions to the Cloakroom. We are not going to proceed until there is order so the Senator from New Mexico can be heard.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I repeat my question. How much time did the last vote take?

The PRESIDING OFFICER. The last vote took approximately 17 minutes.

Mr. DOMENICI. We are operating on a unanimous-consent agreement that says we will take 10 minutes for rollcall votes. I understand the leader will be along shortly and indicate we that will go to the 10-minute rule. But I am not going to hold Senators to that unless the leader comes and confirms it. But 17 minutes, that is an extra hour for people today; it seems like to me maybe longer.

We have a little business we can conduct at this point.

AMENDMENT NO. 495

Mr. DOMENICI. We are willing to accept a Conrad amendment dealing with the nurse aide registry.

I ask the Senator, are you willing to accept that on your side?

Mr. LAUTENBERG. We are.

Mr. DOMENICI. We yield back any time on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is agreed to.

The amendment (No. 495) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 470

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senator SPECTER's next amendment, which is 470, that it be temporarily set aside. And the Senator would like 30 seconds to explain why he is agreeing to that.

Mr. SPECTER. Mr. President, this is an amendment related to disproportionate share. Some States have been hit very hard because some of the funds have been used for mental health facilities. There has already been substantial improvement; illustratively, for Pennsylvania, which had been on the books to sustain a loss of $1.7 billion, it is down to $750 million. And the managers are now considering an amendment which would improve that situation materially.

So I agree with my distinguished colleague from New Mexico to set it aside temporarily with the hope we may be able to work it out, and ultimately have it withdrawn if a satisfactory resolution can be arrived at.

The PRESIDING OFFICER. Without objection, it is set aside.

Mr. DOMENICI. Mr. President, I ask one further unanimous consent, that Senator MIKULSKI's amendment No. 489 follow Senator SPECTER's amendment, which he will proceed with now, which is amendment 471.

I yield the floor.

The PRESIDING OFFICER. Is there objection?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from West Virginia.

POINT OF ORDER

Mr. ROCKEFELLER. Mr. President, I ask for the regular order with regard to the point of order under the Byrd rule which was raised on the balanced billing.

The PRESIDING OFFICER. The Senator's point of order is the regular order.

Mr. DOMENICI. Mr. President, might I ask, how is the Chair going to rule? Parliamentary inquiry. Can't do that? I withdraw the question.

I move to waive the point of order 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. The clerk will call the roll.

Mr. BYRD. Mr. President, may we have some explanation what we are about to vote on?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 1 minute.

Mr. ROCKEFELLER. I urge my colleagues to vote no, against the motion to waive the Budget Act, so that we protect patients in these sorts of very special Medicare Choice programs who, unless we give them the protection, unless we vote no, doctors are going to be able to charge whatever they want. Everybody else under Medicare is under something called balanced billing. Balanced billing means you can only charge 15 percent more than what Medicare pays for it. This was agreed to in 1989 when we did a massive Medicare reform.

We should not be able to take a sort of special fee for service part of the new Medicare Choice and suddenly say that the doctor can charge them anything they want. They have no protection from balanced billing rules which protects all other people who are under Medicare. And it is the law of the land. It is a very important principle, a very important point. And since we have

done this in 1989, since we have put a cap on the balanced billing, which the other side would have us let go, seniors have saved $2 billion since 1989.

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

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico has 1 minute.

Mr. DOMENICI. Mr. President, I yield 40 seconds of that to Senator GRAMM. I will use 20.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, by giving a broad range of choices to our seniors, we have given them the ability to opt into a private fee-for-service health insurance policy.

Now, if we come along and start restricting the way that a private health insurance policy can function, and tell them how they are to bill for physician services, we take away the whole competitive nature of what we are trying to create. I know some people do not like the idea of expanding choices for seniors.

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

Mr. GRAMM. But that is what we have done, and we need to preserve the ability of these mechanisms to function. It is important we waive the point of order.

Mr. DOMENICI. Mr. President, essentially this amendment will gut MSA's and private fee-for-service programs that come into this bill which permits seniors a wide array of options. They are gone essentially, for the regulatory mechanisms that will be imposed on them will make them a nullity.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

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

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

The yeas and nays resulted—yeas 62, nays, 37, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—62

Abraham	Faircloth	McCain
Allard	Feinstein	McConnell
Ashcroft	Frist	Moynihan
Bennett	Gorton	Murkowski
Biden	Gramm	Nickles
Bingaman	Grams	Roberts
Bond	Grassley	Roth
Breaux	Gregg	Santorum
Brownback	Hagel	Sessions
Burns	Helms	Shelby
Campbell	Hutchinson	Smith (NH)
Chafee	Hutchison	Smith (OR)
Coats	Inhofe	Snowe
Cochran	Jeffords	Specter
Collins	Kempthorne	Stevens
Coverdell	Kerrey	Thomas
Craig	Kyl	Thompson
D'Amato	Landrieu	Thurmond
DeWine	Lott	Torricelli
Domenici	Lugar	Warner
Enzi	Mack	

NAYS—37

Akaka	Boxer	Bumpers
Baucus	Bryan	Byrd
Cleland	Hollings	Moseley-Braun
Conrad	Inouye	Murray
Daschle	Johnson	Reed
Dodd	Kennedy	Reid
Dorgan	Kerry	Robb
Durbin	Kohl	Rockefeller
Feingold	Lautenberg	Sarbanes
Ford	Leahy	Wellstone
Glenn	Levin	Wyden
Graham	Lieberman	
Harkin	Mikulski	

NOT VOTING—1

Hatch

The PRESIDING OFFICER. On this question, the yeas are 62, the nays are 37. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. NICKLES. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, the Democratic leader and I have talked about the necessity to try to complete votes in the time prescribed. We have been warning and urging Members to stay in the Chamber to do these votes. It has taken about 50 minutes to do two votes. We did cut that last vote off with one Member missing. This is the final warning. From here on in after 10 minutes we are going to turn in the vote.

So please stay in the Chamber. Let's vote. We can save ourselves an hour or more if we do that. Please do that. Please cooperate with us and we can get our work done and get it done an hour or so earlier.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI. Mr. President, I believe under the rule, Senator SPECTER is up.

AMENDMENT NO. 471

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this amendment eliminates the cuts on indirect grants in medical education. In 48 States there are 1,085 teaching hospitals which perform very, very valuable services. In addition to teaching professionals, they give basic health services, customarily in the inner cities. With a disproportionate share coming into effect, their financing is very, very important.

Beyond that, they give highly specialized patient care so that if you have some really extraordinary medical problem, where you go is to these graduate medical educational institutions.

These cuts would be crippling. I suggest that as a matter of priority they be eliminated from this bill.

Mr. DOMENICI. Mr. President, I yield 40 seconds of the 1 minute to Senator ROTH.

Mr. ROTH. Mr. President, I oppose this amendment. Simply put, according to most experts, Medicare today overpays for indirect medical education, which is a special Federal subsidy for training new doctors. We have substantially but responsibly reduced those payments in our bill, and, indeed, these payments will remain very generous. This amendment is not needed and would prevent us from meeting our budget instructions.

Mr. DOMENICI. Mr. President, this amendment will cost us $5.6 billion in this bill alone. The explanation given by the distinguished chairman seems to me to indicate we are going to be more than fair with reference to the indirect payment.

Mr. SPECTER. I believe I have 7 seconds remaining.

Mr. President, this will not require a waiver of the Budget Act, and although the sum is not insignificant, this is really important for America.

I ask that Senator D'AMATO be listed as a cosponsor.

Mr. DOMENICI. Some Senators might wonder why it is not subject to a point of order when it cuts $5.6 billion. That is because it is a motion to strike, and motions to strike are in order under the Budget Act regardless of their impact.

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 to lay on the table the amendment of the Senator from Pennsylvania.

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 71, nays 29, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—71

Abraham	Ford	Lott
Allard	Frist	Lugar
Ashcroft	Glenn	Mack
Baucus	Gorton	McCain
Bennett	Graham	McConnell
Breaux	Gramm	Moseley-Braun
Brownback	Grams	Murkowski
Bryan	Grassley	Nickles
Burns	Gregg	Reed
Campbell	Hagel	Robb
Chafee	Hatch	Roberts
Coats	Helms	Rockefeller
Cochran	Hollings	Roth
Collins	Hutchinson	Sessions
Conrad	Hutchison	Shelby
Coverdell	Inhofe	Smith (NH)
Craig	Kempthorne	Smith (OR)
DeWine	Kerrey	Snowe
Dodd	Kohl	Stevens
Domenici	Kyl	Thomas
Dorgan	Landrieu	Thompson
Enzi	Lautenberg	Torricelli
Feingold	Leahy	Warner
Feinstein	Lieberman	

NAYS—29

Akaka	Durbin	Moynihan
Biden	Faircloth	Murray
Bingaman	Harkin	Reid
Bond	Inouye	Santorum
Boxer	Jeffords	Sarbanes
Bumpers	Johnson	Specter
Byrd	Kennedy	Thurmond
Cleland	Kerry	Wellstone
D'Amato	Levin	Wyden
Daschle	Mikulski	

The motion to lay on the table the amendment (No. 471) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The regular order would now be the Mikulski amendment.

AMENDMENT NO. 472, WITHDRAWN

Mr. DOMENICI. Mr. President, on behalf of Senator BURNS, I withdraw Senate amendment No. 472.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 472) was withdrawn.

AMENDMENT NO. 494, WITHDRAWN

Mr. DOMENICI. On behalf of Senator CONRAD, I withdraw amendment No. 494.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 494) was withdrawn.

AMENDMENT NO. 489

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Thank you very much. On behalf of Mr. WELLSTONE and myself, we have an amendment at the desk that will strike the committee action and restore something called the Boren amendment. The Boren amendment was passed and signed by President Reagan in 1981 to ensure adequate access to health care services for Medicaid beneficiaries.

The Boren amendment simply stated that payment rates for hospitals and nursing homes must be reasonable and adequate to meet the cost of operating the facilities. That is reimbursements by Medicaid. Now, under the committee action, we would take that away. We would give permission to States to further reduce payment rates to nursing homes at this time. This would have a devastating affect on quality care, and it would have a devastating affect on access to care for beneficiaries.

The simple fact is that Medicaid payment rates to nursing homes does affect quality and our ability to meet the standards that are mandated for health and safety. Nursing homes have stopped taking Medicaid patients. Because of that, I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield 30 seconds of my minute to the Senator from Texas.

Mr. GRAMM. Mr. President, we are always looking for bipartisanship. The President is in favor of repealing the Boren amendment. The National Governors' Association is in favor of repealing the Boren amendment. The amendment of the Senator from Maryland will raise the deficit and reduce our savings by $1.2 billion. How does anybody know what is reasonable and adequate? The Boren amendment has produced endless lawsuits. States want to negotiate with hospitals and get the best rate they can. Repealing the Boren amendment takes it out of the courts.

Mr. DOMENICI. Mr. President, as we negotiated a balanced budget with the President and the Governors, the administration regularly said, ''We want to provide flexibility.'' What is flexibility? Get rid of the Boren amendment. That is what they kept saying. Provide flexibility instead of the rigidity brought on by lawsuits. The Boren amendment should be dead. The President is not for it. Now someone wants to put it back in, and it will cost $1.2 billion to put something back in that didn't work.

I move to table the Mikulski 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 are ordered, and the clerk will call the roll.

The bill clerk called the roll.

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

The result was announced—yeas 66, nays 34, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—66

Abraham	Faircloth	Leahy
Allard	Feingold	Lott
Ashcroft	Frist	Lugar
Baucus	Gorton	Mack
Bennett	Graham	McCain
Bingaman	Gramm	McConnell
Bond	Grams	Moynihan
Breaux	Grassley	Murkowski
Brownback	Gregg	Nickles
Bryan	Hagel	Robb
Burns	Hatch	Roberts
Campbell	Helms	Roth
Chafee	Hollings	Santorum
Coats	Hutchinson	Sessions
Cochran	Hutchison	Smith (NH)
Collins	Inhofe	Smith (OR)
Conrad	Jeffords	Snowe
Coverdell	Kempthorne	Specter
Craig	Kerrey	Stevens
DeWine	Kohl	Thomas
Domenici	Kyl	Thompson
Enzi	Lautenberg	Thurmond

NAYS—34

Akaka	Ford	Murray
Biden	Glenn	Reed
Boxer	Harkin	Reid
Bumpers	Inouye	Rockefeller
Byrd	Johnson	Sarbanes
Cleland	Kennedy	Shelby
D'Amato	Kerry	Torricelli
Daschle	Landrieu	Warner
Dodd	Levin	Wellstone
Dorgan	Lieberman	Wyden
Durbin	Mikulski	
Feinstein	Moseley-Braun	

So the motion to lay on the table the amendment (No. 489) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, how much time did we use on that vote?

The PRESIDING OFFICER. Twelve minutes.

Mr. DOMENICI. I thank the Chair.

CHANGE OF VOTE

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Thank you, Mr. President.

On rollcall vote 124, I voted ''no.'' It was my intention to vote ''yes.'' Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

Mr. DOMENICI. Regular order.

AMENDMENT NO. 488

The PRESIDING OFFICER. Regular order is the amendment of the Senator from Minnesota, No. 488.

Mr. WELLSTONE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will come to order.

We can move this along if Members in the room would withdraw their conversations to the Cloakroom, and if the staff will reserve their conversations.

The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, if I could just say to you, I am not going to start, if I could ask for order.

The PRESIDING OFFICER. If the Senator will suspend, we are not going to proceed until the Senator from Minnesota can be fairly heard. The staff will reserve their conversations. It will help to move this along.

The Senator from Minnesota is recognized for 1 minute.

Mr. WELLSTONE. Mr. President, it is hard in this process because people want to talk. But these amendments have consequences for people's lives.

I would like to wait until we have order.

Mr. DOMENICI. Mr. President, we can't hear.

Mr. WELLSTONE. I have people talking all around me.

The PRESIDING OFFICER. The Senator from Minnesota is correct.

The Senator from Minnesota is recognized.

Mr. WELLSTONE. Thank you.

Mr. President, I offer this amendment with Senator MIKULSKI. We just repealed the Boren provision, which was an effort to make sure that there was reasonable and adequate rates of reimbursement. This was for nursing homes, children's hospitals, group care for people with disabilities.

What we do in this amendment is a compromise, colleagues. We just simply require that States provide assurance to the Secretary that the rates will be actuarially sufficient to ensure adequate care.

We don't have any vague standard. This is an actuarially sufficiency standard. We are just saying to States, let's have some standard that you can say you have had an independent analysis done and that you are providing the resources so the children's hospitals and nursing homes and group

homes can provide adequate care to very vulnerable seniors, children and the disabled.

Please vote for this compromise. We can't wipe out all of these standards.

Other than that, I do not feel strongly about it.

The PRESIDING OFFICER. Who rises in opposition?

The Senator from New Mexico.

Mr. DOMENICI. Would Senator ROTH like some time on this?

I will give you half the time.

Mr. ROTH. All right. Mr. President, I rise in opposition to this amendment. It raises again the same questions that were raised in respect to the Boren amendment. The history of the Boren amendment is a classic example of unintended consequences as its been used to increase costs of the program rather than control costs. The Governors are in opposition as well as the administration.

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

Mr. ROTH. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico has 30 seconds.

Mr. DOMENICI. Mr. President, the Senate has just overwhelmingly agreed we do not need the Boren amendment back on the horizon, and I view this as a new, similar burden on trying to get reasonably priced care. Perhaps it will be known in the future not as the Boren amendment but the Wellstone amendment. But believe you me, it will be just as egregiously antiefficient as the previous one, for there will be many, many court interpretations of the language that is now going to be inserted as a test of whether or not the charges are fair.

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

Mr. DOMENICI. I make a point of order that amendment violates section 310 of the Budget Act.

Mr. WELLSTONE. I move to waive that.

The PRESIDING OFFICER. Is there a sufficient second on the motion to waive? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive. 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 Ohio [Mr. GLENN] is necessarily absent.

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

The yeas and nays resulted—yeas 39, nays 60, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—39

Akaka	Chafee	Feinstein
Baucus	Cleland	Ford
Biden	Conrad	Frist
Bingaman	Daschle	Graham
Boxer	Dodd	Harkin
Bumpers	Dorgan	Hollings
Byrd	Durbin	Inouye
Jeffords	Levin	Reid
Johnson	Lieberman	Rockefeller
Kennedy	Mikulski	Sarbanes
Kerry	Moseley-Braun	Torricelli
Lautenberg	Murray	Wellstone
Leahy	Reed	Wyden

NAYS—60

Abraham	Feingold	McCain
Allard	Gorton	McConnell
Ashcroft	Gramm	Moynihan
Bennett	Grams	Murkowski
Bond	Grassley	Nickles
Breaux	Gregg	Robb
Brownback	Hagel	Roberts
Bryan	Hatch	Roth
Burns	Helms	Santorum
Campbell	Hutchinson	Sessions
Coats	Hutchison	Shelby
Cochran	Inhofe	Smith (NH)
Collins	Kempthorne	Smith (OR)
Coverdell	Kerrey	Snowe
Craig	Kohl	Specter
D'Amato	Kyl	Stevens
DeWine	Landrieu	Thomas
Domenici	Lott	Thompson
Enzi	Lugar	Thurmond
Faircloth	Mack	Warner

NOT VOTING—1

Glenn

The PRESIDING OFFICER. On this vote the yeas are 38; the nays are 61. 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 and the amendment falls.

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

The PRESIDING OFFICER. Without objection, the motion to reconsider is laid on the table.

The motion to lay on the table was agreed to.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

CHANGE OF VOTE

Mr. FRIST. Mr. President, on rollcall vote No. 125, it was my intention to vote nay. I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 497 WITHDRAWN

Mr. DOMENICI. Mr. President, amendment No. 497, of Senator KOHL, I move to withdraw that in his behalf.

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

Amendment No. 497 was withdrawn.

AMENDMENT NO. 498

Mr. DOMENICI. There are two amendments we are going to accept, and then we will proceed to a Kennedy education amendment. The first is a Harkin amendment, No. 498, on microdemonstration programs for welfare recipients under small business. Senator HARKIN, we have agreed to accept that. There is no objection on either side.

Mr. HARKIN. I appreciate that very much. I thank the chairman.

Mr. DOMENICI. I ask consent Senator BOND, chairman of the Small Business Committee, and Senator DOMENICI, be cosponsors.

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

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

The amendment (No. 498) was agreed to.

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

The PRESIDING OFFICER. Without objection, that motion is laid on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 491

Mr. DOMENICI. Senator BAUCUS has an amendment, No. 491, regarding cost-sharing provisions. We are prepared to accept that amendment at this time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the chairman of the committee has adequately described the amendment. I very much appreciate that he will accept the amendment.

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

The amendment (No. 491) was agreed to.

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

The PRESIDING OFFICER. Without objection, the motion to reconsider is laid on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 490

Mr. DOMENICI. Now I believe amendment No. 490 by Senator KENNEDY is next.

The PRESIDING OFFICER. We shall not proceed to it until we have order. The Senator from Massachusetts is recognized for 1 minute.

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

Mr. KENNEDY. Yes.

Mr. DOMENICI. Let me say for Senators' benefit, it looks like there are only three to four amendments left. So, if you can bear with us for just a little longer, I know this has been an ordeal. The only remaining thing after that would be the points of order, if any, that they might have on the Democrat side.

Mr. LAUTENBERG. We have a few.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. If we could get the attention of the Senate again. If we could have conversations removed to the Cloakroom.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 40 seconds, 20 seconds to my colleague, Senator DODD. We offered this together.

This amendment is supported by the American Council on Education and virtually all of the higher education agencies and organizations, as well as the student organizations. Effectively, it will reduce tuitions by $1.4 billion over the next 5 years, and it is fully paid for by the reduction in terms of the guarantees to the guaranty agencies from 98 to 95 percent of the loans.

There are offsets there. The process that we have done in terms of the offsets is virtually identical to what was done by the Republican initiative in the reconciliation bill. I hope it will be successful. It will reduce student tuitions by at least $70.

Mr. DODD. Mr. President, there are $26 billion outstanding in student loans. This amendment has two parts. It does away with the automatically required administrative cost allowance, which is unnecessary. That can be dealt with in the higher education bill. And it cuts in half the origination fees, 4 percent to 2. It is a very big issue for families.

The PRESIDING OFFICER. Who rises in opposition?

Mr. JEFFORDS. Mr. President, I rise in opposition to the amendment offered by the Senator from Massachusetts, [Mr. KENNEDY]. Briefly, this amendment would rewrite title VII of the reconciliation bill, which includes the student loan provisions reported by the Committee on Labor and Human Resources by a vote of 17 to 1.

I have two major reasons for opposing this amendment. First, it will harm students by destabilizing the guaranteed loan program; and, second, it addresses issues which belong in the debate of reauthorization of the Higher Education Act—not the budget reconciliation bill.

Let me be clear. Adoption of the Kennedy amendment will harm students—not help them. No one in the Senate is more committed to improving educational opportunities than I am. I have worked to strengthen student loan programs for over 22 years. If I honestly believed that this amendment was in the best interests of students, I would support it. It is precisely because of my commitment to the well being of students, however, that I so strongly oppose this amendment.

I want to take a few minutes to explain exactly why this amendment is not in the best interests of students or their families and why it was rejected when it was considered by the Labor Committee.

First of all, it is important to understand that the proposal which was approved by the committee was carefully crafted to preserve two viable student loan programs—the Federal Family Education Loan [FFEL] Program, guaranteed loans, and the Federal Direct Loan Program. This proposal respects the so-called truce between the two programs which was reflected in the portion of the budget agreement calling for a fair distribution of savings between the two programs.

The amendment of the Senator from Massachusetts breaks this truce. In the name of helping students, this amendment would drain such a substantial portion of funds from guaranty agencies that the Congressional Budget Office estimate of the amendment assumes the failure of many of these agencies.

The provisions approved by the committee already recapture $1 billion in guaranty agency reserve funds over the next 5 years. The recall of these funds is conducted in such a way that guaranty agencies with low reserves—Arkansas, Connecticut, Georgia, Illinois, Massachusetts, Minnesota, Nebraska, New Hampshire, Oklahoma, Texas, Vermont, Washington, and Wisconsin—will not be forced to close their doors to the students who depend upon them.

The Kennedy amendment would nearly double the savings expected from guaranty agencies—calling for an additional $960 million reduction over 5 years. Because the amendment eliminates any assurance that guaranty agencies will receive an administrative cost allowance [ACA] from section 458 funds, the reductions absorbed by guaranty agencies could well be even higher.

The guaranteed student loan program serves 80 percent of the institutions of higher education in this country and provides over 60 percent of total student loan volume. Yet, the Kennedy amendment makes no provision whatsoever for mitigating the severe disruption to student borrowers which will occur when agencies inevitably fail. If the goal is to enhance the direct loan program by crippling the guaranteed program, this amendment will be remarkably effective. However, if the goal truly is to help students, we should be working together in the appropriate forum—which is reauthorization, not reconciliation.

Moreover, I would note that the proposed reduction in the loan origination fee charged to students would not take effect until July 1998. There is no compelling reason to consider this provision outside of the current effort to reauthorize the Higher Education Act.

Before closing, I would like to take a few minutes to discuss the proposal that was approved by the Labor Committee and provide the history and context for this debate.

The budget agreement approved by the Senate reflects the strong bipartisan support for education. The agreement provides for $35 billion in education related tax provisions, and assumes increased Federal support for special education, Head Start, and funding for literacy programs. The budget agreement supports providing an additional $7.6 billion for Pell grants allowing the maximum grant to grow from $2,700 to $3,000.

In addition, the subsidy for student loans is assumed to grow from $3.9 billion in 1998 to $4.1 billion in 2002. This will support growth in Federal student loan volume from $28.8 billion in 1998 to $35.8 billion in 2002. These provisions provide an unprecedented level of support for educational opportunity for students at all levels of education.

In order to accommodate this unprecedented level of support for students, the Senate budget resolution requires $1.792 billion in savings over 5 years from mandatory spending under the jurisdiction of the Committee on Labor and Human Resources.

The savings required by the agreement and submitted by the committee will not increase costs, reduce benefits, or limit access to loans for students and their families. In accordance with the budget agreement, this proposal attempts to maintain an equitable balance in the savings that are taken from the Federal Family Education Loan Program [FFEL] and the Federal Direct Lending Program [FDLP].

The budget submission approved by the committee achieves the required savings by recalling $1.028 billion in excess guaranty agency reserves, eliminating the $10 direct loan origination fee, and reducing the Department of Education's entitlement for the administration of the Federal direct lending program by $604 million. This language preserves a very delicate balance—it achieves major savings and preserves the viability of both loan programs, so that students will not be at risk of losing access to loans. The key provisions of title VII as reported by the Committee on Labor and Human Resources include:

A. ELIMINATION OF THE DIRECT LENDING LOAN ORIGINATION PAYMENT

This proposal repeals the provision authorizing the Federal payment of $10 per loan to schools and/or alternate originators who make direct loans. This repeal will provide five-year savings of $160 million.

B. RECALL OF EXCESS GUARANTY AGENCY RESERVES

The committee proposal requires the recall of $1.028 billion in reserves and requires each guaranty agency to deposit its share of the total excess reserves into a newly created restricted account in annual payments over the next five years.

C. REDUCTIONS IN SECTION 458 EXPENDITURES

Section 458 of the Higher Education Act provides funds to the Secretary of Education for the administrative expenses associated with the direct lending program as well as the administrative cost allowance paid to guaranty agencies for administration of FFEL programs. The committee proposal reduces section 458 expenditures in conformity with the budget agreement resulting in savings of $603 million over 5 years. The Department will continue to receive over $3.3 billion in this account over the next 5 years.

In order to ensure that these reductions are not redirected from direct lending to the FFEL program and to ensure that an equitable balance in savings is maintained between the two programs, the committee included a provision that reaffirms the Department of Education's obligation to continue to pay the administrative cost allowance to the guaranty agencies. This authority is capped at $170 million in each of fiscal years 1998 and 1999 and at $150 million in fiscal years 2000, 2001, and 2002.

In summary, these provisions reflect a commitment to preserving two viable student loan programs. Second, they reflect the belief that substantive

changes in student aid policy should not be included within reconciliation but should be fully and carefully considered as part our comprehensive effort to reauthorize the Higher Education Act. Consistent with these principles, our proposal meets our budget instruction, preserves two loan programs, and retains the framework of the budget agreement. It deserves the support of the full Senate.

Finally, let me say that we are here today due to the budget agreement reached between the President and the leadership of the House and Senate. Whatever the disagreements may be about specific details, there is broad support for this agreement and its objectives. That is illustrated by the 17-to-1 vote for the Labor Committee's submission and by the similar margins of support for the proposals reported by other committees.

Certainly, the agreement is a series of compromises. Implicit in compromise is the fact that neither party got everything it wanted. In the student loan area, the core compromise was that a truce was to be declared in the battle between the Federal Family Education Loan Program—guaranteed loans—and the Federal Direct Loan Program. The approximately $1.8 billion in savings was to be equitably divided between the two programs.

The proposal reported by the committee honors that compromise: 57 percent of the savings are made in the guaranteed loan program and the remaining 43 percent come from direct lending. The amendment of the Senator from Massachusetts would destroy that balance.

When filling in the detail of a broad compromise, there is always the urge to push further toward one's preference. What the Senator is attempting to do is therefore understandable. But, we need to recognize the amendment for what it is. I urge my colleagues to join me in opposing it.

Mr. DOMENICI. I thank the Senator, the chairman of the committee on Labor, Health and Human Resources. The chairman opposes this.

Mr. President, the Kennedy amendment is a substitute to the Labor Committee's title. It violates the bipartisan agreement that we made with the President and with Democrats and Republicans. It is not germane to this bill before us. It violates the Byrd rule because it increases spending in the year 2002 and thereafter without any offsets. The Kennedy amendment reduces the student loan origination fees, and is offset by significant reductions in revenues to the lenders and guaranty agencies participating in student loan programs.

With that, I make a point of order that the Kennedy amendment is a violation of the Budget Act and the Byrd amendment.

Mr. DODD. I move to waive.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

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

The yeas and nays resulted, yeas 43, nays 57, as follows:

[Rollcall Vote No. 126 Leg.]

YEAS—43

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

NAYS—57

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

The PRESIDING OFFICER. On this vote, the yeas are 43, the nays are 57. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 490

Mr. SPECTER. Mr. President, I want to address my vote on the Kennedy-Dodd amendment regarding savings to be generated from direct and guaranteed loan programs. Although, I have ardently supported efforts to increase Pell grants and improve the ability of millions of American families to afford a college education for their children, the Kennedy-Dodd amendment would have disrupted the guaranteed student loan program substantially. It would have upset the balanced approach in the budget agreement to derive savings equitably from both direct and guaranteed loan programs.

I am advised that the Kennedy-Dodd amendment would create undue hardship on student borrowers by adversely impacting guaranteed lenders, which would lose part of their loan origination fees.

I look forward to working with Chairman JEFFORDS, Senator KENNEDY, and Senator DODD as the Senate considers these issues in the context of the Higher Education Act reauthorization later in the 105th Congress.

MOTION TO WAIVE THE BUDGET ACT WITHDRAWN

Mr. DOMENICI. Mr. President, I ask that the motion of the Senator from Texas to waive the Budget Act with respect to the point of order lodged by Senator CONRAD last night be withdrawn.

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

Mr. DOMENICI. Senator CONRAD had lodged the point of order.

The PRESIDING OFFICER. The regular order is the amendment by Senator MCCAIN.

Mr. DOMENICI. We have to complete business on this. We have withdrawn the waiver.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

POINT OF ORDER

Mr. CONRAD. Mr. President, I make a point of order that section 5822 of the bill violates section 313(b)(1)(D) of the Budget Act.

The PRESIDING OFFICER. The point of order is sustained.

Mr. DOMENICI. And the amendment falls?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 474

Mr. DOMENICI. Mr. President, I believe the next order of business is Senator MCCAIN's amendment. That is amendment No. 474. That is McCain-Lott-Domenici.

AMENDMENT NO. 474, AS MODIFIED

Mr. DOMENICI. I ask unanimous consent that I be permitted to modify that amendment by adding just the following words: ''. . . including emergency auto service by nonprofit organizations, that . . .'' I send the modification to the desk, and I understand the minority has no objection to the modification.

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

The amendment, as modified, is as follows:

On page 92, beginning with line 6, strike through line 24 on page 128 and insert the following:

SEC. 3001. SPECTRUM AUCTIONS.

(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—

(1) IN GENERAL.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(A) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

''(1) GENERAL AUTHORITY.—If mutually exclusive applications are accepted for any initial license or construction permit that will involve an exclusive use of the electromagnetic spectrum, then, except as provided

in paragraph (2), the Commission shall grant the license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection. The Commission, subject to paragraphs (2) and (7) of this subsection, also may use auctions as a means to assign spectrum when it determines that such an auction is consistent with the public interest, convenience, and necessity, and the purposes of this Act.

''(2) EXCEPTIONS.—The competitive bidding authority granted by this subsection shall not apply to a license or construction permit the Commission issues—

''(A) for public safety services, including private internal radio services used by State and local governments and non-government entities, including Emergency Auto Service by non-profit organizations, that

''(i) are used to protect the safety of life, health, or property; and

''(ii) are not made commercially available to the public;

''(B) for public telecommunications services, as defined in section 397(14) of this Act, when the license application is for channels reserved for noncommercial use;

''(C) for spectrum and associated orbits used in the provision of any communications within a global satellite system;

''(D) for initial licenses or construction permits for new digital television service given to existing terrestrial broadcast licensees to replace their current television licenses;

''(E) for terrestrial radio and television broadcasting when the Commission determines that an alternative method of resolving mutually exclusive applications serves the public interest substantially better than competitive bidding; or

''(F) for spectrum allocated for unlicensed use pursuant to part 15 of the Commission's regulations (47 C.F.R. part 15), if the competitive bidding for licenses would interfere with operation of end-user products permitted under such regulations.'';

(B) by striking ''1998'' in paragraph (11) and inserting ''2007''; and

(C) by inserting after paragraph (13) the following:

''(14) OUT-OF-BAND EFFECTS.—The Commission and the National Telecommunications and Information Administration shall seek to create incentives to minimize the effects of out-of-band emissions to promote more efficient use of the electromagnetic spectrum. The Commission and the National Telecommunications and Information Administration also shall encourage licensees to minimize the effects of interference.''

(2) CONFORMING AMENDMENT.—Subsection (i) of section 309 of the Communications Act of 1934 is repealed.

(b) AUCTION OF 45 MEGAHERTZ LOCATED AT 1,710–1,755 MEGAHERTZ.—

(1) IN GENERAL.—The Commission shall assign by competitive bidding 45 megahertz located at 1,710–1,755 megahertz no later than December 31, 2001, for commercial use.

(2) FEDERAL GOVERNMENT USERS.—Any Federal government station that, on the date of enactment of this Act, is assigned to use electromagnetic spectrum located in the 1,710–1,755 megahertz band shall retain that use until December 31, 2003, unless exempted from relocation.

(c) COMMISSION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION.—

(1) IN GENERAL.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), of licenses for the use of bands of frequencies currently allocated by the Commission that—

(A) in the aggregate span not less than 55 megahertz;

(B) are located below 3 gigahertz; and

(C) as of the date of enactment of this Act, have not been—

(i) designated by Commission regulation for assignment pursuant to section 309(j);

(ii) identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923); or

(iii) allocated for Federal Government use pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305).

(2) CRITERIA FOR REASSIGNMENT.—In making available bands of frequencies for competitive bidding pursuant to paragrph (1), the Commission shall—

(A) seek to promote the most efficient use of the electromagnetic spectrum;

(B) consider the cost of incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(C) consider the needs of public safety radio services;

(D) comply with the requirements of international agreements concerning spectrum allocations; and

(E) coordinate with the Secretary of Commerce when there is any impact on Federal Government spectrum use.

(3) NOTIFICATION TO THE SECRETARY OF COMMERCE.—The Commission shall attempt to accommodate incumbent licenses displaced under this section by relocating them to other frequencies available to the Commission. The Commission shall notify the Secretary of Commerce whenever the Commission is not able to provide for the effective relocation of an incumbent licensee to a band of frequencies available to the Commission for assignment. The notification shall include—

(A) specific information on the incumbent licensee;

(B) the bands the Commission considered for relocation of the licensee; and

(C) the reasons the incumbent cannot be accommodated in these bands.

(4) REPORT TO THE SECRETARY OF COMMERCE.—

(A) TECHNICAL REPORT.—The Commission in consultation with the National Telecommunications and Information Administration, shall submit a detailed technical report to the Secretary of Commerce setting forth—

(i) the reasons the incumbent licensees described in paragraph (5) could not be accommodated in existing non-government spectrum; and

(ii) the Commission's recommendations for relocating those incumbents.

(B) NTIA USE OF REPORT.—The National Telecommunications and Information Administration shall review this report when assessing whether a commercial licensee can be accommodated by being reassigned to a frequency allocated for government use.

(d) INDENTIFICATION AND REALLOCATION OF FREQUENCIES.—

(1) IN GENERAL.—Section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended by adding at the end thereof the following:

''(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a report from the Commission pursuant to section 3001(c)(6) of the Balanced Budget Act of 1997, the Secretary shall submit to the President, the Congress, and the Commission a report with the Secretary's recommendations.

''(g) REIMBURSEMENT OF FEDERAL SPECTRUM USERS FOR RELOCATION COSTS.—

''(1) IN GENERAL.—

''(A) ACCEPTANCE OF COMPENSATION AUTHORIZED.—In order to expedite the efficient use of the electromagnetic spectrum, and notwithstanding section 3302(b) of title 31, United States Code, any Federal entity that operates a Federal Government station that has been identified by NTIA for relocation may accept payment, including in-kind compensation and shall be reimbursed if required to relocate by the service applicant, provider, licensee, or representative entering the band as a result of a license assignment by the Commission or otherwise authorized by Commission rules.

''(B) DUTY TO COMPENSATE OUSTED FEDERAL ENTITY.—Any such service applicant, provider, licensee, or representative shall compensate the Federal entity in advance for relocating through monetary or in-kind payment for the cost of relocating the Federal entity's operations from one or more electromagnetic Spectrum frequencies to any other frequency or frequencies, or to any other telecommunications transmission media.

''(C) COMPENSABLE COSTS.—Compensation shall include, but not be limited to, the costs of any modification, replacement, or reissuance of equipment, facilities, operating manuals, regulations, or other relocation expenses incurred by that entity.

''(D) DISPOSITION OF PAYMENTS.—Payments, other than in-kind compensation, pursuant to this section shall be deposited by electronic funds transfer in a separate agency account or accounts which shall be used to pay directly the costs of relocation, to repay or make advances to appropriations or funds which do or will initially bear all or part of such costs, or to refund excess sums when necessary, and shall remain available until expended.

''(E) APPLICATION TO CERTAIN OTHER RELOCATIONS.—The provisions of this paragraph also apply to any Federal entity that operates a Federal Government station assigned to use electromagnetic spectrum identified for reallocation under subsection (a), if before the date of enactment of the Balanced Budget Act of 1997 the Commission has not identified that spectrum for service or assigned licenses or otherwise authorized service for that spectrum.

''(2) PETITIONS FOR RELOCATION.—Any person seeking to relocate a Federal Government station that has been assigned a frequency within a band allocated for mixed Federal and non-Federal use under this Act shall submit a petition for relocation to NTIA. The NTIA shall limit or terminate the Federal Government station's operating license within 6 months after receiving the petition if the following requirements are met:

''(A) The proposed relocation is consistent with obligations undertaken by the United States in international agreements and with United States national security and public safety interests.

''(B) The person seeking relocation of the Federal Government station has guaranteed to defray entirely, through payment in advance, advance in-kind payment of costs, or a combination of payment in advance and advance in-kind payment, all relocation costs incurred by the Federal entity, including, but not limited to, all engineering, equipment, site acquisition and construction, and regulatory fee costs.

''(C) The person seeking relocation completes all activities necessary for implementing the relocation, including construction of replacement facilities (if necessary and appropriate) and identifying and obtaining on the Federal entity's behalf new frequencies for use by the relocated Federal Government station (if the station is not relocating to spectrum reserved exclusively for Federal use).

''(D) Any necessary replacement facilities, equipment modifications, or other changes

have been implemented and tested by the Federal entity to ensure that the Federal Government station is able to accomplish successfully its purposes including maintaining communication system performance.

''(E) The Secretary has determined that the proposed use of any spectrum frequency band to which a Federal entity relocates its operations is suitable for the technical characteristics of the band and consistent with other uses of the band. In exercising authority under this subparagraph, the Secretary shall consult with the Secretary of Defense, the Secretary of State, and other appropriate Federal officials.

''(3) RIGHT TO RECLAIM.—If within one year after the relocation of a Federal Government station, the Federal entity affected demonstrates to the Secretary and the Commission that the new facilities or spectrum are not comparable to the facilities or spectrum from which the Federal Government station was relocated, the person who sought the relocation shall take reasonable steps to remedy any defects or pay the Federal entity for the costs of returning the Federal Government station to the electromagnetic spectrum from which the station was relocated.

''(h) FEDERAL ACTION TO EXPEDITE SPECTRUM TRANSFER.—Any Federal Government station which operates on electromagnetic spectrum that has been identified for reallocation under this Act for mixed Federal and non-Federal use in any reallocation report under subsection (a), to the maximum extent practicable through the use of subsection (g) and any other applicable law, shall take prompt action to make electromagnetic spectrum available for use in a manner that maximizes efficient use of the electromagnetic spectrum.

''(i) FEDERAL SPECTRUM ASSIGNMENT RESPONSIBILITY.—This section does not modify NTIA's authority under section 103(b)(2)(A) of this Act.

''(j) DEFINITIONS.—As used in this section—

''(1) The term 'Federal entity' means any department, agency, or instrumentality of the Federal Government that utilizes a Government station license obtained under section 305 of the 1934 Act (47 U.S.C. 305);

''(2) the term 'digital television services' means television services provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Service,' MM Docket No. 87–268 and any subsequent FCC proceedings dealing with digital television; and

''(3) the term 'analog television licenses' means licenses issued pursuant to 47 CFR 73.682 et seq.''.

(2) Section 114(a) of that Act (47 U.S.C. 924(a)) is amended by striking ''(a) or (d)(1)'' and inserting ''(a), (d)(1), or (f)''.

(e) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—

(1) SECOND REPORT REQUIRED.—Section 113(a) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(a)) is amended by inserting ''and within 6 months after the date of enactment of the Balanced Budget Act of 1997'' after ''Act of 1993''.

(2) IN GENERAL.—Section 113(b) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(b)) is amended—

(A) by striking the caption of paragraph (1) and inserting ''INITIAL REALLOCATION REPORT.—'';

(B) by inserting ''in the initial report required by subsection (a)'' after ''recommend for reallocation'' in paragraph (1);

(C) by inserting ''or (3)'' after ''paragraph (1)'' each place it appears in paragraph (2); and

(D) by adding at the end thereof the following:

''(3) SECOND REALLOCATION REPORT.—The Secretary shall make available for reallocation a total of 20 megahertz in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), that is located below 3 gigahertz and that meets the criteria specified in paragraphs (1) through (5) of subsection (a).''.

(3) ALLOCATION AND ASSIGNMENT.—Section 115 of that Act (47 U.S.C. 925) is amended—

(A) by striking ''the report required by section 113(a)''; in subsection (b) and inserting ''the initial reallocation report required by section 113(a)''; and

(B) by adding at the end thereof the following:

''(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND ALLOCATION REPORT.—

''(1) PLAN.—Within 12 months after it receives a report from the Secretary under section 113(f) of this Act, the Commission shall—

''(A) submit a plan, prepared in coordination with the Secretary of Commerce, to the President and to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Commerce, for the allocation and assignment under the 1934 Act of frequencies identified in the report; and

''(B) implement the plan.

''(2) CONTENTS.—The plan prepared by the Commission under paragraph (1) shall consist of a schedule of reallocation and assignment of those frequencies in accordance with section 309(j) of the 1934 Act in time for the assignment of those licenses or permits by September 30, 2002.''.

SEC. 3002. DIGITAL TELEVISION SERVICES.

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end thereof the following:

''(15) AUCTION OF RECAPTURED BROADCAST TELEVISION SPECTRUM AND POTENTIAL DIGITAL TELEVISION LICENSE FEES.—

''(A) LIMITATIONS ON TERMS OF TERRESTRIAL TELEVISION BROADCAST LICENSES.—

''(i) A television license that authorizes analog television services may not be renewed to authorize such services for a period that extends beyond December 31, 2006. The Commission shall extend or waive this date for any station in any television market unless 95 percent of the television households have access to digital local television signals, either by direct off-air reception or by other means.

''(ii) A commercial digital television license that is issued shall expire on September 30, 2003. A commercial digital television license shall be re-issued only subject to fulfillment of the licensee's obligations under subparagraph (C).

''(iii) No later than December 31, 2001, and every 2 years thereafter, the Commission shall report to Congress on the status of digital television conversion in each television market. In preparing this report, the Commission shall consult with other departments and agencies of the Federal government. The report shall contain the following information:

''(I) Actual consumer purchases of analog and digital television receivers, including the price, availability, and use of conversion equipment to allow analog sets to receive a digital signal.

''(II) The percentage of television households in each market that has access to digital local television signals as defined in paragraph (a)(1), whether such access is attained by direct off-air reception or by some other means.

''(III) The cost to consumers of purchasing digital television receivers (or conversion equipment to prevent obsolescence of existing analog equipment) and other related changes in the marketplace, such as increases in the cost of cable converter boxes.

''(B) SPECTRUM REVERSION AND RESALE.—

''(i) The Commission shall—

''(I) ensure that, as analog television licenses expire pursuant to subparagraph (A)(i), each broadcaster shall return electromagnetic spectrum according to the Commission's direction; and

''(II) reclaim and organize the electromagnetic spectrum in a manner to maximize the deployment of new and existing services.

''(ii) Licensees for new services occupying electromagnetic spectrum previously used for the broadcast of analog television shall be selected by competitive bidding. The Commission shall start the competitive bidding process by July 1, 2001, with payment pursuant to the competitive bidding rules established by the Commission. The Commission shall report the total revenues from the competitive bidding by January 1, 2002.

''(D) DEFINITIONS.—As used in this paragraph—

''(i) the term 'digital television services' means television services provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Service,' MM Docket No. 87–268 and any subsequent Commission proceedings dealing with digital television; and

''(ii) the term 'analog television licenses' means licenses issued pursuant to 47 CFR 73.682 et seq. .''.

SEC. 3003. ALLOCATION AND ASSIGNMENT OF NEW PUBLIC SAFETY AND COMMERCIAL LICENSES.

(a) IN GENERAL.—The Federal Communications Commission, not later than January 1, 1998, shall allocate from electromagnetic spectrum between 746 megahertz and 806 megahertz—

(1) 24 megahertz of that spectrum for public safety services according to terms and conditions established by the Commission, in consultation with the Secretary of Commerce and the Attorney General; and

(2) 36 megahertz of that spectrum for commercial purposes to be assigned by competitive bidding.

(b) ASSIGNMENT.—The Commission shall—

(1) commence assignment of the licenses for public safety created pursuant to subsection (a) no later than September 30, 1998; and

(2) commence competitive bidding for the commercial licenses created pursuant to subsection (a) no later than March 31, 1998.

(c) LICENSING OF UNUSED FREQUENCIES FOR PUBLIC SAFETY RADIO SERVICES.—

(1) USE OF UNUSED CHANNELS FOR PUBLIC SAFETY.—It shall be the policy of the Federal Communications Commission, notwithstanding any other provision of this Act or any other law, to waive whatever licensee eligibility and other requirements (including bidding requirements) are applicable in order to permit the use of unassigned frequencies for public safety purposes by a State or local government agency upon a showing that—

(A) no other existing satisfactory public safety channel is immediately available to satisfy the requested use;

(B) the proposed use is technically feasible without causing harmful interference to existing stations in the frequency band entitled to protection from such interference under the rules of the Commission; and

(C) use of the channel for public safety purposes is consistent with other existing public safety channel allocations in the geographic area of proposed use.

(2) APPLICABILITY.—Paragraph (1) shall apply to any application—

(A) is pending before the Commission on the date of enactment of this Act;

(B) was not finally determined under section 402 or 405 of the Communications Act of 1934 (47 U.S.C. 402 or 405) on May 15, 1997; or

(C) is filed after May 15, 1997.

(D) PROTECTION OF BROADCAST TV LICENSEES DURING DIGITAL TRANSITION.—Public safety and commercial licenses granted pursuant to this subsection—

(1) shall enjoy flexibility in use, subject to—

(A) interference limits set by the Commission at the boundaries of the electromagnetic spectrum block and service area; and

(B) any additional technical restrictions imposed by the Commission to protect full-service analog and digital television licenses during a transition to digital television;

(2) may aggregate multiple licenses to create larger spectrum blocks and service areas;

(3) may disaggregate or partition licenses to create smaller spectrum blocks or service areas; and

(4) may transfer a license to any other person qualified to be a licensee.

(e) PROTECTION OF PUBLIC SAFETY LICENSEES DURING DIGITAL TRANSITION.—The Commission shall establish rules insuring that public safety licensees using spectrum reallocated pursuant to subsection (a)(1) shall not be subject to harmful interference from television broadcast licensees.

(f) DIGITAL TELEVISION ALLOTMENT.—In assigning temporary transitional digital licenses, the Commission shall—

(1) minimize the number of allotments between 746 and 806 megahertz and maximize the amount of spectrum available for public safety and new services;

(2) minimize the number of allotments between 698 and 746 megahertz in order to facilitate the recovery of spectrum at the end of the transition;

(3) consider minimizing the number of allotments between 54 and 72 megahertz to facilitate the recovery of spectrum at the end of the transition; and

(4) develop an allotment plan designed to recover 78 megahertz of spectrum to be assigned by competitive bidding, in addition to the 60 megahertz identified in paragraph (a) of this subsection.

(g) INCUMBENT BROADCAST LICENSEES.—Any person who holds an analog television license or a digital television license between 746 and 806 megahertz—

(1) may not operate at that frequency after the date on which the digital television services transition period terminates, as determined by the Commission; and

(2) shall surrender immediately the license or permit to construct pursuant to Commission rules.

(h) DEFINITIONS.—For purposes of this section—

(1) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(2) DIGITAL TELEVISION (DTV) SERVICE.—The term ''digital television (DTV) service'' means terrestrial broadcast services provided using digital technology to enhance audio quality and video resolution, as further defined in the Memorandum Opinion, Report, and Order of the Commission entitled ''Advanced Television Systems and Their Impact Upon the Existing Television Service,'' MM Docket No. 87–268, or subsequent findings of the Commission.

(3) DIGITAL TELEVISION LICENSE.—The term ''digital television license'' means a full-service license issued pursuant to rules adopted for digital television service.

(4) ANALOG TELEVISION LICENSE.—The term ''analog television license'' means a full-service license issued pursuant to 47 CFR 73.682 et seq.

(5) PUBLIC SAFETY SERVICES.—The term ''public safety services'' means services whose sole or principal purpose is to protect the safety of life, health, or property.

(6) SERVICE AREA.—The term ''service area'' means the geographic area over which a licensee may provide service and is protected from interference.

(7) SPECTRUM BLOCK.—The term ''spectrum block'' means the range of frequencies over which the apparatus licensed by the Commission is authorized to transmit signals.

SEC. 3004. FLEXIBLE USE OF ELECTROMAGNETIC SPECTRUM.

Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following:

''(y) Shall allocate electromagnetic spectrum so as to provide flexibility of use, except—

''(1) as required by international agreements relating to global satellite systems or other telecommunication services to which the United States is a party;

''(2) as required by public safety allocations;

''(3) to the extent that the Commission finds, after notice and an opportunity for public comment, that such an allocation would not be in the public interest;

''(4) to the extent that flexible use would retard investment in communications services and systems, or technology development thereby lessening the value of the electromagnetic spectrum; or

''(5) to the extent that flexible use would result in harmful interference among users.''.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, this amendment is acceptable to the other side. It is the best we can do to try to achieve spectrum consistency with the Budget Act, and even with this amendment, we are somewhat short.

Senator MCCAIN does not insist on speaking. If he does, we yield to him right now.

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

Mr. BYRD. Mr. President, what does the amendment do?

Mr. DOMENICI. Mr. President, this substitute amendment for title III offered by Senator MCCAIN, Senator LOTT, and myself, will help the committee get $4 billion closer toward its instruction on spectrum fees, and it does this without any fees. It has been approved by the Commerce Committee on both sides, Democrat and Republican, and there is no objection from the minority side with reference to this amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 474, as modified.

The amendment (No. 474), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. Can I ask the minority, there is a D'Amato amendment we are asking if you can clear. We are getting close to the end here.

Mr. LAUTENBERG. We will accept that.

AMENDMENT NO. 502

Mr. DOMENICI. I ask the D'Amato amendment No. 502, Medicare antiduplication provisions, be called up. We have agreed with the minority and they with us that this is acceptable.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 502) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, according to our records, we have four amendments, but they are all waiting to see what the managers' amendment includes in it. If it includes the proper subject matter, then there will not be a presentation of those four amendments. So I think the managers are working on that, and maybe we need a little bit of time while they finish it, and the four Senators can look at it to see if it takes care of their concerns.

The PRESIDING OFFICER. The regular order is the Kennedy amendment No. 492.

Mr. DOMENICI. Yes, that is correct.

Senator KENNEDY desires to withhold his amendment to see what the managers' amendment does; is that correct?

Mr. LAUTENBERG. Yes.

Mr. DOMENICI. Senator KERRY's amendment No. 496. I gather that you want to wait.

Mr. LAUTENBERG. Senator KERRY wants to wait and see what the managers' amendment does.

Mr. DOMENICI. And Senator ROCKEFELLER's amendment No. 503, we believe the same holds, and Senator KENNEDY's amendment regarding part B.

Might I discuss a few matters with the ranking minority member? I believe when we finish this, we will be finished with amendments. The only thing I can imagine left would be points of order to be lodged by anyone. We have none on our side.

Mr. LAUTENBERG. Mr. President, we have five in total that we will be happy to show the majority. I think Senator MURRAY has a point of order, and then we have the four remaining.

Mr. DOMENICI. I wonder if the time would be best spent if you let us see those. Maybe we can dispose of those and maybe agree we not have any votes, depending on what they are.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 506

Mr. DOMENICI. I understand that the chairman of the Finance Committee is ready with the managers' amendment, and I yield the floor. The amendment is numbered 506.

The PRESIDING OFFICER. The Senator from Delaware.

MODIFICATION TO AMENDMENT NO. 506

Mr. ROTH. Mr. President, I ask unanimous consent that amendment No. 506, the managers' amendment, be called up, and I send a modification to the desk.

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

Under a previous order, the Senator has a right to modify his amendment, and the amendment is so modified.

The modification follows:

At the end of the amendment, add the following:

On page 774, strike lines 13 through 15, and insert the following:

''(A) for fiscal year 1999, 92 percent;

''(B) for fiscal year 2000, 85 percent; and

''(C) for fiscal years 2001 and 2002, 80 percent.

On page 775, strike lines 21 through 25 and insert the following:

''(C) STATES WITH STATE 1995 DSH SPENDING AMOUNTS ABOVE 3 PERCENT.—In the case of any State with a State 1995 DSH spending amount that is more than 3 percent of the Federal medical

On page 779, line 10, strike ''2000'' and insert ''2001''.

On page 779, line 11, strike ''2001'' and insert ''2002''.

On page 779, line 10, strike ''2002'' and insert ''2003 and thereafter''.

Mr. ROTH. Mr. President, the managers' amendment with the modification has been approved on both sides of the aisle. I urge its adoption.

Mr. BYRD. Mr. President, could someone explain what is in the managers' amendment?

Mr. ROTH. Yes, I am happy to explain to my distinguished friend from West Virginia. It includes two Medicare hospital-related provisions. The first is a modification to the Medicare PPS, exempt hospital payments, and the second is a hospital wage index classification.

The second makes three additions to the Medicaid provisions. These include a Grassley amendment that was adopted in committee on the effect of managed care on individuals with special needs, a clarification on the definition of provider taxes, and continuation of certain 1115 waivers. There are four provisions on welfare, clarification of the language on SSI, and Medicaid benefits of certain Indians. It makes a conforming amendment on work activities, and it confirms the maintenance-of-effort requirement to the existing welfare block grant. It also requires that half of the payments for job placement be provided after an individual has been placed in the work force for at least 6 months.

Finally, the modification to the managers' amendment also modifies the formula for achieving savings in the Disproportionate Share Hospital Program. The amendment provides a smoother transition for the States and delays the restrictions on payment to mental health facilities.

As I said, Mr. President, all these amendments have been cleared by both sides of the aisle. I urge their adoption.

Mr. MOYNIHAN. Mr. President, may I simply affirm the statement of the distinguished chairman. These are agreed to on both sides of the aisle.

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

Mr. BYRD. Mr. President, I am not on the Budget Committee, I am not on the Finance Committee, but I do have a right to have a little knowledge of what we are voting on. By my not being a member of those committees—it might very well be stated as to what we are voting on—I may yet not understand it, but there are Senators in this body who can understand. It seems to me we are going a little fast.

Is this amendment divisible?

The PRESIDING OFFICER. In the opinion of the Chair, the amendment would be divisible.

Mr. BYRD. How many divisions would there be?

The PRESIDING OFFICER. There would be numerous divisions because the amendment hits the bill in a number of diverse places. We are attempting to assert the exact number.

The Senator from West Virginia is recognized.

Mr. BYRD. I yield to the distinguished Senator.

Mr. DOMENICI. Might I say to the distinguished Senator from West Virginia, I think you have been in this position and the position of this chairman many, many times. I do not know whether we ever have a chance to be in exactly this position when we have a reconciliation bill like this.

I might say, I think this amendment fits together a lot of concerns and fulfills a lot of concerns about the bill by many, many Senators. I hope the Senator would not ask for its division, but rather ask us to spend more time discussing it, which I believe, even though the consent agreement says a minute on a side, I think you might be clearly within your rights to say: This is a managers' amendment. Could we have some additional time? Certainly I would not object.

I objected one time in my life to giving the distinguished Senator from West Virginia additional time when time had run out, and I vividly remembered that for at least 5 years. It seemed like every time you looked at me it was reminding me that I had jumped up and objected to your getting time, additional time. I have never done that again, so I would not do it now.

I just wonder if that makes any sense to my friend from West Virginia.

Mr. BYRD. Mr. President, let me attempt to respond to the distinguished Senator.

I have a sense of what my responsibility is. I do not know what is in the managers' amendment. I have understood, in listening here, that there are various Senators who have amendments which are qualified and which are listed that they will call up unless the managers' amendment is satisfactory to them in respect to their several amendments.

Now, if each amendment is called up, we at least get 2 minutes for an explanation. We get no explanation here of what is in this managers' amendment. It is not my desire to hold up action on this measure. It is somewhat embarrassing to me to have to stand and admit that I don't know what is in this amendment. I have voted on amendments today that I had very, very slender knowledge as to what I was voting on.

I am not blaming anyone for this. I am not saying this to be critical of anyone. But I am concerned that here we are, before the American people, and it should be obvious to anyone who is viewing these actions that we are taking that many of us do not know what we are doing, what we are voting on, and these are very complex amendments. This is a very complex bill.

We are at a great disadvantage because we have only 20 hours on a reconciliation measure. I tried last year to get 50 hours on a reconciliation bill, and I believe I got a majority of votes, but I believe I lost because it ran afoul of the Byrd rule. Therefore, it required 60 votes. Thank heavens for the Byrd rule.

But, Mr. President, I do have a duty to my own conscience, if to no one else, and I am pretty sure I have a great duty to my constituents, to try to find out what's in the amendment we are about to vote on. In doing so, I am holding up the measure, I am delaying action on this measure. I am very well aware of it.

I know the burdens that are upon the leadership, the joint leadership. I know the burdens that are on the managers of this bill. I, at least, have some idea. They have done well. They have had heavy burdens. They have spent hours, they have spent hours when I was at home with my wife, Lady Byrd, and my little dog, Billy Byrd. But they have spent hours. I saw them working here last night. I cannot understand a great deal in watching that tube as to what is at issue here.

So I am considering asking for a division here. I think we have to shock this Senate one way or another into a realization that we have to change the rules with regard to reconciliation so that Members will have more time

than we have. Here we are, we have run out of time, yet Senators have amendments that they want votes on. It is by unanimous consent that we have 2 minutes of explanation between each amendment. That is no way to operate.

I cannot help it, Mr. DOMENICI cannot help it, Mr. LAUTENBERG cannot help it, the two leaders can't help it. That's the rule, 20 hours.

There are Senators who insist on having votes on their amendments, and I think they have a right to have votes on their amendment. We are constrained by a rule here that just does not make sense. It may have made sense at one time. It does not anymore. We are living at a different time when we are under severe budget constraints and when the administration and the leadership enter into some kind of agreement of which I am not a part and about which I know little, other than what I read in the newspaper.

So I have taken the floor here today to call attention to this very sad situation in which we are expected to vote on something without knowing what we are voting on. As I say, we are caught on the horns of the dilemma, and I do not feel right within myself about raising these points of concern.

Now, the distinguished manager of the measure has suggested that we have an explanation of the amendments. That is all I am seeking in this instance. But I think we ought to get our collective heads together and try to work out some change in the rules whereby we will not be caught in this kind of situation.

The American people would be ashamed of us. I think they would be very disappointed, and disappointed in me, too. They sent me up here to represent the people of West Virginia, and I don't know what I am voting on here. Who can blame me? My staff can't find out overnight. This morning when I came in, some of my staff stayed late into the evening hours. When I came in this morning, they didn't have the amendments available. They hadn't been printed. We just can't operate wisely and with any kind of solid judgment in that fashion.

So I won't take more of the Senate's time now. But I do raise the specter of asking for a division, and a request for a division under the rules means that we vote on every divisible provision in that measure. And if I understood the Chair in response to my parliamentary inquiry, there must be scores of provisions which would be subject to division.

I am not going to put the Senate through that today, but I warn the Senate that we had better do something about this because, otherwise, some Senator is going to feel conscience-stricken enough one day to stand up and use the rules, and there are some Senators who know something about the rules. So I raise that question here just to put Senators on notice that one Senator—one Senator—can cause all Senators to sit back and realize what we are doing and the way we are doing it is not good, not good for the Senate, not good for the American people.

Mr. DOMENICI. Will the Senator yield?

Mr. BYRD. Yes, I will be happy to yield.

Mr. DOMENICI. Mr. President, I could not agree with the Senator more. But I think we have followed the rules—the general rules of the Budget Act, plus the Byrd rule interpretations—as best we can. I think everyone should know that one of the problems on any reconciliation bill is that when the time has run, people can still offer amendments. That is written right into the statute. It says that when the time has run, you can send amendments to the desk, and I assume one could stay forever—I don't mean literally—and they shall be voted on then and there. I believe it says there is no time on the amendment. We have gone from allowing 1 minute to 2 minutes to 3 minutes per amendment. We decided we would allow Senators to offer their amendments last night, thinking they would stay and offer them. We got caught in a trap because Senators started walking up to me and Senator LAUTENBERG and giving us their amendments and asking us, as managers, to introduce them for them. I guess I could have said no, and the literal interpretation would have been that if you are not going to be around here, you are not going to offer them.

That was the genesis of what happened this morning. We put them all in order and tried to encapsulate them so you could understand them, and there were 64 of them, plus a couple of points of order. So we have done the best we could. As a matter of fact, I am very grateful. I would guess that more than 30 amendments were withdrawn—maybe 35. Others were clearly very simple amendments, and maybe in adopting them we should have used a little more words of explanation than we did. If that is the case, as to any Senator or anybody listening, we will just try to do better. But that situation is the law.

Now, the law is, as you say it also. You can still divide those amendments and have that minute on every one, I assume. You know the rules better than I. I have learned them a little bit now. But I believe, from this point on, we only have a few left. We would be very glad on this one—I asked the chairman, and he would be glad to explain it now as much as you would like and answer any questions. I understand we would only have a few more, and three or four points of order, and, finally, this ordeal will be behind us. Again, you have reminded us of our responsibility. I thank the Senator for that.

Mr. BYRD. Mr. President, I don't need to remind the distinguished Senator from New Mexico of his responsibility or any other Senator of his or her responsibility. As I said earlier, I am not complaining about anyone. I sympathize and empathize with the managers of the measure. They have done the best they could. You can't do any better. We have all been caught in this situation. It is not to our liking. But the distinguished manager, the chairman of the Finance Committee, sought to explain to me a minute ago, in 2 minutes, what was in this managers' packet. I didn't know anything, and when he completed, I didn't know any more than when he started. As a matter of fact, I was probably more confused. I think we would have had a little better explanation if we had a division and had each amendment explained.

Mr. LAUTENBERG. If the Senator will yield, I would like to make a comment. When Senator BYRD makes a statement, talks about a rule, talks about the process, I think it is kind of like the investment banker's advertising slogan that ''when they talk, everybody listens.'' When Senator BYRD speaks here, everybody listens, and much of the country at the same time, because of the experience and knowledge that he brings to this body and the concern that he has for being forthright with our constituents.

I would just like to say this to the Senator. There was a degree of diligence—excessive haste, I agree. I will say one thing. I think that we appropriately learned a lesson about the process of stacking votes. I even suggested to the distinguished Senator from West Virginia that perhaps another Byrd rule could be put into place. I don't have the courage to offer it in my own name. But another Byrd rule might say that no more than 5 amendments, or 4 or 5 votes, or something like that, could be stacked at any time so that we would not get ourselves into this mad dash not to deceive and not to obscure, but rather to accommodate this very complicated process.

As the Senator from West Virginia knows, the Senator from New Mexico and I spent roughly 2 months, almost every day, reviewing and negotiating the points in the budget agreement. We tried—I speak for myself, and I am sure the same situation occurred on the Republican side of the aisle—to keep our members on the committee informed because, as the distinguished former chairman of the Appropriations Committee knows, it is very hard to conduct an honest negotiation and debate when there are 20 people in the room. So what we tried to do is consolidate a consensus view and do it that way. So we met with the committee members and then we met with the members of the Democratic Caucus, because there were questions that arose.

So I have to say this to the distinguished Senator. In my 15 years here, I honestly don't think that there has been a tighter review of matters related to the budget resolution than I have seen, because I have been on the Budget Committee almost all of the time that I have been here. We kept learning

each year. I found the chairman of the Budget Committee, the Senator from New Mexico, good to work with. We had lots of different views, but the one thing that we didn't differ on is that the other person had a right to respect, a right to offer their opinion, and we did it that way. It got tedious at times, especially when one could not listen to one's self. On the other hand, we did gain, seriously, a lot of knowledge during that period.

I would say this. As I look around the room, we have experts in specific areas. If you want to talk about health, you know you would be talking quickly to the Senator from Massachusetts, and others on different matters of concern. And these matters were reviewed, not perhaps as thoroughly as we would have liked because we were committed to a time constraint overall. But, last night, I was here with the distinguished chairman of the Finance Committee until past 10 o'clock—about 10:30—and we were hung up on a single amendment, reviewing it and trying to get into a position that we felt would satisfy our respective constituencies in the Senate, and back home, and across the country, as well. So the effort was put in.

I think there is a mistake in the process, or a fault in the process, that needs to be corrected. I thank the Senator for raising the issue because, in these last hours, I have heard complaints from other Members of the Senate, as well, about this being too quick, too rushed. But we had a commitment. This is an unusual budget, a budget committed to a goal of zero deficit in 5 years. A lot was packed into it. The negotiations included members of the administration. It has been a very complicated, very tedious process, but no one, in my view shirked their responsibility.

I hope that, from this point forward, we will remember another Byrd lesson. I remember many of them. Despite my white hair, I feel like I am going to ''professor'' BYRD's class when I do attend appropriations meetings or other meetings. I would say this, ''professor'': I don't know what kind of a report card I have gotten, but I hope that it is better than a failing one and that you will say, OK, go forward and learn from this and next time I want to see a better performance. Thank you very much.

Mr. BYRD. Mr. President, I don't propose to have the answer to this problem. But it just seems to me that we are always caught up against a holiday, where we have a break the next week. And here we have this bill, and we will have the tax portion of the reconciliation process that will follow after that. And we are asked to cut a little of the time off here, cut a little off there. It would seem to me that if we could get started on these measures earlier, we would not be faced with a situation in which the managers have to stay here far into the evening hours, while other Senators go home. It seems to me that if we had been able to get to this measure earlier, we could have had more time. But here we are, and it seems to work out this way upon every occasion, where we are backed up to a wall of some kind, where there is the attempt to cut 20 hours down to 15, 12, or 10, or an attempt to cut 50 down to 40 on the budget resolution. We always get the question, ''Would you be willing to cut some time off of the 40 hours, cut it down to 30?'' ''Would you be willing to go home and come back Monday and say that 15 of the hours, or 10 hours, or 20 hours have been consumed?'' So I suppose these situations could be avoided.

Let me get down to the point. Would someone explain what is in this amendment? As I explained, four or five Senators had amendments that they wanted to call up, but they were waiting to see what was in the managers' amendment. Those amendments must have been pretty important; otherwise, if they weren't in the managers' amendment, there would be a vote on each, some kind of vote, a vote by voice, a vote by division, or a vote by rollcall. There would be a vote and an explanation. Perhaps if we knew what was in those four or five major amendments, that would help.

Mr. REID. Will my friend yield?

Mr. BYRD. Yes.

Mr. REID. I say this to my friend from West Virginia and to the two managers of the bill. Speaking from my perspective only, I think that the explanations that have been given in 1 minute have been quite good. I am glad that the Senator from West Virginia asked for that, because I felt pretty comfortable voting on each amendment. I say this to my friend from West Virginia. If we look down the road to making this process better, we are not going to improve it by adding hours; we are going to improve it by making sure that amendments are offered before we finish the debate. If we have 50 hours, people are still going to offer all of these amendments at the end, if you have a loophole like this. I look forward to improving the system, but that we do it in whatever hours we have, and amendments should be offered during that time.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. BYRD. Yes.

Mr. BUMPERS. Mr. President, we are all speaking here at the indulgence of the managers of the bill because there is no time left on this bill. I will not delay it for long.

First, I want to say that I have never been as happy with my decision not to seek reelection as I have been today. I have been voting on amendments that involve billions of dollars today with only a superficial or cursory knowledge of what I was voting on. I would not like to go home—and I don't speak for the rest of you but I expect I am speaking for the rest of you, too—I would hate to have to go home and explain to people what was involved in all of these amendments, particularly this one which I do not have a clue about.

But we must not lose sight of the point that the distinguished Senator from West Virginia made in the opening part of his statement a moment ago. That is, it is the rule that is the tyrant here with 20 hours to debate this part of the reconciliation bill and 20 hours to debate the tax portion of it, which is monumental and most probably will be the most significant important legislation we will deal with all year—20 hours. We will wind up at the end of that 20 hours precisely the way we have with this one. There will be a long list of amendments down there. Maybe we will have another unanimous-consent agreement where you are allowed 60 seconds to explain a bill that involves $10 billion.

We are not doing the people of this Nation a service as long as we allow this kind of a rule to put us in this kind of a straitjacket where we have to get up and openly confess that this system is not working as it ought to.

So, I applaud the Senator from West Virginia for his comments. He is right on target. Fifty hours ought to be a minimum for the consideration of a reconciliation bill.

I thank the Senator for making everybody aware of our shortcomings on this day.

Mr. BYRD. I thank the Senator.

Mr. President, I do not want to hold the floor longer. I apologize to the managers of the measure for imposing on them.

Is there some way that the distinguished Senator from New Mexico or the distinguished Senator from New Jersey can enlighten Senators as to what is in this managers' amendment—particularly, if I may say, with reference to the four or five amendments that have qualified and were being held back to see if the managers' amendment took care of those amendments?

As I understood it, Mr. KENNEDY had one amendment.

Mr. DOMENICI. On those four amendments we will try, if the chairman of the Finance Committee will explain, we will try to ask the Senators the relationship. It is not obvious on two of them that they are related at all, from what I could see. I think they were just trying to see how these major health matters are going to get clarified here, which is not in this amendment. I don't believe they are even in this amendment. So we will find that out, and before we vote, we will try to have an explanation.

Mr. BYRD. All right.

Mr. DOMENICI. Would the chairman like to explain in the best way possible what is in the amendment?

Is that what we would like to do next?

Mr. BYRD. That is what I would like.

May I say to the distinguished leader that he is frustrated with this process also. He said to me earlier today that we have to find some better way.

I do not want to be a part of a problem. I am hoping we can at least get some response from those who understand what is in the amendment so

that the rest of us will at least go home feeling we did our best in understanding it and that we at least made it clear that something is wrong with the way the process is working.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to yield all of the time to the chairman of the Finance Committee. But I do want to make one statement.

My friend from Arkansas said, I guess, that today made him happy that he would soon stop being a Senator.

Let me make sure, if there are only six people listening on television, that this Senator would like to say that it makes me very proud what we are doing here. I am very proud of this bill. I am very proud of the balanced budget. I am very proud of how we got here and what we are doing here.

Frankly, if things keep going as well as this, I may break all longevity and stay here for a lot longer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, if I may say so, I am encouraged very greatly by the news that the Senator from New Mexico will stay as long as possible, as does our distinguished friend and leader from West Virginia.

I say to my good friend from West Virginia, as he well knows, in every major piece of legislation there are a lot of technicalities and complexities involved in the legislation. In the efforts to draft them and put them in final shape, it becomes necessary to have a number of technical modifications at the end.

I would also say that in developing this legislation, it has been my intention to work with everyone, both in committee and on the floor. We have tried to include everybody—Republican, Democrats, senior Members, and junior Members.

So I think the process has been all-inclusive. Basically, what we have here in the so-called managers' amendment is sort of a cleanup of a number of matters that had to be modified to make them technically correct to take care in some cases of some of the concerns of individual Members. Each of these have been reviewed very carefully by the technicians who understand it.

I think part of the problem is that these are very complex matters that aren't easy to explain or even to understand. But let me point out, for example, that in the managers' amendment, the first section that deals with what is known as ''PPS-exempt'' hospital changes, it deals with technical changes as to how they are reimbursed.

For example, the first says strike the update formula and substitute with a zero; update for fiscal years 1998, 2001, and market basket, minus 3 percent in 2002.

In trying to reach the $115 billion savings that we are supposed to make in Medicare, we reduce payments to the providers. Normally the reimbursement each year reflects the cost-of-living or inflation. But in this particular case, in order to make savings and because the hospitals are doing reasonably well, we are reducing the reimbursement.

It is that kind of technical change that much of this deals with.

In another situation, we are—again in efforts to save money—reducing what is known as disproportion payment and we have based the recommendations on what an independent commission has recommended, and I might say that is what the administration has recommended as well. These, again, are all basically very technical.

But going back to the reduction of the disproportion, because both Democrat and Republican Members were concerned about reducing as much as was recommended by this independent board, we have slowed that phase-in a little bit to make it easier for those organizations to adjust.

So essentially I would say it is this kind of technical change that we are trying to deal with here rather than major policy.

I assure you that we have dealt with both managers—the Republican manager, the Democrat, and, of course, I might say that we have been working very closely with my good friend and colleague, PAT MOYNIHAN.

Mr. MOYNIHAN. You most assuredly have, sir.

Mr. ROTH. So I don't have any disagreement with our distinguished friend and leader as to the whole process, but we have in good faith tried to deal with the process and meet the time schedules that everybody has wanted us to achieve.

I could go on and read all of these, if you like, sir. But I will say they are highly technical.

The first one, I might point out, included two Medicare hospital-related provisions. As I said, the first is a modification as to how we reimburse what are called Medicare PPS-exempt hospitals. A PPS hospital is paid on a prospective payment basis. That was a means that was adopted many years ago to try to gain better control of expenditures than you have when you have cost reimbursements. The hospital knows that for a certain kind of function, they will be able to receive so much money—say, $1,000. And they know they have to live within that. So they have an incentive to try to keep those costs down. But now we are cutting because we have to make greater savings. The hospitals, according to our independent panel, are doing relatively well, and we are trying to cut it more.

The second is a hospital wage index classification and reimbursement. We deal or address the wage index, and a highly technical modification takes place there.

So, as I say, they are this kind of technical change basically in an effort to make legislative language accurate and achieve the goals that were intended by the policy.

Mr. BYRD. Mr. President, the distinguished Senator is certainly doing everything that he can in the best of faith to try to explain some things about this amendment. I am sure this could go on quite a long time. It is not that kind of detail that this Senator is seeking.

Let me say again that I am not accusing anyone of acting in bad faith. Everybody is acting in good faith.

May I ask the distinguished manager of the bill: What were the four amendments that I understood Senators were holding back on to see what was in the managers' amendment? If we could have some indication of what they were about, that would be satisfactory with me.

Mr. DOMENICI. Sure.

Let me say, Mr. President, to the Senator from West Virginia that there was a Hutchison amendment. It had to do disproportionate share of payments to hospitals, and there is a modification of that which had adversely affected Texas that is apparently somewhat ameliorated there. Senator SPECTER had the exact issue, and he had a disproportionate share of payments amendment. He is part of this overall agreement that is in this managers' amendment.

Then there was a Bob Kerrey abortion amendment that had nothing to do with this amendment. But I asked him to wait for the managers' amendment before he did something on it.

I assume that Senator MURRAY is going to make the point of order on that issue. But I am not certain of that.

Mr. KERREY. That is close enough. There was actually a modification that requires me to wait before I offer my amendment. Otherwise I will have to offer it twice.

Mr. DOMENICI. OK. Unless he waits for that, he will have to offer it again.

Then there was a Senator Kennedy uninsured children's amendment that also seems unrelated. But he indicated that he would like to wait and see what happened to this amendment.

That was the four that I mentioned.

I think that is the full stint of those amendments and the stories behind them.

I yield the floor.

Mr. BYRD. Mr. President, I thank all Senators, particularly the managers of the bill, the Senator from Delaware, and also the distinguished Senator from New York [Mr. MOYNIHAN]. I thank them all. I thank all of them.

I don't have any other questions to raise. I will not ask for a division. Senators have certainly done the best they could to go as far as they could in answer to this Senator's frustration. That is what we are talking about. We are all frustrated. It is the rule, and we ought to try to find some way to change it. I don't have any quarrel with any Senator in particular.

I thank all Senators.

The PRESIDING OFFICER. The pending question is the amendment, as modified, No. 506.

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

The amendment (No. 506), as modified, was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Now, Mr. President, do we have the child health amendment ready?

Mr. JEFFORDS. Mr. President, I believe we are all set with a colloquy that has clarified the language.

Mr. DOMENICI. I would like to proceed with that. We are very, very close to having no amendments left except a Murray point of order and a Kennedy point of order.

Mr. KENNEDY. Mr. President, if is agreeable with the floor manager, I would call up our Medicare home health benefit transfer from part A to part B and proceed with that.

Mr. DOMENICI. I say to the Senator, I was trying, if I could, to get one amendment before you, but if it is not ready, we will go right to you.

Mr. KENNEDY. That is all right. We are here so we will accommodate whatever.

Mr. DOMENICI. Mr. President, the amendment, which is a product of many Senators on both sides, with reference to child health is not ready. Therefore, we would like to move to the point of order either by Senator MURRAY or Senator KENNEDY.

Is Senator MURRAY ready?

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

POINT OF ORDER

Mrs. MURRAY. Mr. President, I make a point of order that section 1949(a)(2) of this act violates section 313(b)(1)(A) of the Congressional Budget Act.

Mr. President, as an appropriator, I object to the language included in this legislation by the Finance Committee that would make permanent a prohibition against Medicaid managed care funds being used for abortion services except in the cases of rape, incest, or where the woman's life is in danger. This is, for all intents and purposes, a permanent extension of the so-called Hyde amendment that has been included in every Labor-HHS and education appropriations bill since 1987. A reconciliation bill is not the proper vehicle for major abortion policy decisions. This is not how Congress has traditionally dealt with such decisions, and this is not how we should begin to deal with such decisions.

I know that some of my colleagues disagree——

Mr. LAUTENBERG. If the Senator will yield, Mr. President, this place is not in order. It is terribly unfair to the Senator. Her voice is soft, and we ought to make sure that we can hear it. She has an important message for all of us, and I resent the fact that people are talking and laughing and doing what they are doing.

Please, Mr. President, let us get order.

The PRESIDING OFFICER. Before the Senator from Washington proceeds, let me ask all Senators, if they would, to please take their conversations to the Cloakroom and give the Senator from Washington the courtesy of everyone hearing her remarks.

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

The PRESIDING OFFICER. The absence of a quorum is suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. I might explain to the Senators the reason for the delay and the quorum call is that we are discussing with Senator MURRAY, with reference to a point of order, we are discussing exactly what it means and what it doesn't mean, and she has requested that we set it aside pending further discussion. So I so propose a unanimous-consent request to the Senate.

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

The point of order will be set aside.

AMENDMENT NO. 504

Mr. DOMENICI. I understand Senator KENNEDY has two remaining amendments. One has to do with home health care and the trust fund. I believe he is going to take that up now.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, if we could have the attention of the Senate.

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. Mr. President, this amendment would speed up the agreed-upon transfer of a portion of the Medicare home health benefit from part A to part B. This acceleration would extend the solvency of the Medicare trust fund by 2 years. It would not affect the deficit or seniors' premiums. We have maintained in our amendment that the premiums that have been agreed to would be maintained, or it would not affect the total amount of the benefit ultimately transferred.

It is strictly a bookkeeping transaction, but it will help save Medicare. It extends the solvency of the Medicare Program by 2 years. It was in the President's budget. It is a desired outcome for those who are interested in the financial security of the Medicare trust fund. We debated the stability and the security of the Medicare trust fund at length yesterday. This is a way of extending it by 2 years.

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

Mr. DOMENICI. I yield time in opposition to Senator ROTH, chairman of the Finance Committee.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I object to the amendment. We are transferring, over 7 years, home health care to part B, but we want to do it in seven segments because it is agreed that the beneficiaries should continue to pay 25 percent of the cost of the part B services. We do not want to put it all over the first year because we do not want to raise the premiums that rapidly.

So in order to be consistent, what we provide in the legislation is that the home health care will be transferred over 7 years. Each year an additional seventh will be included in the cost of the premium, so that will make the phasein much lower.

The PRESIDING OFFICER. Is there further debate?

The Senator from New Mexico.

Mr. KENNEDY. Mr. President, do I have any further time?

The PRESIDING OFFICER. Both sides have used their allotted time.

Mr. DOMENICI. Mr. President, I make a point of order that the Kennedy amendment violates the Budget Act in that the amendment is subject to the Byrd rule.

Mr. KENNEDY. Mr. President, I move to waive the point of order as made.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the point of order. All those in favor say yea.

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

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question 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 bill clerk called the roll.

The yeas and nays resulted—yeas 38, nays 62, as follows:

[Rollcall Vote No. 127 Leg.]

YEAS—38

Akaka	Feingold	Levin
Bingaman	Feinstein	Lieberman
Boxer	Ford	Mikulski
Breaux	Glenn	Murray
Bryan	Graham	Reed
Bumpers	Harkin	Reid
Byrd	Inouye	Robb
Cleland	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Daschle	Kerry	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	Wyden
Durbin	Leahy	

NAYS—62

Abraham	Frist	McCain
Allard	Gorton	McConnell
Ashcroft	Gramm	Moseley-Braun
Baucus	Grams	Moynihan
Bennett	Grassley	Murkowski
Biden	Gregg	Nickles
Bond	Hagel	Roberts
Brownback	Hatch	Roth
Burns	Helms	Santorum
Campbell	Hollings	Sessions
Chafee	Hutchinson	Shelby
Coats	Hutchison	Smith (NH)
Cochran	Inhofe	Smith (OR)
Collins	Jeffords	Snowe
Coverdell	Kempthorne	Specter
Craig	Kerrey	Stevens
D'Amato	Kohl	Thomas
DeWine	Kyl	Thompson
Domenici	Lott	Thurmond
Enzi	Lugar	Warner
Faircloth	Mack	

The PRESIDING OFFICER. On this vote, the yeas are 38, the nays are 62. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the amendment falls.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 504

Mr. SPECTER. Mr. President, I have sought recognition to explain my views concerning the Kennedy amendment 504, which would have immediately transferred to Medicare part B the home health benefits currently paid for under the Medicare part A trust fund.

Payment for home health care is made from the part A trust fund for home health services such as part-time or intermittent nursing care provided by or under the supervision of a registered nurse or home health aide.

To protect the solvency of the part A trust fund, the bill shifts some of the home health costs on a 7-year phased-in basis from part A to part B.

The budget reconciliation bill reflects a careful compromise on protecting the solvency of the part A trust fund for all seniors without unduly burdening the taxpayers. Under the Kennedy amendment some of the bill's fiscal protections would have been dropped, and taxpayers would have effectively funded 100 percent of the home health services in fiscal year 1998, which would be unprecedented under Medicare. In my judgment that goes too far and adversely affects the present preferable balance.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, throughout the day I have been working with Senator CHAFEE and others with regard to amendments.

Mr. LAUTENBERG. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate is not in order. The Senate will please come to order.

The majority leader.

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Mr. President, I have been working with Senator CHAFEE and others, including Senator JEFFORDS, on a number of amendments that were offered last night as first- or second-degree amendments. I think we have worked out a process, now, that we are all comfortable with. Let me enter this unanimous-consent request and then we will have a brief colloquy also.

I ask unanimous consent the following amendments be withdrawn: Chafee amendment No. 448, Chafee amendment No. 500, Chafee amendment No. 501, Lott amendments Nos. 505, 507, 508, 509, Rockefeller amendment No. 510 and the Roth amendment No. 513;

I further ask unanimous consent that the Senate turn to the Roth amendment No. 511, and that all between lines 23 on page 22 and line 3 on page 23 be stricken;

I further ask the Senate then call up the Chafee amendment No. 512 to the Roth amendment No. 511, as modified, that the Chafee amendment be agreed to, and the Roth amendment, as amended, then be agreed to;

I further ask unanimous consent that when the committee amendment to S. 949, the Taxpayer Relief Act, is before the Senate, Senator ROTH be recognized to offer an amendment which is the text of the Roth amendment No. 511, as modified and amended, and the text of the Kennedy amendment, No. 492, if adopted by the Senate, to S. 947, to the language regarding the children's health initiative, and the amendment be agreed to;

Finally, I ask unanimous consent that it not be in order during the pendency of S. 949 to offer further amendments or motions regarding title XXI of the Social Security Act, except amendments regarding revenues and outlays.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. The Senator from Delaware——

The PRESIDING OFFICER. The Senator from Vermont will suspend. The Senate is not in order. Senators please take their conversations off the Senate floor. The Senator from Vermont.

Mr. JEFFORDS. If the chairman of the Finance Committee would give me his attention, as I read the unanimous consent request, States would not be able to use the new funds under the children's health insurance initiative to provide health care coverage under either the block grant or to provide Medicaid for children over 200 percent of poverty.

This creates a real problem for a number of States. Vermont is currently covering all children aged 18 that have family incomes of 225 percent of poverty through its Medicaid Program. I would like to be assured that we will work to address this concern in the conference so that States have the ability to use the new funds to provide health care coverage for children over 200 percent of poverty. There are children above this level that need the help badly.

Mr. ROTH. Mr. President, I say to the Senator from Vermont, he has my assurance that we will discuss this concern in the conference committee. It is not my intent to penalize those States that have done a good job in covering their low-income children or to exclude needy children from coverage.

Mr. CHAFEE. I would like to address this, Mr. President, if I might, to the distinguished chairman of the Finance Committee. It is also my understanding that a State would be able to use any new funds to provide health coverage for children under 200 percent of poverty and use existing State dollars, normally used for this purpose, in order to provide health care coverage for children over 200 percent of poverty.

Mr. ROTH. Mr. President, section 2102 allows for the use of existing State funds to provide additional health care coverage for children over 200 percent of poverty.

Mr. CHAFEE. I thank the chairman for that. I also extend my thanks to the distinguished majority leader for helping us reach this unanimous-consent agreement. I believe the resolution of this problem has been a very good one. I thank, as I say, the majority leader and the chairman of our Finance Committee and other Senators who have worked on this, particularly on our side, Senator JEFFORDS.

Mr. GREGG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Hampshire reserves the right to object.

Mr. GREGG. Is the practical effect of this amendment that there will only be two options available now to States: One would be to put the child in Medicaid, and the other would be to use a Blue Cross/Blue Shield standard option plan with hearing and eyeglasses?

Mr. ROTH. No; the choice is not limited to that. Under the option, the States must provide benefits that are the equivalent of a Blue Cross standard plan. But I emphasize the word ''equivalent,'' because it means considerable flexibility. I should point out, it also includes vision and hearing services.

Mr. CHAFEE. That is right. The State can use its own funds. If it has been using its funds for other types of services, they can continue using their State funds for those other types of services.

Mr. GREGG. Further reserving the right to object.

The PRESIDING OFFICER. The Senator from New Hampshire further reserves the right to object.

Mr. GREGG. The practical effect of this then is that the programmatic activities are specifically mandated as being either a Medicaid Program or a

Blue Cross/Blue Shield equivalent program, is that not correct?

Mr. ROTH. That is correct.

Mr. GREGG. I have very serious reservations about this. I presume the leaders worked hard on reaching this agreement, and I presume that there is going to be further consideration of this issue.

Mr. LOTT. As a matter of fact, Mr. President, if I can respond to the Senator's reservation, I noted when I read through this that there were a series of amendments that had been offered in a variety of ways affecting this particular area: Three by Senator CHAFEE, four by myself, one by Senator ROTH, one by Senator ROCKEFELLER. So this is quite a laboriously worked-out process.

The Senator from Vermont, as a matter of fact, is not particularly happy with some provisions still remaining, and he had an amendment that would have tried to change that. A number of others—Senator NICKLES of Oklahoma—I believe, had something. But this unanimous-consent agreement was worked out in a way that a number of Senators decided not to go forward with their objections.

I personally don't agree with this, but it is the best way that we could work through about six or eight amendments that were pending in a reasonable and fair way, and it certainly will have another day in court.

Mr. GREGG. Well, on that representation, I won't object, but I have serious reservations, I must say.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I say to my colleagues, I think the majority leader is exactly right, and I congratulate him, as well as Senator ROTH and his excellent staff, as well as Senators CHAFEE, JEFFORDS and many others who worked on it.

As the majority leader has indicated, it has been a very laborious, long process in which things sort of just gradually, tectonically moved together, but very, very slowly.

The point is that we can say now children are going to have good benefits, and that doesn't mean that they have to pick a particular plan. There is not a mandate in this that they have to pick this plan or that plan, but they will be able to get the kinds of benefits that we have as Senators, as Federal workers.

I think, frankly, we have an obligation to make sure our children have plans. Preventive care, hospital care, doctor care, prescription, vision and hearing is in this. That is very important for early years, preventive care.

So I think, frankly, it has been extremely complicated, it has taken a long time, but I think it is a good compromise, a good agreement, and I congratulate those who brought it together.

Mr. LOTT. Mr. President, also, before I renew my unanimous-consent request, Senator BREAUX was also involved in this exercise and was helpful. I express my appreciation to him.

I renew my unanimous-consent request.

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

Mr. LOTT. I yield the floor, Mr. President.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from West Virginia, Senator ROCKEFELLER, for his help in this. As he mentioned, this has been a very long, long difficult process. He has been very helpful.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, if it is agreeable with the floor managers, I am prepared to move ahead with my amendment dealing with children's benefits.

Mr. DOMENICI. I believe that is the last amendment, except the three points of order that are going to be submitted by the Democratic floor leader en bloc.

Mr. KERREY. I still have my amendment.

Mr. DOMENICI. Sorry, I forgot. I thought that was going with Senator MURRAY when she withdraws her point of order. It is different?

Mr. KERREY. Yes.

Mr. DOMENICI. Can we recognize Senator MURRAY for a moment? She intends to speak to the Senate with reference to her previous point of order.

POINT OF ORDER, WITHDRAWN

Mrs. MURRAY. Mr. President, I withdraw my previous point of order, but I want this body to know that I object to the language in this bill that essentially makes Hyde permanent and affects those States whose managed care plans now cover medically necessary abortions. Unfortunately, the way the language was cleverly drafted, my point of order would have unintended consequences.

I go back to what my colleague from West Virginia said to all of us a few minutes ago. I think as we move toward final passage, I hope we all understand the severe consequences of the many different arenas in this bill.

I withdraw my point of order.

The PRESIDING OFFICER. The Senator has a right to withdraw her point of order. The point of order is withdrawn.

The Senator from Massachusetts.

AMENDMENT NO. 492

Mr. KENNEDY. Mr. President, I call up our amendment dealing with the special health needs of children. I call up the amendment on behalf of myself and Senator HARKIN.

First of all, I commend the Senators for getting us where we are in terms of the new health benefits package for children, but there are some very critical needs for children, children with disabilities, children who are developmentally delayed and children with special needs.

Those needs are not attended to, and that is why this amendment is supported by the Consortium of Citizens with Disabilities, the American Academy of Pediatrics, the American Association of Retarded Citizens and the National Alliance for the Mentally Ill.

This will ensure that, in those particular areas, the children will receive what is medically necessary. The Federal employees program is targeted to adults and not toward children. This recognizes that there are special needs for children in these areas, and it permits what is medically necessary. It is a limited program, but it is vital in terms of the special needs of those children. I hope that it will be agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I yield 40 seconds of our time to Senator ROTH, and I will use 20 seconds.

Mr. ROTH. Mr. President, I oppose the Kennedy amendment. As we have just been discussing, we have carefully crafted and negotiated the issue of the benefits package for the new children's health initiative. This amendment would break that agreement by requiring additional benefits. It does the very opposite of what we want to do. We want to provide flexibility to the States, and this would be a major step in the wrong direction.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this would change a bipartisan compromise in the committee and make a long list of benefits mandatory. Thus, it would fly in the face of reform and make it more difficult for the States to deliver quality care for less money. In essence, it is apt to produce less quality care under the rubric of supplying all of the specifics, even if you could get better care with less specifics.

I move to table the Kennedy 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 lay on the table amendment No. 492. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 57, nays 43, as follows:

[Rollcall Vote No. 128 Leg.]

YEAS—57

Abraham	Coats	Frist
Allard	Cochran	Gorton
Ashcroft	Collins	Graham
Baucus	Coverdell	Gramm
Bennett	Craig	Grams
Bond	D'Amato	Grassley
Breaux	DeWine	Gregg
Brownback	Domenici	Hagel
Burns	Enzi	Hatch
Campbell	Faircloth	Helms

Hutchinson	McCain	Shelby
Hutchison	McConnell	Smith (NH)
Inhofe	Moynihan	Smith (OR)
Kempthorne	Murkowski	Snowe
Kerrey	Nickles	Stevens
Kyl	Roberts	Thomas
Lott	Roth	Thompson
Lugar	Santorum	Thurmond
Mack	Sessions	Warner

NAYS—43

Akaka	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Harkin	Murray
Bryan	Hollings	Reed
Bumpers	Inouye	Reid
Byrd	Jeffords	Robb
Chafee	Johnson	Rockefeller
Cleland	Kennedy	Sarbanes
Conrad	Kerry	Specter
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	Wyden
Durbin	Leahy	
Feingold	Levin	

The motion to lay on the table the amendment (No. 492) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 427

Mr. DOMENICI. Mr. President, there is an amendment pending at the desk, an amendment for Senator DEWINE that is No. 427.

I am going to send, at his request and with the approval of the minority, a modification. This amendment, as modified, will amend the Social Security Act to continue full-time equivalent resident reimbursement for 1 additional year under Medicare for direct graduate medical education for residents enrolled in combined approved primary care medical residency training programs.

AMENDMENT NO. 427, AS MODIFIED

Mr. DOMENICI. I send the modification to the desk, and ask unanimous consent that we call up the amendment as modified.

The PRESIDING OFFICER. Is there objection to modifying the amendment?

Without objection, it is so ordered. The amendment is modified.

The amendment (No. 427), as modified, is as follows:

At the appropriate place in chapter 3 of subtitle F of division 1 of title V, insert the following:

SEC. . MEDICARE SPECIAL REIMBURSEMENT RULE FOR PRIMARY CARE COMBINED RESIDENCY PROGRAMS.

(a) IN GENERAL.—Section 1886(h)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(G)) is amended—

(1) in clause (i), by striking ''and (iii)'' and inserting '', (iii), and (iv)''; and

(2) by adding at the end the following:

''(iv) SPECIAL RULE FOR PRIMARY CARE COMBINED RESIDENCY PROGRAMS.—(I) In the case of a resident enrolled in a combined medical residency training program in which all of the individual programs (that are combined) are for training a primary care resident (as defined in subparagraph (H)), the period of board eligibility shall be the minimum number of years of formal training required to satisfy the requirements for initial board eligibility in the longest of the individual programs plus one additional year.

''(II) A resident enrolled in a combined medical residency training program that includes an obstetrics and gynecology program qualifies for the period of board eligibility under subclause (I) if the other programs such resident combines with such obstetrics and gynecology program are for training a primary care resident.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to combined medical residency training programs in effect on or after January 1, 1998.

Mr. DOMENICI. I believe that amendment is acceptable.

I yield back any time I might have.

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

The amendment (No. 427), as modified, was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 447, 464, 470, 477, AND NO. 503, AS MODIFIED, WITHDRAWN

Mr. DOMENICI. I ask unanimous consent to withdraw five amendments that remain: 447, Senator HUTCHISON; 464, Senator BROWNBACK; 470, Senator SPECTER; 477, Senator DURBIN; and 503, Senator ROCKEFELLER.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendments are withdrawn.

The amendments (Nos. 447, 464, 470, 477, and No. 503), as modified, were withdrawn.

Mr. DOMENICI. Mr. President, there is one additional amendment by Senator KERREY.

The PRESIDING OFFICER. The Senate will come to order.

Mr. DOMENICI. One additional amendment by Senator KERREY, which will require a vote. Then there will be three points of order en bloc by the minority. We will not seek to overrule them. We will accept them. The provisions will then cause those portions of the bill to fail, to drop. Following that, we will have final passage.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 496, AS MODIFIED

Mr. KERREY. Mr. President, I ask unanimous consent to modify my originally filed amendment since the managers' amendment changes the language that my amendment seeks to strike.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment is modified.

The amendment (No. 496), as modified, is as follows:

At the appropriate place in section 2106, as added by section 5801, strike all matter related to ''use limited to State Program Expenditures'' and insert the following:

''(d) USE LIMITED TO STATE PROGRAM EXPENDITURES.—Funds provided to an eligible State under this title shall only be used to carry out the purposes of this title.''

Mr. KERREY. Mr. President, there is language in the bill that imposes what has been imposed typically in the appropriations process, permanently imposing a restriction on the use of Federal money for payment for abortions. I know it is very controversial, a lot of fun to debate. But by putting it in permanent law, we are doing something entirely different than has been done before.

Second, I would say to my colleagues, this affects only low-income teenagers. That is basically what we are doing, saying to low-income teenagers that we are not going to allow taxpayer money to be used for abortions.

Third, I would say, for those who say, ''Well, that's right, we don't want to use taxpayer money for abortions,'' we do not have a similar restriction on our salaries, we do not have a similar restriction on any other Federal employee's salary. If we have income coming to us, that is taxpayer income.

If you want to be consistent here, you want to say you are going to treat low-income teenagers the same as our teenagers are treated, then you would have to put restrictions on how we can spend our salaries as well.

I hope that this amendment will pass and we will strike this language. If you want to bring the Hyde amendment up, I think it is much more appropriate to do so not on appropriations bills.

Mr. DOMENICI. I yield time in opposition to Senator NICKLES.

Mr. NICKLES. Mr. President, I rise in opposition to the amendment of Senator KERREY. We put in language in this bill to make sure in this new program—we created a new program for health care for kids, for teenagers. What we are doing in this amendment is saying this health care program should not include abortion or money for elective abortion.

We basically said no public funds would be used for abortion —only if the abortion is necessary to save the life of the mother or in cases of rape or incest. That is consistent with the Medicaid Program. That is consistent with Federal health care policies that we have for Federal employees right now, and we certainly should not create a new program that says, ''Oh, you can have abortion on demand, paid for by taxpayers.'' We will spend billions of dollars. We should not be saying those billions are eligible for teenagers for elective abortion.

I urge my colleagues to vote no on the Kerrey amendment.

Mr. KERREY. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. ABRAHAM). Is there a sufficient second?

There is a sufficient second.

The yeas and nays have been ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 496, as modified.

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 39, nays 61, as follows:

[Rollcall Vote No. 129 Leg.]

YEAS—39

Akaka	Glenn	Mikulski
Baucus	Harkin	Moseley-Braun
Bingaman	Hollings	Moynihan
Boxer	Inouye	Murray
Bryan	Jeffords	Reed
Bumpers	Kennedy	Robb
Campbell	Kerrey	Rockefeller
Chafee	Kerry	Sarbanes
Daschle	Landrieu	Specter
Dodd	Lautenberg	Stevens
Durbin	Leahy	Torricelli
Feingold	Levin	Wellstone
Feinstein	Lieberman	Wyden

NAYS—61

Abraham	Enzi	Lugar
Allard	Faircloth	Mack
Ashcroft	Ford	McCain
Bennett	Frist	McConnell
Biden	Gorton	Murkowski
Bond	Graham	Nickles
Breaux	Gramm	Reid
Brownback	Grams	Roberts
Burns	Grassley	Roth
Byrd	Gregg	Santorum
Cleland	Hagel	Sessions
Coats	Hatch	Shelby
Cochran	Helms	Smith (NH)
Collins	Hutchinson	Smith (OR)
Conrad	Hutchison	Snowe
Coverdell	Inhofe	Thomas
Craig	Johnson	Thompson
D'Amato	Kempthorne	Thurmond
DeWine	Kohl	Warner
Domenici	Kyl	
Dorgan	Lott	

The amendment (No. 496) as modified, was rejected.

Mr. DOMENICI. 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. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will please come to order.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am just waiting for the minority manager to make a point of order, and we will be ready to go to final passage.

POINT OF ORDER

Mr. DASCHLE. Mr. President, pursuant to section 313 of the Congressional Budget Act, I make a point of order that the following sections of the pending bill are extraneous to the reconciliation instructions of the respective committee of jurisdiction: section 5713, section 5833, and section 5987.

The PRESIDING OFFICER. The Chair sustains the points of order.

Mr. ROBB. Mr. President, I rise today to discuss S. 947, the Balanced Budget Act of 1997. I'm pleased that we've come together in a bipartisan way—both sides of the aisle, both sides of the Capitol, and both ends of Pennsylvania Avenue—to craft a plan that brings us a step closer to fiscal sanity.

The good news, Mr. President, is that the bill before us realizes roughly $137 billion in savings over the next 5 years. And that's good news for our country and for our children and our grandchildren.

S. 947 provides additional years of solvency to the Medicare hospital trust fund, reforms payment methodologies for skilled nursing facilities, home health, and outpatient entities, and includes greater choice—and expanded preventive benefits—for millions of Medicare beneficiaries. As a cosponsor of the original Chafee-Rockefeller child health bill, I'm delighted that this bill contains $16 billion to expand access to health care for America's children, most of whom live in the home of an American worker.

Someday, our children will be grateful for the $16 billion we invested in their health care, Mr. President. And they will be grateful that we succeeded today in saving $137 billion in future debt—debt we will not ask them to pay.

But our children will not be grateful if we don't take this opportunity in this budget to tackle long-term entitlement reform in a systemic way.

We all know the statistics. While entitlements and interest on the national debt represented just 30 percent of our budget in 1963, they will absorb 70 percent by the year 2002. And even more alarmingly, if we don't make changes in the way we do business around here, entitlements and interest on the debt will absorb the entire Federal revenue base by the year 2012. How then can we responsibly invest in our children? How can we sustain the transportation infrastructure needed to support a thriving economy in the next century? How do we pay our soldiers, repair our subs and carriers, and invest in the technology we need to remain the last great superpower on Earth?

Mr. President, despite the fact that the vast majority of economists have told us that we need to adjust the consumer price index to accurately reflect inflation, we have no legislative CPI adjustment in this package. Opponents say that since we don't need a legislative CPI adjustment to balance the budget in 5 years, it's not in this plan. But what about when the baby boom generation retires, Mr. President, when just three workers—and then two—will support each Social Security beneficiary?

The Finance Committee had the courage to include a provision in this bill to gradually increase the eligibility age for Medicare from 65 today to 67 by the year 2027. This provision has been under assault—and will continue to be—from many sides. Some who oppose it argue that this is not the time. And while I'm committed to identifying methods to provide access for those who may encounter a lapse in coverage—and this bill creates a bipartisan commission that will look at the feasibility of a Medicare buy-in program—when will the time be right? We had a good vote in support of this eligibility increase in the Senate and we have to fight to retain it in conference.

Finally, the home health copay and the affluence testing for wealthy seniors which were included in the committee mark and which were supported by the majority of the Senate during two rollcall votes held yesterday will likely not survive conference as well, Mr. President. These provisions are in danger even though we all know we have to find responsible ways to reduce the Federal cost of Medicare. While affluence testing of part B premiums is a political lightning rod, it is good public policy. It is simply indefensible to require lower income families, many who cannot afford health insurance for their own children today, to continue to help subsidize 75 percent of the Medicare premiums of wealthy seniors.

We have much to do, Mr. President, to fulfill our obligation to leave our children a strong economic future and a quality of life equal to the one we inherited from our own parents. The first step is to balance our budget—and I hope the bill before us accomplishes that goal. The next step—and it is an essential one—is to tackle long term, systemic entitlement reform that will protect both the solvency of Medicare and Social Security and the economic security of the generations that follow us.

I hope the conferees will not make those goals even harder to achieve in the future.

With that plea Mr. President, I yield the floor.

THE BUDGET RECONCILIATION BILL MUST PROTECT LEGAL IMMIGRANTS

Mr. KENNEDY. Mr. President, I continue to be concerned about actions by Congress that hurt legal immigrants.

Last year, Congress passed a so-called welfare reform bill. This harsh bill cut off legal immigrants from most Federal assistance programs for the first time in history. It permanently banned legal immigrants from SSI and food stamps. It banned them for 5 years from AFDC, Medicaid, and other programs. And, it gave the States the option of permanently banning them from these programs.

We quickly saw the effect of these extreme provisions. Panic spread through the immigrant community. The Social Security Administration sentnotices to legal elderly and disabled immigrants that they would soon lose their SSI benefits. Numerous reports in the press told of legal immigrants who would be turned out of nursing homes, or cut off from disability payments. Some legal immigrants took their own lives, rather than burden their families. Thankfully, many Members of Congress realized that these provisions went too far.

This budget reconciliation bill corrects many of those mistakes. Members of the Finance Committee and Budget Committee showed impressive leadership in developing this bill. They recognized that the immigrants affected by last year's harsh cuts are individuals and families who came here legally. By and large, they are family members—mothers, fathers, and sons, daughters—of American citizens. They play by the rules, pay their taxes, and serve in the Armed Forces. They can be drafted. They can volunteer. We have hundreds of them in Bosnia today.

They are future citizens trying to make new lives for themselves and their families in this country. I commend the committees for working so hard to come up with a bipartisan proposal.

This bill allows legal immigrants who are already receiving SSI to continue their SSI payments. It preserves SSI coverage for immigrants already in the United States who become disabled in the future, and for future immigrants who are too severely disabled to go through the process of naturalization to become citizens. It extends the exemption for refugees from 5 to 7 years. It exempts children from the 5-year ban on Medicaid eligibility.

There is still much more to be done to correct the problems created for immigrants by last year's welfare reform law. But, overall, this bill makes worthwhile progress toward restoring a safety net for immigrants who fall on hard times. I hope that Senators will do all they can to see that the immigrant provisions in this bill are retained in the Senate-House conference and final bill.

MEDICARE REFORM

Mr. GRAMS. Mr. President, I rise today in support of some very important Medicare reforms made within the reconciliation package before us. Specifically, I am pleased the committee included reforms to the formula used to determine the reimbursement rate for health plans under the Medicare Program to make it fairer and more equitable for States like Minnesota and other parts of rural America, changes to ensure better access to emergency medical services, and an expansion of Medical Savings Accounts.

Reform of the Adjusted Average Per Capita Cost formula has been needed for years because the formula has discriminated against seniors who choose to live and retire in rural communities. It has penalized States like Minnesota which are efficient in delivering health care services, and in doing so, discouraged quality health care. Since being elected to the Senate in 1994, I have made restoring fairness and equity to Medicare recipients in Minnesota and other parts of rural America a top priority.

Mr. President, we are all aware of the fact that the current Medicare reimbursement formula discriminates against Minnesota by giving our State the second-lowest payment rates in the Nation. Not one county in the entire State of Minnesota, or in 15 other States, receives the national average of $467 in AAPCC payment per month.

Because of these low reimbursement rates, managed care organizations have been discouraged from offering our senior citizens many of the alternative health plans available in other parts of the country, plans which offer additional benefits such as eyeglasses and prescription drugs. Clearly, this is a problem which should have been addressed long ago.

In February, several of my colleagues and I introduced S. 359, the Medicare Payment Equity Act, which would have established a floor of 80 percent of the national adjusted capitation rate for the year and made the AAPCC formula more equitable by blending the national and county specific percentage. More recently, I cosponsored S. 862, authored by Senator GRASSLEY, which followed the same lines of reform and even more closely resembles what was ultimately passed by the Finance Committee. Under the leadership of Finance Chairman ROTH and through the tireless efforts of Senators THOMAS, BURNS, GRASSLEY, and ROBERTS, we have succeeded in beginning to fix the Medicare formula to make it fairer for Minnesota's seniors and right some of the wrongs against us.

The AAPCC reforms contained in the reconciliation bill are a very important step in restoring fairness and providing greater choices for Medicare recipients who live in Minnesota, particularly in rural communities. This truly represents a great victory for Minnesota's senior citizens as we close the long-standing gap of inequity in the Medicare Program.

Mr. President, this legislation also addresses another important issue in which I have been deeply involved. In January, Senator GRAHAM of Florida and I introduced S. 238, the Emergency Medical Services Efficiency Act, to establish a reasonable standard for determining Medicare reimbursement for EMS services. Our bill would ensure that EMS providers would be reimbursed based upon a prudent layperson standard, rather than the ultimate diagnosis of a physician. This revised definition will ensure that EMS providers are prepared to meet the challenges facing them as they work to improve their services.

All of us depend daily on the readiness, efficiency, and immediate response of our emergency medical system. And while many of us take it for granted, we all want it to work well when we need it. Many of the men and women who risk their lives delivering emergency care have told me the system can be improved, yet their desire to improve the services they provide has rarely been recognized by Congress. This provision in the reconciliation bill is the first step in helping EMS providers help themselves become more efficient. I would like to thank Senator GRAHAM for his efforts in the Finance Committee to see that this important issue was included in the package.

Finally, I would like to thank Chairman ROTH for his efforts to include an expansion of Medical Savings Accounts. In developing a Medicare Choice Program modeled on the Federal Employee Health Benefits plan, this will offer, for the first time, a real choice to America's seniors.

Again, I commend and thank Chairman ROTH and his Finance Committee colleagues for including these important changes in the reconciliation spending package.

BIPARTISAN BUDGET AGREEMENT ITEMS TO BE ACHIEVED IN APPROPRIATIONS PROCESS

Mr. DOMENICI. Mr. President, I rise to address some concerns expressed by the administration with regard to two items they believe should be in this reconciliation bill. I would like to clarify what we assumed in the 1998 budget resolution for those items.

The bipartisan budget agreement did include assumptions on additional funding for unemployment insurance benefits integrity and on extension of fees for SSI State supplemental benefit administration. In both instances, the budget resolution assumed that these proposals would be implemented by the Appropriations Committee, and therefore the authorizing committees were not instructed to achieve these savings in reconciliation. The budget resolution is the basis for scoring congressional action and cannot be changed in an ad hoc manner, that is, without passing another concurrent resolution to change it.

I would ask the chairman of the Appropriations Committee if it is not also his understanding that these proposals are to be considered by his committee?

Mr. STEVENS. As chairman of the Appropriations Committee, I am committed to working with the chairman, and the administration regarding the levels of funding assumed in the bipartisan budget agreement that are within purview of the Appropriations Committee. It is my understanding that the Subcommittee on Labor, Health and Human Services, and Education has been working with the Office of Management and Budget with regard to the proposals you have mentioned.

Mr. DOMENICI. I thank the Senator for helping clarify this matter.

COVERAGE OF CERTAIN SERVICES IN RELIGIOUS NONMEDICAL HEALTH CARE INSTITUTIONS UNDER THE MEDICARE AND MEDICAID PROGRAMS

Mr. KENNEDY. Mr. President, I strongly support the provisions in this bill to ensure the continuation of Medicare and Medicaid reimbursement for secular nursing services in religious nonmedical health care institutions. These provisions ensure that strong religious beliefs are not a barrier to Medicare and Medicaid benefits.

When Medicaid and Medicare were enacted over 30 years ago, Congress included a special provision granting a religious accommodation for members of the church, so that they could receive benefits for care in their facilities comparable to the benefits available to others for similar cases.

For 30 years, the Christian Science Church relied on Medicare and Medicaid benefits and built a health care system that assists thousands of men and women. At a time when the Health Care Finance Administration has expressed increasing concerns about fraud and abuse in Medicare and Medicaid, there are no complaints about the Christian Science Church. Members of the church only ask to practice their religion without unnecessary interference.

Last summer, however, a Minnesota district court determined that the provisions in the Medicare and Medicaid statutes onto the Christian Science Church are unconstitutional. As Judge Kyle stated in his opinion, ''legislative accommodation of religious beliefs is a valuable and worthy enterprise, but here * * * the accommodation has gone too far and too strongly favors the convictions of one particular sect.''

However, the court also recognized the fundamental injustice that Christian Scientists were required to pay the taxes for Medicare and Medicaid, but could not receive the benefits of these programs. The court also recognized the purpose underlying the original statutes. The court clearly identified the statutory language referring to the church as the problem, not the goal of providing comparable benefits to those who disavow traditional medical treatment because of their religious beliefs.

The provision in the reconciliation bill meets this goal without undermining the Constitution. All references to the Christian Science Church are eliminated. The provision will grant reimbursement for secular nonmedical nursing services to any person who, because of religious beliefs, does not believe in medical care and relies on faith healing in a religious nonmedical health care institution. As with other aspects of this health care system, the Health Care Finance Administration will closely monitor the provision for fraud, abuse, and public health concerns.

The chairmen of the House and Senate Judiciary Committees, the chairman of the House Ways and Means Committee, the chairman of the Senate Finance Committee, and I have worked closely to ensure the constitutionality of this provision.

This provision meets the worthwhile goals of the original Medicare and Medicaid laws, while meeting constitutional concerns. It deserves to be enacted into law so that the needed benefits will continue to be available.

FOOD STAMPS FOR CROSS-BORDER NATIVE AMERICANS

Mr. JEFFORDS. Mr. President, I know it is too late for Chairman ROTH to include this change in the manager's amendment, but I did want to raise it before we finish here today.

As the chairman knows, thanks to a provision in both the Finance and Ways and Means packages, native Americans who are entitled to cross the U.S. border under the Jay Treaty are not affected by last year's welfare law restrictions on providing SSI to aliens. Unfortunately, due to jurisdictional considerations, neither the Finance nor the Ways and Means Committees included food stamps in this provision. Preliminary estimates indicate that such an inclusion would not incur significant cost.

I understand Senator LUGAR is supportive of the inclusion of food stamps and I hope the chairman and ranking member will work with me and other Members during conference with the House to include a food stamp modification.

Mr. SMITH of New Hampshire. Mr. President, I rise today to commend my colleagues on the Armed Services Committee and the Finance Committee for having the courage to follow through on a promise the Government made long ago to career military personnel. I know the future of health care for elderly military retirees is an issue that deeply concerns many of us, and I am pleased that we have found a financially responsible solution to the growing problem of health care access for this group of retired personnel.

With the Defense Department expected to complete full implementation of the Tricare medical plan within the year, many retirees, who made it their lives' work to defend our freedom, face the certain loss of medical benefits when they turn 65 unless Congress acts now. As a member of the Armed Services Committee, I am deeply disturbed by this prospect. That is why I have consistently supported responsible initiatives to guarantee the future of DOD health care for Medicare-eligible military retirees.

In New Hampshire, I have witnessed firsthand the impact of defense downsizing on health care resources for this vulnerable population. When Pease Air Force Base closed in 1991, thousands of aging retirees were left to compete with active duty personnel and military retirees from neighboring States for fewer spaces in the New England DOD health care system. Once Tricare takes hold, this group will lose any remaining access to the military system they now enjoy because the Defense Department can no longer afford to offer these retirees the medical benefits they were promised. This is unacceptable.

After 4 years of meetings, hearings, and failed legislative initiatives, the Senate has finally reached a workable solution to the health care crisis now facing Medicare-eligible military retirees. Medicare subvention, as the plan is known, will allow the Defense Department to seek reimbursement from Medicare for the cost of treating eligible retired military personnel. By authorizing the DOD to carry out a 3-year Medicare subvention test program, the Senate has taken a decisive step toward restoring military retirees' faith in the country they honorably served. I am pleased to have supported Medicare subvention since the proposal's inception, and I look forward to working with my colleagues in the coming years to ensure that our Government does not shirk the responsibility of providing elderly military retirees with the quality, affordable health care they deserve.

I thank the chair and I yield the floor.

MEDICARE SUBVENTION

Mr. INHOFE. Mr. President, throughout each year we address a number of Medicare issues. This year, we have a Medicare issue within the reconciliation bill which is related to military health care, specifically, Medicare subvention. Without Medicare subvention, military treatment facilities cannot receive reimbursement from Medicare for care the facilities provide to military retirees who are also eligible for Medicare. With Medicare subvention, we can continue to improve the quality of life for military personnel, their families, and retired service members and their families by providing them with alternative access to treatment.

Because health care is such an important aspect of quality of life in the military, it is imperative that we continue to provide our military personnel and retirees with the access which they were promised. Currently, because the access of military retirees age 65 and over is on a space-available basis and due to overcrowding of military treatment facilities, finding adequate medical care has proven increasingly difficult if not impossible. Clearly, this is not a trend we want to continue if we hope to retain and recruit the quality and quantity of men and women needed to fight and win wars in the future.

Medicare subvention would fulfill the commitment made to our former service members by allowing Medicare to reimburse the Department of Defense [DOD] for care provided to members who are Medicare-eligible beneficiaries. I believe that Medicare subvention would be fiscally beneficial to Medicare and would make available an important revenue source that will enable and encourage DOD to provide care to over-65 retirees. Further, Medicare will save money because DOD can provide care less expensively than civilian providers. This is clearly a win-win situation for both the DOD and Medicare.

Clearly, ending access to military medical facilities when beneficiaries reach an age when they will most need it is fundamentally unfair. Our veterans have earned our support, and they deserve the best access to medical care that we can make available. I believe that Medicare subvention is a necessary step in the right direction, and I fully support the Medicare subvention provisions found in the reconciliation bill.

FOOD STAMP NUTRITION EDUCATION

Mr. SANTORUM. Mr. President, I support the amendment offered by the Senator from Texas, and I commend her for her diligent work in fighting fraud in the Food Stamp Program. I would also like to thank her for working with me to address a concern of mine with regard to food stamp nutrition education.

For 2 years, the Reading Terminal Farmers' Market trust participated in a partnership with the USDA to develop a community-based nutrition education program in Philadelphia. Using a Federal share to match private grants from the Knight, Pew and Kellogg Foundations, the trust established

the Philadelphia nutrition education network to integrate nutrition education into ongoing food distribution and health programs. The Philadelphia School District, Allegheny University of Health Sciences, WIC, the Archdiocese of Philadelphia and others were engaged as partners in the network, which reached over 17,000 children and adults in 1996.

By all accounts, this program was a success; and last summer, when the one-time cooperative agreement with USDA expired, the trust sought to continue their important work under the existing food stamp nutrition education program. In June 1996, the trust submitted a food stamp nutrition education plan requesting matching funds for a nutrition education plan in four low-income communities and at the Reading Terminal Market. Unfortunately, USDA regulations only permit a Federal match for local or State government funding. Since the Reading Terminal Farmers' Market Trust relies upon private contributions to fund their programs, USDA determined that they were not eligible to participate in the food stamp nutrition education program.

Since last summer, my office has been working with Reading Terminal Farmers' Market Trust to find a way for this program to continue. It is my understanding that nutrition education programs in Vermont and New York City have encountered similar problems with USDA matching funds. I have worked with Chairman LUGAR of the Agriculture Committee and Senator LEAHY to craft an amendment that will address these problems, and I am grateful to the Senator from Texas for including this language as section 2 of her amendment.

The language in this amendment will enable nonprofits and State agencies to receive grants in order to operate nutrition education programs that are coordinated among a broad range of food distribution and social service providers. In order to reach the maximum amount of eligible individuals and to leverage private funds for this endeavour, private donations will be made eligible to match the Federal grant.

The amendment provides $600,000 for grants for each of fiscal years 1998 through 2001, and no individual grant may exceed $200,000.

This provision has the support of Agriculture Committee Chairman LUGAR and Senator LEAHY.

FINAL REGULATIONS ON SOCIAL SECURITY INSURANCE DETERMINATIONS FOR CHILDREN

Mr. JEFFORDS. Mr. President, during the consideration of this important bill, I would like to bring to your attention developments regarding the administration's recently released SSI regulations for children. Through sections 211 and 212 of Public Law 104–193, the Personal Responsibility and Work Opportunity Act of 1996, Congress established a new eligibility test requiring that children show the presence of ''marked and severe functional limitations'' to become eligible for Supplemental Security Income [SSI] disability benefits. Additionally, under these new rules up to 300,000 children who are currently eligible for SSI will undergo a redetermination assessment over the next several months.

On February 11, 1997, in an attempt to implement these provisions, the Social Security Administration issued interim final regulations that require a level of disability that meets or equals the listings of impairments criteria. As stated in a letter written by nine of my colleagues and me to the President in April, I believe this regulation establishes an overly severe standard that misinterprets the intent of Congress to reform the SSI program for children with disabilities. SSA's test would remove up to 135,000 SSI disabled children this year alone. Thus, thousands of severely disabled children would face a loss of needed SSI benefits—contrary to the will of Congress.

I believe the Social Security Administration should establish a comprehensive functional test at a stricter severity level than the former individualized functional assessment test, but one that does not harm children with serious disabilities. A test protecting children with severely disabling conditions—including those with one marked and one moderate condition—would accurately reflect the intent of Congress. The administration has estimated this test would terminate 45,000 children this year, and close to 250,000 over 6 years.

Mr. President, I have already heard from constituents in my State of Vermont whose children will soon lose their SSI benefits. These families have nowhere else to turn. Such predicaments present troubling moral and budgetary questions—how to provide for those families who are shut off from desperately needed SSI benefits, and whether these regulations will simply shift the costs of providing for children with disabilities from SSI to other Federal entitlement programs, or to the States as communities react to these troubling cases. Such cost shifting would eliminate any significant savings gained. Additionally, the loss of SSI benefits will force families to move their children to costly out-of-home placement, as parents would no longer have the financial support to stay at home and care for the disabled child.

This is a matter that I will be pursuing with the Administration with the intent of reconciling the Administration's interpretation with the regulations passed by Congress during the welfare debate last fall.

WELFARE-TO-WORK GRANT PROGRAM

Mr. HARKIN. The pending legislation provides $3 billion to establish a Welfare-To-Work Program and specifies the activities for which the funding may be used. The list of allowable activities does not allow assistance for education or training activities with the exception of on-the-job-training.

Mr. ROTH. That is correct.

Mr. HARKIN. Over the past several years I have met with a number of welfare recipients, caseworkers and others to discuss the issue of welfare reform in the State of Iowa. The discussions have also included a number of individuals who have successfully made the transition from welfare to self-sufficient employment. In many cases, the key to this successful transition was participation in post-secondary classroom training. I understand that the pending legislation prohibits use of the Welfare-To-Work Programs funds for this purpose but want to clarify that States may continue to use Federal funds received under the temporary Assistance for Needy Families Program or their own resources for post-secondary classroom training.

Mr. ROTH. The Senator is correct. TANF does have some restrictions on vocational education activities, however States may use these funds or their own State funds for the education and training activities described by the Senator.

Mr. HARKIN. I thank the Senator for making that clear. I have another question.

The Welfare-To-Work Program provides formula grants to States and requires States to develop a formula for distribution of the funds within the State in consultation with sub-State areas. However, it is not clear what types of entities are eligible to provide the welfare-to-work services and that States have flexibility on this score.

In 1989, Iowa established 11 Family Development and Self-Sufficiency Programs to work with welfare recipients with a history of long-term dependency on the program and those who were at risk of long term dependency. These projects, 10 at nonprofit organizations, have been evaluated and have demonstrated success in moving welfare recipients off of welfare and into self-sufficient employment. In addition, a number of community action agencies and community development corporations have also been working with welfare recipients on exactly the kind of activities envisioned by the pending legislation.

I just want to make sure that a State may provide funding from the Welfare-To-Work Program to entities such as community action agencies, community development corporations and other nonprofit organizations.

Mr. ROTH. That is correct. States may provide funding to these types of organizations.

Mr. HARKIN. I thank the Senator.

Mr. GRAMS. Mr. President, when Congress and the President reached agreement on the broad outlines of plan to balance the Federal budget, I had hoped that I could stand before the Senate during debate on the reconciliation legislation and proudly announce my full support. It is with deep regret, Mr. President, that I cannot. After careful examination of S. 947, the Balanced Budget Act of 1997, I have come

to the conclusion that this legislation is good for Washington but bad for the taxpayers, and because it is not in the best interests of the working Americans we represent, I must reluctantly oppose it. Here are the major grounds on which I base my decision.

As I have said in previous statements before this Chamber, I have made the pursuit of a balanced budget my top priority in Congress, and have always said that I would support a budget plan that meets three specific criteria: First, it must shrink the size and scope of Government and return money—and the power those dollars represent—to the taxpayers; second, it must balance the budget by the year 2002 with steadily declining deficits each year without the use of rosy economic scenarios; and third, it must provide meaningful, broad-based tax relief to working families.

Tax relief, of course, will be dealt with in the other half of the reconciliation package. While there are many good provisions included in the bill, this so-call spending reduction legislation still fails to meet those pro-taxpayer standards.

First and foremost, like the budget agreement on which this reconciliation legislation is based, this bill does not shrink Government and return power to the taxpayers. In fact, it does the opposite; it increases mandatory spending. In the next 5 years, total mandatory spending would increase from $825 billion in 1997 to $1.1 trillion in 2002, a growth of 32 percent. Over the next five years, Medicare will increase at a rate of 6.1 percent and Medicaid will increase nearly 7 percent each year from the inflated baseline. Instead of eliminating wasteful spending to reduce the Federal deficit, this budget plan actually creates numerous new programs, including $34 billion in new entitlement programs funded by the taxpayers' hard-earned dollars.

In doing so, the plan has erased all of the savings achieved in last year's landmark welfare reform legislation. The reconciliation legislation includes about $24 billion in spending for new children's health care initiatives, while adding back $14.2 billion in welfare benefits for legal aliens and food stamp recipients.

Under this legislation, the Federal Government will spend $1.2 trillion on welfare alone over the next 5 years. That is $15 billion higher than the CBO projected. Of every dollar collected by the IRS, 14 cents goes to welfare programs, with less than 1 cent dedicated to tax relief for working families.

The fundamental flaw of the bill and the major source of my opposition to it is the new entitlement programs it creates. Such spending is a serious mistake at a time when we should control the explosive growth of mandatory spending and reduce the size of the Federal Government. History tells us that earlier entitlement programs started small, with perhaps the best of intentions, but have since exploded and now consume about 70 percent of all Federal revenues. To my disappointment, Washington has still not learned its lesson.

Second, Mr. President, despite some positive changes, including structure changes in Medicare, the entitlement programs remain intact. This not only breaks our promise to the American people on fundamental entitlement restructuring, but also ensures that big Government lives on by allowing Washington to avoid the hard choices it must make to address our long-term fiscal imbalances.

Without fundamental changes, the imbalance between the Government's entitlement promises and the funds it will have available to pay for them will eventually shatter our economy. In its recent report, ''Long-Term Budgetary Pressures and Policy Options,'' the Congressional Budget Office warns us that if these long-term budgetary pressures are not relieved, Federal budget deficits would mount and could seriously erode future economic growth. The Federal deficit would increase from 1.4 percent of GDP, or $107 billion today to 30 percent of GDP in 2035, nearly $11 trillion. The debt held by the public would increase from 50 percent of GDP, or $3.9 trillion in 1996 to 250 percent of GDP, $91 trillion in 2035. Such rapid growth of the Federal debt and deficit will bankrupt this great Nation.

This gloomy picture has been confirmed by the recently released report of the Social Security and Medicare boards of trustees. Without clear changes in public policy to address the financial imbalance, the hospital insurance fund, one of the Medicare trust funds, will be bankrupt in just 4 years. The Medicare trust fund will run a deficit of $13 billion this year. By 2001, it will run a deficit of $49 billion and go broke. The disability insurance trust fund will be bankrupt in 2015, and Social Security trust funds will be bankrupt in 2029. And we do not have any clear and agreed public policy to address this imbalance.

Although the proponents of the legislation claim that it will avert the crisis of Medicare bankruptcy until 2007, the fix is temporary and is no more than tinkering with the system. Accounting gimmicks are also applied to extend the life of Medicare. It shifts home health care from part A to part B and use the general account to cover the deficits of the trust fund. This means a surge of new spending in Medicare in the future that taxpayers will be obligated to fund.

Third, unlike the Balanced Budget Act produced by the Republican Congress in 1996, this Balanced Budget Act does not result in steadily declining deficits, because the savings are achieved not through honest accounting but through rosy economic scenarios. Although this legislation claims over $117 billion savings in Medicare and $8 billion in Medicaid, all of the spending cuts result from a baseline projection of Government spending in which programs are assumed to grow according to such factors as the rate of inflation, population growth, and formulas written into the law.

Any honest budget plan must reach balance through steadily declining deficits every year; in other words, the deficit must be lower each year than the preceding one. This 5-year budget agreement actually increases the deficit for the first 2 years, then projects enough of a reduction in the final 2 years to reach balance. The deficit under this budget will go up by $23 billion next year, from $67 billion this year to $90 billion, and remain as high as $90 billion in 1999. Over 70 percent of the deficit reduction will not occur until after President Clinton leaves the White House. A significant percentage of the plan's deficit reduction results from optimistic economic assumptions, not sound policy changes.

A budget plan must also be based on real numbers and not the inflated budget estimates that have been used in the past to justify more spending and higher taxes. This budget agreement fails on that score as well by continuing to use the inflated budget estimates of the past to mask the spending increases it contains. I cannot support a budget that uses such gimmicks simply to make the numbers add up on paper.

In its analysis of the budget, the Heritage Foundation concluded that ''a credible plan to balance the Federal budget must result in a smaller Government that costs less and leaves much more money in the pockets of working Americans. The current reconciliation bill not only fails these important tests, but in many cases would implement policies that are worse than taking no action at all.''

Our current sound economic growth has reduced the budget deficit to a 17-year low without any fiscal constrains and reforms. We should use this historic opportunity to balance the budget in less than 5 years, start to pay back our $5.4 trillion national debt, and address our long-term fiscal imbalances. Unfortunately, we have once again missed this opportunity.

Mr. President, under the legislation before us, Washington will spend more of the taxpayers' hard-earned dollars creating new entitlement programs, while expanding old programs just to please the big-spending politicians and the special interest groups they feed. That is not the budget the taxpayers of Minnesota are expecting. That is not the budget Congress owes America's working families. But that is the budget Washington claims is the right answer. I regret that I do not agree, and cannot therefore support the spending portion of the budget reconciliation legislation.

AMENDMENT NO. 445

Mr. SPECTER. Mr. President, I would like to take this opportunity to explain my vote in opposition to the motion to waive the Budget Act for

consideration of the substitute amendment offered by Senator REED.

To its credit, the Reed substitute did not contain the Medicare home health care/copayment language or the 65–67 Medicare age eligibility language in the reported bill. I voted against both of those provisions on independent votes yesterday and continue to be concerned about their inclusion in S. 947.

Notwithstanding those elements of the Reed amendment, I could not support it because it failed to include an important provision or medical savings accounts for Medicare beneficiaries.

EXEMPTION FROM AUCTIONS FOR PUBLIC SAFETY RADIO SERVICES AND ALLOCATION OF SPECTRUM FOR PUBLIC SAFETY AND PUBLIC SERVICE ENTITIES

Mr. BRYAN. Mr. President, I rise in support of the proposal to ensure that sufficient radio spectrum is made available for public safety and maintenance of the Nation's critical infrastructure, such as pipeline, railroad, and electric, gas and water utility services. With the success of spectrum auctions for commercial radio services, the FCC has been reluctant to allocate sufficient spectrum for these vital services. This legislation will expand the FCC's authority to auction spectrum, but not at the expense of entities that we have entrusted to protect the safety of life, health and property and to provide essential public services.

In adopting rules for the use of this new spectrum, I hope the FCC will promote the development of shared public safety/public service radio systems. In Nevada, it was recognized several years ago that it would be prohibitively expensive for any one public safety agency or public service utility to build and maintain a state-of-the-art 2-way radio system to cover this vast territory and provide the service features these various agencies need. Several key public service and public safety organizations took the initiative to pool their resources to build a system that would share backbone infrastructure, such as mountaintop repeater sites and radio frequencies. Through software partitioning, each user has its own discreet and secure virtual private network on this shared infrastructure. The parties first had to secure waivers of the FCC's rules so that nongovernment entities could share public safety frequencies on a not-for-profit basis. Initial system users include the Nevada Department of Transportation, University of Nevada law enforcement personnel, City of North Las Vegas, Sierra Pacific Power Company, and the Nevada Power Company. Other utilities and state and local government agencies are also looking to partner in the system, which currently covers more than half of the State's geography.

Shared public safety/public safety radio networks such as the one we have pioneered in Nevada have many advantages: First, joint use of a system is a spectrally efficient; second, during disasters and emergencies, there is a great need for interoperability between emergency response agencies and public service utilities that is easily accommodated on the shared system; third, equipment can be loaned from one entity to another on an as-needed basis during specific emergencies or special situations; fourth, other agencies and utilities can be added to the system without system duplication of facilities; fifth, smaller, rural agencies can access state-of-the-art technology that would otherwise be beyond their reach; and sixth, taxpayer and utility ratepayer costs can be significantly reduced.

Does the Senator from Arizona agree that these shared public safety/public service radio networks should be promoted?

Mr. MCCAIN. Yes, I agree. I would also like to offer my support for the allocation of new spectrum for use by public safety and public service organizations, and would urge the FCC to adopt rules that would facilitate, if not promote, the development of shared radio systems by such entities. I also know that Senators STEVENS, LOTT, and BURNS have been very concerned and involved in this issue. I look forward to working with them and Senator BRYAN to ensure that the Commission takes such action as necessary to deal with this subject and I am also hopeful that we can, if needed, clarify any problem with this language in conference.

WHAT IS RIGHT FOR MEDICARE

Mr. DORGAN. Mr. President, the votes on this reconciliation bill included two votes on spending cuts in the Medicare Program. The two controversial amendments dealt with increasing the eligibility age for Medicare from age 65 to 67 and income-testing of Medicare for upper income beneficiaries.

I support the change that will result in substantial savings through reduction of Medicare reimbursements to providers. I also agree with other changes that will improve and streamline the program.

However, I voted against the proposal included in the Committee's bill which would increase the eligibility age from 65 to 67 and the proposal to impose a means-test for higher-income beneficiaries.

I am willing to consider supporting both of these proposals under the right conditions, which I will describe below but I think it is inappropriate to be making Medicare cuts on the spending side of reconciliation in order to make room for larger tax cuts on the revenue side of reconciliation.

Whatever changes are made in Medicare should be made exclusively and specifically for the purpose of extending the solvency of Medicare—not for the purpose of providing additional room for tax cuts, the bulk of which are proposed to go to upper income earners in the United States. We must look at the right ways to keep Medicare solvent without breaking faith with the country's senior citizens.

Asking senior citizens who make more than $50,000 to pay higher prices for their Medicare policies so that investors who make $500,000 can be given tax cuts seems inappropriate to me. There's no denying a direct connection when the Medicare proposals are made in the context of a reconciliation bill that includes spending and taxing. The act of achieving Medicare savings then becomes intertwined with the desire for tax cuts on the revenue side.

The reconciliation bill specifically calls for a commission to make recommendations on long term changes necessary to ensure the solvency of the Medicare Program. I support that and I hope that such a commission will be established quickly and will ultimately result in solid recommendations which the Congress can then act on quickly.

When we are able to look at recommendations which are developed specifically for the purpose of extending Medicare solvency, then I am willing to consider changes to Medicare, including means-testing and/or increasing the eligibility age under the following conditions.

First, with respect to increasing the eligibility age, if and when we do that, we must be prepared to respond to the question of what happens to those senior citizens whose incomes are inadequate to pay the higher cost of private health care insurance between age 65 and 67 when they would no longer be covered. Changing the eligibility age from 65 to 67 without providing some mechanism to provide for the availability of affordable insurance coverage for the citizens in that age group would simply mean we have millions more uninsured Americans. Low income senior citizens between the ages of 65 and 67 will never be able to afford the kind of premiums that will be assessed by the health care industry to insure people of that age. So, the eligibility age increase cannot simply be considered on its own as it was in the reconciliation bill. Nor can it be argued that the increase in the eligibility age parallels the increase in the social security retirement age. The ramifications are very different for increasing the medicare eligibility age.

Second, with respect to means-testing or income-testing, as it is called, I am willing to support means-testing for Medicare, but again, only on the condition that the means-testing itself is done for the purpose of extending the solvency of Medicare and not part of a reconciliation bill that is designed to cut spending in a way that will accommodate additional tax cuts.

The temptation is too great for those in Congress who never supported the Medicare bill in the first place. It is a concern of mine that the proposed changes to Medicare in this bill are there not for the purpose of increasing the solvency of Medicare, but rather are there to accommodate tax cuts for upper income Americans. This, in my judgement, undercuts the Medicare Program.

AMENDMENT NO. 428

Mr. MCCAIN. Mr. President, I am proud to have cosponsored amendment No. 428, which will significantly reduce fraud, abuse, and waste in the Medicare system. This is an issue which I have been working on for many years and I am pleased to have been joined in this battle to combat fraud and abuse in our health care system by my colleague from Iowa, Senator TOM HARKIN.

This important amendment introduced by Senator HARKIN incorporates portions of my legislation, the Medicare Whistleblower Act S. 235, which would assist Medicare beneficiaries with identifying provider fraud in the Medicare system.

Over and over again, I have heard from seniors about their personal experiences with fraudulent and negligent billings throughout the Medicare Program. Many of these seniors say that their Medicare bills frequently include charges for medical services which they never received, double billings for a specific treatment, or charges which are disproportionate and severely marked up. Usually, most of these seniors have no idea what Medicare is being billed on their behalf, and they have no way to obtain a detailed explanation from the Medicare providers.

These personal stories from senior citizens are confirmed by analyses and detailed studies. According to the General Accounting office, fraud and abuse in our Nation's health care system costs taxpayers as much as $100 billion each year. Medicare fraud alone costs about $17 billion per year which is about 10 percent of the program's costs.

This is quite disconcerting, especially in light of the financial problems facing our Medicare system.

A fundamental problem with the Medicare system is that most beneficiaries are not concerned with the costs of the program because the Government is responsible for them. One of my constituents shared with me an experience he had when his provider double-billed Medicare for his treatment and the provider told him not to be concerned about it because ''Medicare is paying the bill.'' This is an outrage and we cannot allow this flagrant abuse of taxpayer dollars to continue. Remember, when Medicare overpays, we all over-pay, and costs to beneficiaries and the taxpayers spiral while the financial sustainability of the program is violated.

The amendment addresses this fundamental problem in the Medicare program by strengthening the procedures for detecting and identifying fraud and waste in the Medicare system. Beneficiaries would be given the right to request and receive a written itemized copy of their medical bill from their Medicare health care provider. This itemized bill should be provided to the beneficiary within 30 days of the provider's receipt of their request. If anyone knowingly fails to provides a beneficiary with an itemized bill they will be subject to a civil fine. Once the beneficiary receives the itemized bill they would have 90 days to report any inappropriate billings to Medicare. The Medicare intermediaries and carriers would then have to review the bills and determine whether an inappropriate payment has been made and what amount should be reimbursed to the Medicare system.

I recognize that provider fraud is not the sole source of waste and abuse in the Medicare system, and I wholeheartedly support other initiatives which address beneficiary fraud. However, studies indicate that provider fraud is most prevalent and the greatest concern for the system, making initiatives such as this one which specifically target provider fraud very important.

It is imperative that we put an end to the rampant abuse and fraud in the Medicare system. I wholeheartedly believe that this provision would contribute significantly to this effort.

Mr. LIEBERMAN. Mr. President, the reconciliation bill contains provisions that impact most of the programs and services provided by the Federal Government. Few people in the United States are not touched in some way by the changes we have voted for during this debate. I would like to touch upon just a few of the provisions.

The bill includes significant progress toward protecting the Medicare Program. Without the changes included in this legislation, the Medicare trust fund would go bankrupt in 2001. The changes include the first major structural changes to Medicare in its 30-year history. The Senate bill modernizes Medicare by offering seniors the option of choosing from among a range of quality private health plans in addition to existing fee-for-service Medicare. It includes important new health insurance coverage for the Nation's children. It returns a degree of protection for people who live and work in our country, but because of foreign birth are not citizens of the United States.

The bill makes substantial advances in ensuring that Medicare and Medicaid beneficiaries can get comparative information to help them choose the best available health care plan for their needs. An amendment I sponsored with Senators CHAFEE, JEFFORDS, KERREY, BREAUX, WYDEN, and KENNEDY requires that includes comparative information on benefits, cost sharing, premiums, service area, quality and performance including disenrollment, satisfaction, health process and outcomes, grievance procedures, supplemental benefits, and physician reimbursement method be provided to Medicaid recipients in managed care. In many cases, Medicaid managed care plans have significant differences in the treatment of asthma, immunization, heart disease, diabetes, and other problems endemic to the Medicaid population. This amendment should assist Medicaid beneficiaries in choosing high-quality plans, and through competition among plans, increase the quality of all.

The bill also included an important demonstration program for Medicare based on the Government's own employee health care plan. That demonstration program includes provisions to improve the quality of health care for Americans based on a bill I sponsored, S. 795, the Federal Health Care Quality, Consumer Information and Protection Act.

The dramatic drive of millions of people into managed care was all geared toward stopping unacceptable cost increases in healthcare. Now cost increases have slowed and it is time to focus on quality. Congress has made some initial, spasmodic efforts, such as last year's drive-through delivery legislation. The health care quality provisions in this demonstration program represents an effort to take a more comprehensive and durable approach to improving health care quality.

The Government has a powerful tool we think has gone unused—its purchasing power. The Federal Government is the single biggest purchaser of health care in the country. If we use that purchasing power wisely, the quality of health care in the country will be pulled upward dramatically. If we don't, the Federal Government will drag down the efforts the private sector is making to improve their employee's quality of health care.

If the bill passes, the Government will only purchase Medicare coverage in this demonstration program that satisfies two requirements:

First, plans will have to provide information that allows people to make straightforward plan-to-plan comparisons of health care quality. With that information, Medicare beneficiaries could look up the plans in their area to see which had the best record of care for the elderly. Empowering consumers with comparative quality information would force health care plans to compete continuously and aggressively on quality resulting in ongoing health care improvements.

Second, all health care plans in the demonstration would have to meet certain minimum criteria or they couldn't be purchased by the Federal Government. Setting uniform federal criteria provides a powerful tool to address quality issues that emerge from the rapidly evolving health care industry. Existing accrediting agencies like the National Committee on Quality Assurance for Quality Assurance [NCQA] or the Joint Commission on Accreditation of Healthcare Organizations [JCAHO] could be licensed to certify that the health care plans are in compliance with the minimum criteria which should minimize bureaucratic duplication.

Finally, to hold this proposed system together and prevent the standards from becoming outdated, an Office of Competition is created within the U.S. Department of Health and Human

Services. The Director of the Office of Competition will set and update the basic requirements for comparative data and minimum criteria. They will also work out a formula to pay for value. High quality plans will get paid slightly more than low quality plans.

The Director will draw on the expertise already developed by large private purchasers and coordinate with them in improving the purchasing requirements over time.

The stakes are high. This year over $1 trillion, almost one-seventh of the economy, will go toward health care services. Purchasers, both private and public, need to demand quality from the health care marketplace. Today you can identify a good stereo, a good car, or a good shampoo. But, you can't get the most basic information about the quality of your healthcare. That lack of information on health care quality is no longer acceptable, it can be fixed, and the Government should join the best corporate purchasers in the repair effort.

I am deeply concerned about one aspect of the Medicare package that is included in this budget reconciliation bill. The Senate Finance Committee has enacted a series of reforms that would dramatically change the methodology by which payments are made to Medicare managed care plans as well as the new plans envisioned in the bill. This new payment structure would result in a redistribution of Medicare resources that is very beneficial to areas that have low health care costs and very damaging to areas where the delivery of health care services is much more costly.

In my home State of Connecticut, seniors in four of our eight counties would suffer from Medicare managed care payments that, under this bill, would decline by more than 20 percent relative to current law. Don't misunderstand—I support actions to keep the Medicare trust fund solvent. But these reformulations don't just produce savings—they fundamentally shift expenditures from high cost to low cost areas. In one Connecticut county, this legislation would extract 57 times more savings from seniors enrolled in managed care than would the House Ways and Means Committee bill, which achieves similar savings. These are sobering figures—and they do not even take into account the impact of the bill's risk adjustment mechanism, which would automatically reduce Medicare payments by an additional 5 percent for all new managed care enrollees in their first year of enrollment.

This legislation over-reaches in seeking to achieve a greater measure of geographic equity in the Medicare payment system. Instead of making the modest adjustments that are needed to improve the fairness of the current system, this bill calls for sweeping reforms that would disrupt the coverage of many seniors in order to help others.

Tragically, many of those who would be hurt the most are low-income seniors who already have selected Medicare managed care plans because they need the additional benefits—such as prescription drug coverage, and dental and vision care—and the low out-of-pocket costs that many of these plans offer. These low-income seniors cannot afford to expose themselves to the high deductibles and copayments of the Medicare fee-for-service system, nor can they afford to purchase an expensive supplemental Medigap policy.

As I consider this issue, I think about the many areas in Connecticut that have suffered from economic downturns in recent years and, even today, are not enjoying the strong economic growth that is evident throughout much of the country. Seniors in these areas are particularly vulnerable. Considering that a disproportionate number of Medicare managed care enrollees are low-income seniors, I believe we should proceed carefully as we contemplate reforms that affect their coverage. For many of these seniors, a reduction in their Medicare benefits would cause severe financial hardship.

I want to emphasize that I have no desire to be involved in any contest that pits the Medicare beneficiaries of Connecticut against those of Iowa, Nebraska or any other State. I completely support the expansion of new health care choices to all seniors, regardless of where they live. I am convinced, however, that this can be accomplished without awarding 60-percent payment increases for certain low-cost areas—many of which tend to be sparsely populated—at the expense of other areas where large numbers of seniors are already enrolled in private health plan options. The number of seniors who would be penalized by this shortsighted approach far exceeds the number who would benefit.

I strongly believe that a more cautious, thoughtful approach is warranted. For example, a 70/30 blend between local and national payment rates would go a long ways toward eliminating the disparities that currently exist—without causing massive cuts in certain areas. In addition, a minimum annual update for all plans, combined with some kind of link between growth in fee-for-service spending and managed care spending, would help to assure that the resources available to Medicare managed care plans do not fall hopelessly behind the growth in medical inflation. It is totally unrealistic to think that we can allow payments to decrease in certain areas—while actual costs are increasing by 5 or 6 percent annually—without having any adverse affect on seniors.

As we move forward with Medicare reform, we need to acknowledge that it is, in fact, more costly to serve Medicare beneficiaries in some areas of the country than others. There are legitimate reasons why it costs more to deliver health care services in densely populated urban areas. The wages of medical personnel and the capital costs of medical facilities differ considerably from region to region and from State to State. Even within individual States, medical costs vary from county to county. To discount this economic reality, as this legislation does, is sheer folly.

Perhaps the most troublesome component of this Medicare payment proposal is the new enrollee risk adjustment mechanism. This provision arbitrarily and automatically reduces Medicare payments by 5 percent for all new managed care enrollees—regardless of their age or health status—in their first year of enrollment. I have serious concerns about the implications of this proposal. How are we supposed to promote competition within the Medicare Program if we begin by saying that everyone who leaves the fee-for-service system will be subject to a 5 percent penalty? This new enrollee tax will limit beneficiary choice by discouraging health plans from entering markets in which seniors do not have private health plan options at this time. Everyone in this chamber should be deeply alarmed by this misguided provision.

Having given this Medicare payment proposal an honest and thoughtful evaluation, I am convinced that we should work toward a more sensible and well-reasoned approach when this legislation is considered in the Senate-House conference committee. I want to state very clearly that I do not have a problem with the amount of Medicare savings this legislation would achieve; I just believe we have an obligation to achieve these savings in ways that do not disrupt the coverage of seniors. I urge my colleagues to join me in calling for a new approach.

AMENDMENT NO. 460

Mr. MCCAIN. Mr. President, I am proud to have offered an amendment to the budget reconciliation package which provides incentives for States with expanding access to health care coverage under the Medicaid system to devise innovative and cost effective programs. This amendment is important to any State interested in best serving the health care needs of its people.

My amendment authorizes the continuation of a State's Medicaid managed care program operating under a section 1115 waiver. States would have the option of requesting an automatic extension of their waiver program for 3 years or permanently continuing their waiver managed care program if it has successfully operated for at least 5 years and has demonstrated an ability to successfully contain costs and provide access to health care.

In addition, this amendment allows these same States to utilize their own resources to revise their programs and expand coverage, while reducing both State and Federal costs.

The amendment will assist States in expanding health care coverage to their most vulnerable populations. This is something Congress has spent a great deal of time talking about during this session of Congress in terms of

children. But children are not the only ones for whom health coverage is a priority. There are still millions of people in this country who live below the poverty line who do not have coverage. Unfortunately, we often forget about these individuals.

Several States have led the way in innovation for expanding coverage through cost containment: Tennessee, Oregon, Rhode Island, Hawaii, and Arizona. My home State, Arizona, was the first to recognize that improved quality, better access and reduced costs could be achieved through the appropriate use of managed care as an integrated approach to health care for low income people.

These States have summoned the political will and marshaled their State resources to improve their health care programs while reducing both State and Federal costs. Many new States are now following the examples set by the pioneers and have filed statewide section 1115 waiver requests to move their programs into managed care.

In Arizona, 72 percent of the voters decided last fall that health care should be available to everyone under the poverty line. Arizona already covers children up to 133 percent over the poverty line. This means Arizona decided to cover the 50,000 men and women without children who live under the poverty line. This is their only hope of health care coverage.

Unfortunately, the administration has recently erected additional barriers to Arizona's initiative. In spite of the substantial savings documented by Health Care Financing Administration [HCFA] evaluators since the program began in 1982, more than enough to offset the cost of expanding coverage, the administration would not allow Arizona to reinvest these savings it achieved over a traditional fee-for-service program in expanded coverage. Nor will HCFA allow the State credit for their program's expected savings over the next 5 years.

States like Arizona which have successfully been operating under an 1115 Medicaid waiver should not be penalized for a change in Federal guidelines which occurred after the program began. No one is questioning whether these States have saved the Federal Government millions. Arizona, Tennessee, Hawaii, Rhode Island, and any other State with such a proven track record, should be allowed to use the managed care savings it achieved over a traditional fee-for-service program to expand coverage for their most vulnerable populations.

This important amendment assists States in providing access to health care for the most vulnerable populations.

MEDICAL RESEARCH

Mr. HARKIN. Mr. President, I would like to submit for the RECORD some of the many letters I have received in support of Senator D'AMATO's and my amendment to S. 947, the Balanced Budget Act of 1997, to create a medical research fund. These letters show the widespread grassroots support for this amendment which would expand support for medical research above and beyond what is currently being done at the National Institutes of Health [NIH].

The people behind these letters understand what many recent studies have demonstrated—that investments in medical research can both save lives and lower Medicare costs through the development of more cost-effective treatments and by delaying the onset of illness. They understand that while health care spending devours nearly $1 trillion annually, the United States devotes less than 2 percent of its total health care budget to health research. These letters are from people that understand the importance of increased funding for biomedical research. I ask unanimous consent that these letters in support of the medical research amendment be submitted for the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

Thank you.

AMERICAN ASSOCIATION FOR CANCER RESEARCH, INC.,
Philadelphia, PA, June 25, 1997.

Hon. TOM HARKIN,
Hon. AL D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. TOM DASCHLE,
Hon. BARBARA BOXER,
Hon. JAY ROCKEFELLER.

DEAR SENATORS: Bluntly, while debate rages over the budget, 1 mother, father, brother, sister or friend dies every 57 seconds in this country from cancer.

On behalf of the 14,000 cancer researchers searching for treatments, cures and prevention weapons in this country and the 1.3 million people who get cancer every year, we urge you on in your quest to find more funding for research and education!

The medical research amendment you are proposing is essential to continue to find resources to support the growing underfunded research programs at the NIH.

It is essential amendments like this pass to support all of our efforts to build a healthy America.

Sincerely,

DONALD S. COFFEY, Ph.D.,
President.

PARKINSON'S ACTION NETWORK,
Santa Rosa, CA June 25, 1997.

Hon. TOM HARKIN,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. ALFONSE D'AMATO,
Hon. JOHN D. ROCKEFELLER,
Hon. BARBARA BOXER,
Hon. TOM DASCHLE.

DEAR SENATORS: Thank you for your efforts to increase funds provided to the National Institutes of Health through the creation of a Health Research Fund.

A million Americans suffer from Parkinson's disease, a neurological disorder that causes increasing tremor, stiffness and slowness of movement, eventually leaving us unable to move or speak. I have lived with Parkinson's for ten years, watching Parkinson's increasingly disable me, and seeing others like former Congressman Mo Udall lose the battle to the point of total immobility. The human suffering that results from Parkinson's is immense and incalculable, but this condition also produces a fiscal nightmare: Parkinson's is estimated to cost at least $25 billion a year in medical care, disability benefits, assisted living and lost productivity. The cost is so high because we typically live in a disabled state for a long time, and the battle against less of function is ongoing and expensive.

Meanwhile, there is immense scientific promise, with Parkinson's described by scientists as ''one of the brightest spots in brain research.'' Nonetheless, the research is in slow motion, stymied by inadequate funding: the federal research budget for Parkinson's totals only about $30 million or $30 per American afflicted. The current federal policy on Parkinson's wastes billions in public and private dollars coping with the effects of the disease, when millions of dollars could be put toward finding a cure.

The Congress is moving toward a dramatic reversal in this policy, by support for the Udall Parkinson's Research bill, which would authorize $100 million to adequately invest in this research. The bill is co-sponsored by 57 Senators and 202 Congressmembers, and we expect to see it enacted very soon. This momentum could be derailed by the present allocation for health programs in the 1998 budget agreement. If not corrected this year in appropriations for the National Institutes of Health, the present funding disparity almost surely will continue, leaving the human and fiscal nightmare to go on unabated.

Your amendment can fix this funding problem, return fiscal sanity to this policy, and give hope to our struggling and desperate community today.

Thank you from the bottom of our hearts for your efforts.

Sincerely,

JOAN I. SAMUELSON,
President, Parkinson's Action Network.

CYSTIC FIBROSIS FOUNDATION,
Bethesda, MD, June 25, 1997.

Hon. THOMAS HARKIN,
Hon. ALFONSE D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. THOMAS DASCHLE,
Hon. BARBARA BOXER,
Hon. JOHN ROCKEFELLER.

DEAR SENATORS, Today, there are more than 30,000 children and young adults in the United States suffering as a result of cystic fibrosis. There is a way to stop this—Medical Research.

Your amendment is vital to the support of finding treatments and ultimately the cure for this devastating disease.

Just at a time when there are so many possible breakthroughs, grants cannot be funded, contracts are not given, clinical trials go unfunded, and education programs do not begin.

As a nation, as parents, we simply cannot let nearly 80 percent of our research opportunities slip away or be delayed.

The one approved program that we do not fund may hold the cure.

Sincerely yours,

ROBERT J. BEALL, Ph.D.,
President and CEO.

RESEARCH SOCIETY ON ALCOHOLISM,
Austin, TX, June 24, 1997.

Hon. TOM HARKIN, Hon. ALFONSE D'AMATO,
Hon. ARLEN SPECTER, Hon. CONNIE MACK,
Hon. TOM DASCHLE, Hon. BARBARA BOXER,
Hon. JOHN ROCKEFELLER,
U.S. Senate,
Washington, DC.

DEAR SENATORS: On behalf of the 1,100 members of the Research Society on Alcoholism, I am writing to unequivocally support the Medical Research Amendment. The

Research Society on Alcoholism is a professional research society whose members conduct basic, clinical, and psychosocial research on alcoholism and alcohol abuse.

Alcoholism is a tragedy that touches all Americans. One in ten Americans will suffer from alcoholism or alcohol abuse. It's cost to the nation is nearly $100 billion annually. Research holds the promise of developing effective methods for the prevention and treatment of this far reaching disease.

The Medical Research Amendment is an answer to the problem of desperately needed research funds. An investment of this type will create the ability for the National Institutes of Health to fund grant applications that will lead to advancements in all areas of health research. At this time of unprecedented opportunities in alcohol research, this amendment provides much needed assistance.

Thank you for your support of the research community. Please do not hesitate to contact me if I can be of assistance in any way.

Sincerely,

IVAN DIAMOND, Ph.D.,
President.

COLLEGE ON PROBLEMS OF DRUG DEPENDENCE, INC.,
Richmond, VA, June 24, 1997.

Hon. TOM HARKIN,
Hon. ALFONSE D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. TOM DASCHLE,
Hon. BARBARA BOXER,
Hon. JOHN ROCKEFELLER,
U.S. Senate, Washington, DC.

DEAR SENATORS: The College on Problems of Drug Dependence (CPDD) is the leading scientific society in the field of drug abuse. On behalf of our nationwide membership I am writing to lend our support to the Medical Research Amendment. Our commitment to research advances and their positive implication for the future is strengthened by this amendment and its commitment to the research community.

An estimated 30 million Americans suffer from drug and alcohol addiction. Alarmingly, of the 59 million women of child bearing age, nearly 5 million are using illicit drugs such as marijuana, cocaine, and heroin. Economically, drug and alcohol abuse cost this country more than $1600 billion annually. Research is the answer to understanding this complex and devastating problem.

The Medical Research Amendment is the answer to a long standing problem facing the United States, the undervalued commodity of research. Research can provide us with the elusive answers to questions of addiction, drug abuse, and treatment. This amendment is an investment in the future of America and not just the National Institutes of Health.

Thank you for your support of research and its advances. Please do not hesitate to contact me if I can be of assistance in the future.

Sincerely,

ROBERT L. BALSTER, Ph.D.,
Public Policy Officer.

COLLEGE OF PHYSICIANS & SURGEONS OF COLUMBIA UNIVERSITY,
New York, NY, June 25, 1997.

Hon. ALFONSE D'AMATO,
U.S. Senate, Hart Senate Office Building, Washington, DC.
Hon. TOM HARKIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATORS AL AND TOM: On behalf of Columbia University College of Physicians and Surgeons, I wish to express our support for the amendment offered by Senators D'Amato, Harkin, Specter, and Mack to provide additional funds over appropriated amounts for the National Institutes of Health that is being offered to the Budget Reconciliation Bill.

Current amounts for NIH are truly insufficient to fulfill the objectives of NIH and the promise of biomedical research. We have the opportunity to find the genetic basis of disease and cures for illnesses such as Parkinson's, cancer, diabetes, and others that afflict millions of Americans. The contributions potentially offered by this amendment will save millions of lives and billions of dollars.

Support for biomedical research is one of the most important investments Congress can make in the health and welfare of our citizens. All of us in academic medicine thank you for your leadership and vision.

Sincerely,

HERBERT PARDES, M.D.,
Vice President for Health Sciences, and Dean of the Faculty of Medicine.

THE NATIONAL COALITION FOR CANCER RESEARCH,
Washington, DC, June 25, 1997.

Hon. TOM HARKIN,
Hon. ALFONSE D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. JOHN D. ROCKEFELLER,
Hon. BARBARA BOXER,
Hon. TOM DASCHLE,
U.S. Senate,
Washington, DC.

DEAR SENATORS: The 55,000 cancer researchers, nurses, physicians, and health care workers, tens of thousands of cancer survivors and their families; 40,000 children with cancer and their families, 82 cancer hospitals and cancer centers across the country, and more than 2 million volunteers who make up the National Coalition for Cancer Research commend your medical research amendment to the fiscal year 1998 Senate Reconciliation Bill.

It is the Coalition's central conviction that the solution to the complex problems surrounding cancer—the reduction in morbidity, mortality, and the high costs of medical care—will come in a stepwise manner from the generation of new knowledge through research. Additional federal support for cancer research as provided by your Health Research Fund will abet the human and financial costs of cancer.

We must remember that despite the declining death rates of the past few years, in the United States, men have a 1 in 2 lifetime risk of developing cancer, and women have a 1 in 3 risk. Cancer is still the second leading cause of death and is expected to be the leading cause of death by the turn of the century. The direct costs of health care services to cancer patients is currently estimated at more than $104 billion annually and is increasing each year. The generation of new knowledge through research into the molecular events involved in the cause and progression of cancer should lead to increasingly effective means of protection and treatment, the only means to stop the spread of disease, and curtail these costs.

The Coalition recognizes that the Congress is pressed with securing savings in the Medicare and Medicaid programs, and applauds your attention to the need to invest in biomedical research to stop the spread of diseases which cause long term care costs. The Coalition commends your amendment which secures additional resources for biomedical research because, without doubt, research is the gateway to progress against cancer.

Thank you for seizing this opportunity now to do something of utmost importance for our country.

Sincerely,

ALBERT H. OWENS, Jr.,
President.

NATIONAL DOWN SYNDROME SOCIETY,
New York, NY, June 25, 1997.

Hon. TOM HARKIN,
Hon. ALFONSE D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. THOMAS DASCHLE,
Hon. BARBARA BOXER,
Hon. JOHN ROCKEFELLER.

DEAR SENATORS: One in every 800 children is born with Down Syndrome and there are over 350,000 people with this condition in the U.S. today. It is the most commonly occurring chromosomal abnormality, resulting when an individual possesses three, rather than usual two, copies of the 21st chromosome.

Medical research supported by the National Institutes of Health is our only hope in developing better therapeutics to treat those individuals who have Down syndrome and to help us better understand the causes of this disease so we can one day prevent it from occurring. The National Down Syndrome Society has just entered a historic public-private research initiative with the National Institutes of Child Health and Human Development to examine behavior and cognitive development of individuals with Down syndrome. This project is an important first step in increasing our understanding of this disease.

Thank you for your efforts and commitment to ensuring the longterm viability of our medical research infrastructure. We support your efforts to establish a National Fund for Health Research to ensure the NIH has the resources necessary to continue to advance medical science in the United States.

Sincerely,

MYRA E. MADNICK,
Executive Director.

ALLIANCE FOR AGING RESEARCH,
Washington, DC, June 25, 1997.

Hon. TOM HARKIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HARKIN: The Alliance for Aging Research, an independent not-for-profit organization working to improve the health and independence of older Americans, applauds and strongly supports an amendment to establish a National Fund for Health Research. We understand this fund would be established in the Treasury to expand support for medical research through the National Institutes of Health.

As you know, the Alliance has consistently made the case that the most effective means to achieve savings in Medicare and Medicaid is by improving the health status of older Americans. The most effective long-term strategy is to advance biomedical research and to apply what we learn to improved geriatric health management and prevention of chronic disease. Studies released this year from Duke University show a steady decline in chronic disability since the 1980s among this nation's older population, saving Medicare billions of dollars.

In a special report presented by the Alliance to the White House Conference on Aging, we stated that by postponing physical dependency for older Americans by just one month would save the nation $5 billion a year in health care and nursing home costs. Postponing the onset of Alzheimer's Disease by just five years would, in time, save $50 billion a year in health care costs. And a

five-year delay in the onset of cardiovascular disease could save an estimated $69 billion a year.

Your amendment would be a first step toward fulfilling the commitment made by the Senate through the Mack Sense of the Senate calling for a doubling of the NIH in the next five years. We understand this would in no way take the place of the Congressional appropriations to the NIH.

Unless we discover better ways to treat, prevent or postpone diseases of aging, the costs to the nation will grow exponentially in the decades ahead. Again, I commend you and your colleagues invaluable support for a strong national investment in medical research.

Best regards,

DANIEL PERRY,
Executive Director.

AUTISM SOCIETY OF AMERICA,
Bethesda, MD, June 25, 1997.

Hon. TOM HARKIN,
Hon. ALFONSE D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. THOMAS DASCHLE,
Hon. BARBARA BOXER,
Hon. JOHN ROCKEFELLER.

DEAR SENATORS: I am writing on behalf of the Autism Society of America to support your amendment to establish a National Fund for Health Research with additional savings that may result from changes made by the Balanced Budget Act which exceed the savings called for in the Budget Resolution. As the amount of discretionary funds available for medical research funding continues to shrink, we must find other ways to ensure that our research infrastructure is maintained.

Autism is a developmental disability that typically appears during the first three years of life. It is believed to be a genetically-based neurological disorder that affects more than 400,000 individuals in the United States, making it the third most prevalent developmental disability. Autism is four times more prevalent in boys than girls, and knows no racial, ethnic nor social boundaries. Family income, lifestyle, and educational levels do not affect the chance of autism's occurrence. The estimated health care cost associated with autism is greater than $13 billion a year.

At the present time, there is no prevention, treatment, or cure for autism. Our only hope in better understanding autism is through research. NIH is embarking on many exciting research endeavors focused on autism. In fact, NIH Director Harold Varmus has said numerous times that the time is right for autism research—we now have the tools to help us begin to unlock the mysteries of this disorder.

We appreciate your commitment to identify an additional source of funding for medical research and for giving individuals with autism the hope that through research we will find a treatment and cure.

Sincerely,

SANDRA H. KOWNACKI,
President.

DEPRESSIVE AND MANIC-DEPRESSIVE ASSOCIATION,
Chicago, IL, June 25, 1997.

Hon. TOM HARKIN,
Hon. ALFONSE D'AMATO,
Hon. ARLEN SPECTER,
Hon. CONNIE MACK,
Hon. THOMAS DASCHLE,
Hon. BARBARA BOXER,
Hon. JOHN ROCKEFELLER.

DEAR SENATORS: Medical Research is critical to individuals suffering for depressive illnesses. On behalf of the more than 65,000 members of the National Depressive and Manic-Depressive Association I am writing to support your amendment to establish a National fund for Health Research.

Depressive illnesses are treatable diseases. Without the research advances we have seen over the last 20 years, many individuals suffering from depressive illnesses would not have the opportunities they have today to participate as contributing members of our society. New therapeutics which have been developed through research are giving them this chance.

In any given year, 17.4 million American adults have some form of depressive illness such as major depression, bipolar disorder, or chronic, moderate depression. These conditions account for more than $148 billion in direct health care costs, and indirect costs. Such as lost work days for patients and care givers. Investments in biomedical and behavioral research on mental disorders are imperative for preventing and treating these debilitating illnesses and controlling the costs associated with them.

Thank you for your efforts to expand our national commitment to medical research!

Sincerely,

LYDIA LEWIS,
Executive Director.

Mr. BIDEN. Mr. President, this budget bill—which would put us on a path to eliminating the budget deficit in the year 2002—contains numerous reforms of the Medicare program. In addition, the bill would restore short-term solvency to Part A of Medicare—the part that pays hospital bills and will otherwise be bankrupt in four years. I have no objection to most of the Medicare reform provisions, and I will vote for this bill overall.

However, I want to talk briefly about two provisions that I oppose and explain why I voted to take them out of this bill.

First, Mr. President, this bill would raise the age at which a person becomes eligible for Medicare from the current age 65 to age 67. I voted to keep the eligibility age at 65. While this increase would be gradual and would be phased in over the next 30 years—so it would not affect any current seniors—I think it moves us in the wrong direction. What we should be doing is making sure that more, not fewer, people have health insurance.

Changing the current law so that today's workers will have to wait until they are 66 or 67 before they become eligible for Medicare threatens to add millions of people to the rolls of the uninsured. It is my understanding that 70 percent of Americans who retire between the ages of 60 and 65 will have no health insurance through their employers. If they have health insurance at all, they are paying exorbitant rates to buy it on their own.

Increasing the eligibility age for Medicare by 2 years would leave most of these people unprotected for 2 more years. This result is totally counter to why we created Medicare in the first place: To make sure that older Americans have access to health care services when they are likely to need it the most. Raising the eligibility age for Medicare without addressing the issue of those who will lose—or those who will continue not to have—health insurance is a glaring gap in this proposal.

Now, it has been argued by supporters of this change that because the Social Security retirement age will gradually increase to age 67, the eligibility age for Medicare should increase at the same time. But, Mr. President, there is no rational basis for linking Social Security and Medicare. They are two separate and distinct programs. If it is good policy to raise the Medicare eligibility age to 67—which I do not think it is at this time—then those arguments need to be presented. It is not good enough simply to say, ''Well, that's what we're doing with Social Security.'' And, I should note, that even when the Social Security retirement age increases, people will still have the option of early retirement at age 62. That is not the case with Medicare. It is all or nothing. And, we should not tell people between 65 and 67 that they get nothing.

The second provision that I opposed would have—for the first time—imposed means testing on higher income seniors. Under the plan, the monthly premiums for Medicare part B, which pays for doctor services, would have been based on how much income a person has. Now, I have long said that I believe it is not unfair or inappropriate to have wealthy seniors pay more for their Medicare coverage. So I support means testing in principle. But I am not sure that the means testing scheme in this bill is either fair or appropriate—and I think we ought to be sure of both before we make such a significant change in this program.

This legislation was just drafted last week. Until noon yesterday—Tuesday—this bill would have charged wealthier seniors higher deductibles under part B. But, then at midday, just a couple of hours before we voted on this issue, the bill was changed so that retirees with greater income would pay higher premiums, not higher deductibles. The fact that this last minute change was made just exemplifies the problem of trying to address this issue with haste.

The premium increases in this budget bill are very substantial, and they would hit individuals with incomes over $50,000 and couples with incomes over $75,000. But we really do not know yet what the effect of these increases would be on these families, or on the Medicare system itself. This is why we need to proceed with greater caution.

What we do in this budget bill—and what we must do—is what we have done many times in the last 30 years: Make the changes necessary to ensure the solvency of the Medicare Hospital Trust Fund over the next 10 years. To address the long-term concerns once the baby boom generation reaches retirement age, I have previously called for the establishment of a bipartisan commission to study the situation and make recommendations. This bill establishes just such a commission, and instructs it to report back to Congress in a year.

My point is that neither the increase in the Medicare eligibility age nor means testing are necessary to solve the short-term financial problems of the Medicare system. Instead, these are issues that the new commission should look at. In making significant changes to the Medicare program—among the most successful Federal programs ever—we need to do so with great thoughtfulness and deliberation.

These changes have no immediate impact on the Medicare trust fund or on our general goal of balancing the overall Federal budget by 2002. In short, there is no reason why we cannot wait until we have the benefit of the recommendations of the bipartisan commission—within the next year—before we take action of this nature. That is why I supported taking these changes out of the budget bill, and why I supported Senator REED's alternative Medicare proposal to make only those changes needed to make sure that Medicare remains financially solvent.

MEDICARE PROVISIONS

Mr. MCCAIN. Mr. President, the Senate took several difficult votes in the last two days related to Medicare reform. After carefully considering each of the amendments offered in the Senate, I cast my vote in favor of preserving and protecting the long-term solvency of the Medicare system.

I voted for an amendment to eliminate the bill's provisions which would require means testing of Medicare premiums. I also voted for an amendment which would have simply delayed the implementation of premium means testing until the year 2000. I believe it is foolish to hastily make such a drastic change as this without the benefit of an indepth study of the entire Medicare Program. Unfortunately, both of these amendments failed.

I am concerned about the bill's provisions which would delay the eligibility age for Medicare to 67 from the current age of 65. However, the bill would not implement this change until the year 2003, which will not affect current beneficiaries and, I believe, will allow us to assess this change within the context of a larger study of the program.

The bill does establish a bipartisan commission to study the entire Medicare Program and make recommendations for the changes necessary to keep the program solvent beyond the year 2001, which is when the trustees have reported the program will be bankrupt. I believe we should wait for the commission's recommendations before enacting any fundamental changes to the program. However, I felt it was important to show a willingness to consider taking a first step toward long-term structural changes in order to give impetus to the commission's work.

The budget reconciliation bill before the Senate contains many key provisions to expand benefits under Medicare and incorporate choice and competition into the current program. For example, the bill authorizes Medicare coverage of mammography screening, colorectal screening, bone mass measurement, and diabetes management. It also creates a Medicare Choice Program and a demonstration program for medical savings accounts for seniors. It contains provisions designed to eliminate waste and fraud in the Medicare system which could result in significant savings. These are improvements to Medicare for which I have fought for many years.

I believe firmly that our priority must remain protecting the Medicare system from bankruptcy by the year 2001, and I will continue to work toward that goal.

AMENDMENT NO. 482

Mr. LEVIN. Mr. President, the Levin-Jeffords amendment increases from 12 to 24 months the limit on the amount of vocational education training that a State can count toward meeting its work requirement under the new Temporary Assistance for Needy Families Program. Under the old welfare law, recipients could attend postsecondary vocational education training for up to 24 months. I strongly support the new law's emphasis on moving welfare recipients more quickly into jobs, but I am troubled by the law's restriction on vocational education training, limiting it to 12 months. Two-year community college study, for instance, would not meet the requirement.

Mr. President, the limitation on postsecondary education training raises a number of concerns, not the least of which is whether persons may be forced into low-paying, short-term employment that will lead them back onto public assistance because they are unable to support their families.

Study after study indicates that short-term training programs raise the income of workers only marginally, while completion of at least a 2-year associate degree has greater potential of breaking the cycle of poverty for welfare recipients. According to the U.S. Census Bureau, the median earnings of adults with an associate degree are 30 percent higher than adults with only a high school diploma or its recognized equivalent.

Mr. President, let me just give some examples. The following are jobs that a person could prepare for in a two-year community college program and the salary range generally applicable to the positions:

NATIONWIDE

Accounting, $14,000–$28,000.
Computer technician, $14,000–$31,000.
Law enforcement, $13,500–$25,000.
Dental hygiene, $18,000–$60,000.
Respiratory therapy tech, $21,000–$32,000.

MICHIGAN

Computer programing, $24,800–$42,900.
Radiology technician, $22.235–$32.425.
Legal assistant, $28,630–$30,000.
Child care development (supervisor), $23,590–$29,724.
Registered nurse, $24,400–$38,135.

Mr. President, the National Governors Association recognizes the merits of this amendment and has called for its passage. I urge my colleagues to support it because it will help us reach the new law's intended goal of getting families permanently off of welfare and onto self-sufficiency.

In closing, I ask unanimous consent to have printed in the RECORD two articles that are relevant to this issue which appeared in the February 17, 1997, USA Today and the June 1, 1996, New York Times.

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

[From USA Today, Feb. 17, 1997]

COLLEGE OFF LIMITS IN WELFARE PLAN

(By John Ritter)

States rushing to get welfare recipients off the rolls and into jobs are telling some college students on public assistance to drop out and find work.

Under the old welfare system, recipients of cash grants could go to school full-time. The new law, with its emphasis on moving welfare recipients quickly into jobs, restricts educational options.

Short-term job training and a year of vocational education are approved ''work activities'' under the new federal law, passed last year, but regular college and community college study are not.

So even as President Clinton preaches education as the route to prosperity, welfare reform is forcing recipients—predominantly single mothers—to forsake school for low-paying jobs.

States must put bigger proportions of their welfare caseloads to work—25% this year, 50% by 2002—or lose funds.

''The emphasis has shifted from how can we retrain people or pick up where their education left off to how can we move them into work,'' says Elaine Ryan of the American Public Welfare Association.

By one estimate, as many as 700,000 single parents on welfare are enrolled in higher education and training.

In California, 125,000 welfare recipients attend community colleges. The City University of New York system has 20,500 welfare students.

Schools already are lobbying state legislatures to find ways to keep these students and their tuition reimbursements.

But prospects are not bright.

[From the New York Times, June 1, 1996]

WORKFARE RULES CAUSE ENROLLMENT TO FALL, CUNY SAYS

(By Karen W. Orenson)

New rules introduced by New York City Mayor Rudolph Giuliani's administration that require all welfare recipients to work have led thousands of students to drop out of college or not enroll, according to officials at the City University of New York. The decline in enrollment is significant, CUNY officials say, because studies show that college gives people on welfare a good chance to get better jobs at higher pay.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, let me take 1 minute, and then we are going to final passage. I want to thank everybody for their cooperation. Under a very difficult process and procedure, I think we did very well. On a number of issues, there was great bipartisan support. I thank those on the other side of the aisle who have supported this overall package, and I hope the vote is overwhelming. Tonight we complete

the first step of three legs. The three legs are to get the deficit down by reducing spending; second is for us to get a good tax bill for all Americans; third is to do the appropriations bills in a manner that is consistent with the agreement and which doesn't violate the Budget Act.

I believe this is a historic beginning, and I am very pleased to be part of it. I thank everyone here for their role. I thank all eight committees that assumed their burden and produced their reconciliation package. Mostly, I thank Senator ROTH, the chairman of the Finance Committee, and Senator MOYNIHAN, his Democratic manager, and all those on the Finance Committee who worked to produce a bipartisan bill.

The lesson learned is that we can get things done that are difficult but good for the American people in a bipartisan way if we just work at it. I believe the best example we have of that is the Finance Committee this year. All the other committees had lesser responsibilities, but they provided their savings without rancor and with almost unanimity and, if not, a unanimity of spirit. I believe there is no process that would have let us in the U.S. Senate get this much work done. If this bill were freestanding and the tax bill were freestanding without the protections of the Budget Act, I just ask you to dream about what might happen. First, I think each bill could take 4 or 5 weeks, I think the amendments could run into the hundreds, and the bill could look like something completely different by the time we finished than what we started with. So we take some bad with the good in this difficult process called the reconciliation bill.

I thank the ranking member of the Budget Committee not only for the work here on the floor, but actually as we moved through the last 3½ months, Senator LAUTENBERG has been very good to work with, and we produced a good package, which will show up here in a bipartisan vote tonight. I thank the Senator. We produced a good bill.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I will be brief. I sense that everybody would like to hear a long speech, but I am going to disappoint them. I just want to say, Mr. President, that I, too, enjoyed my work with the distinguished chairman of the Budget Committee. We managed to resolve all of our problems without too much dispute, without any confrontation. There wasn't a moment that we walked out on anything. This reconciliation bill is consistent with that. We did, as it was appropriately noted, rush through some things. But that does not at all, in my view, suggest that we rushed through and didn't have the appropriate knowledge or review of the items that we were processing.

I thought it was a job very well done. I must say, if we didn't have some time constraint on this, Heaven knows how long we would all be here. We would see summer come and go and we would still be debating.

Again, I enjoyed the process and my first time at bat with the Budget Committee in the position that I have. I thoroughly enjoyed it. I hope that Senator DOMENICI will, as my ranking member in the not-too-distant future, also enjoy it. I promise to be cooperative.

I want to thank the staff of the Policy Committee, but particularly my senior staff here—Bruce King, Sander Lurie, Nell Mays, Marty Morris, Amy Abraham, John Cahill, Jodi Grant, Matt Greenwald, Phil Karsting, Sue Nelson, Jon Rosenwasser, Jim Klumpner, and Mitch Warren—who did a terrific job, as I know Bill Hoagland and his team did. I won't go through the names, but I will say that I have gotten to know them and respect them and admire the work they have done. I thank everybody for their cooperation, particularly my colleagues on this side.

Mr. DOMENICI. Mr. President, Senator GRAMM would like 30 seconds.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I have heard a lot of people speak in my 13 years in the Senate, but I don't think I have ever seen anybody do a better job of taking complicated issues and explaining them in a very short time as Senator DOMENICI has done in the last 2 days. I think we have made history on this bill, and I think the Senator from New Mexico has been a very important part of that.

Mr. DOMENICI. I ask for the yeas and nays on final passage.

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 the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 73, nays 27, as follows:

[Rollcall Vote No. 130 Leg.]

YEAS—73

Abraham	Chafee	Feingold
Allard	Cleland	Feinstein
Ashcroft	Coats	Ford
Baucus	Cochran	Frist
Bennett	Collins	Glenn
Biden	Conrad	Gorton
Bond	Coverdell	Graham
Breaux	Craig	Gramm
Brownback	D'Amato	Grassley
Bryan	DeWine	Gregg
Burns	Domenici	Hagel
Campbell	Enzi	Hatch
Hutchinson	Mack	Shelby
Hutchison	McCain	Smith (NH)
Inhofe	McConnell	Smith (OR)
Jeffords	Moseley-Braun	Snowe
Kempthorne	Moynihan	Specter
Kerrey	Murkowski	Stevens
Kohl	Nickles	Thomas
Kyl	Robb	Thompson
Landrieu	Roberts	Thurmond
Leahy	Rockefeller	Warner
Lieberman	Roth	Wyden
Lott	Santorum	
Lugar	Sessions	

NAYS—27

Akaka	Faircloth	Lautenberg
Bingaman	Grams	Levin
Boxer	Harkin	Mikulski
Bumpers	Helms	Murray
Byrd	Hollings	Reed
Daschle	Inouye	Reid
Dodd	Johnson	Sarbanes
Dorgan	Kennedy	Torricelli
Durbin	Kerry	Wellstone

The bill (S. 947), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. ROTH. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. ROTH. Mr. President, in my opening statement, I thanked my good friend and colleague, Senator MOYNIHAN, my colleague on the Finance Committee, and our staff for their excellent work. I would be remiss, however, if I failed to conclude without again expressing my appreciation for these diligent professionals—men and women who work into the wee, wee hours, late nights, early mornings, and weekends to help us craft a bill that could find the kind of success that this has found on the Senate floor.

I would like to particularly thank the following majority and minority staff of the Finance Committee who worked so hard on this bill, including Lindy Paull, Frank Polk, Julie James, Dennis Smith, Gioia Bonmartini, Alexander Vachon, Dee Dee Spitznagel, Joan Woodward, Brig Gulya, Mark Patterson, David Podoff, Faye Drummond, Kristen Testa, Doug Steiger, Rick Werner, and Rakesh Singh.

Again, I am grateful for the outstanding work that they did. And I believe that it merits the thanks and gratitude of all of us.

REVENUE RECONCILIATION ACT OF 1997

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of S. 949, the Tax Fairness Act.

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

The clerk will report.

The bill clerk read as follows:

A bill (S. 949) to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

The Senate proceeded to consider the bill.

PRIVILEGE OF THE FLOOR

Mr. ROTH. Mr. President, I ask unanimous consent that the following Finance Committee staff members be granted full floor access for the duration of floor consideration of S. 949, the Revenue Reconciliation Act of 1997.

I include Mark Prater, Doug Fisher, Brig Gulya, Sam Olchyk, Rosemary Becchi, Tom Roesser, Joan Woodward, Julie James, Dennis Smith, and, in addition, I request full floor access for Ashley Miller and John Duncan of my personal staff.

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

Mr. ROTH. Mr. President, earlier this month I read an article by Dana Mack, a mother and the author of a new book, ''The Assault on Parenthood: How Our Culture Undermines the Family.'' It was powerfully persuasive. Her thesis was that parents today love their families as much as, if not more than, ever—that today's parents are attentive and even more committed than those of an earlier generation but that they are pressed economically.

In her studies, Ms. Mack discovered that the most serious challenges faced by parents today are economic challenges.

Listen to her statistics. It costs the average American couple today twice—twice—the proportion of their yearly household income to pay the mortgage than it cost their parents; average Federal income payroll taxes rose from 2 percent of family earnings in 1950 to 24 percent in 1990; health costs have skyrocketed in the past 20 years, sending 4 to 5 million women to work for medical insurance alone.

Consider these statistics along with the one that has been repeated often in the debate over real tax relief—that American families pay more in taxes than they do for food, clothing, and shelter combined—and it becomes apparent how important this Taxpayer Relief Act of 1997 is. Tax relief is no longer a partisan issue, and I was encouraged by the spirited cooperation that was exhibited in the Senate Finance Committee as we deliberated and then reported this bipartisan bill out of committee.

Such a bipartisan effort allows me to stand on the floor and say without hype or hyperbole that today is, indeed, a historic day. It is historic because this proposal is truly bipartisan, and, as a consequence, Americans can look forward to their first significant tax cut in 16 years. It is historic because the Taxpayer Relief Act of 1997 is part of a budget reconciliation that will lead our Nation to a balanced budget in 2002.

And because of our efforts to ensure bipartisan cooperation, the Finance Committee bill we consider today contains a balanced and fair package of tax relief measures. It includes proposals important to both Democrats and Republicans, and it is structured to provide major tax relief—relief to America's hard working and overburdened families.

There were three criteria that guided our work. We wanted tax relief for middle-income families, tax relief to promote education, and tax relief to stimulate economic growth, opportunity, and jobs.

With these objectives in mind, we crafted a bill that includes a $500 per child tax credit, and an increase in the exemption amount for purposes of the alternative minimum tax, a provision that will save millions of middle-income families from experiencing the headaches of AMT.

We crafted a bill that contains tax measures to assist students and their parents in affording the cost of post-secondary education. These include the $1,500 Hope scholarship tax credit, a $2,500 student loan interest deduction, and a permanent extension of the tax-free treatment of employer-provided educational assistance.

We also included the tax-free treatment of State-sponsored prepaid tuition assistance plans, a new education IRA serving both education and retirement needs, tax incentives for teacher training and school construction, and a repeal of the tax exempt bond cap.

To promote savings, investment, and economic growth, we expanded IRA's. We did this by doubling the income limits on the tax deductible IRA so that more families can set up an IRA. We expanded the spousal IRA. For the first time, homemakers will be able to save up to $2,000 annually regardless of their spouse's participation, in an employer pension plan. And we also created a new nondeductible IRA Plus account. A very important part of this IRA Plus is that it will allow penalty-free withdrawals for first-time home purchases and periods of long-term unemployment. And to promote investment and jobs we included a capital gains tax cut, dropping the top rate to 20 percent. This will create new incentives for venture capital.

For families, this bill offers relief from the estate tax, the tax that can rob a family of its farm or business when a father or mother passes away. To help these families, we raise the unified credit to $1 million per estate by 2006, and we provide tax-free treatment for family-owned farms and businesses for up to $1 million.

Each of these is an important step, Mr. President. The fact that these were included in a bipartisan proposal indicates that business as usual is changing in Washington. The Senate is willing to lay aside partisan politics to provide Americans with the kind of tax relief they need.

As with any bipartisan effort, not everyone will be fully satisfied with this proposal. For my part, I would like to see greater tax relief, and I consider this the first in a series of steps that I hope will lead to deeper tax cuts and eventual long-term reform. But this bipartisan effort signals an important beginning, one which is built upon a foundation of principles we share, whether we be Republican or Democrat.

Eighty-two percent of this tax relief is made up by our family tax cut and education assistance, priorities that we all share. As I have said, it represents the biggest tax cut in 16 years, tax relief that is focused on middle-income families.

But beyond these major tax cuts, our proposal contains a number of important smaller items. These include the extension of certain expiring tax provisions. For example, we extend the R&D tax credit, a credit that helps our exporters compete in world markets to maintain our leading edge in several key industries.

We make the orphan drug credit permanent and allow for contributions of full value of appreciated stock to charitable foundations. We also extend and expand the work opportunity tax credit to assist welfare recipients and others in getting jobs.

The Taxpayer Relief Act of 1997 contains a package of measures to help the District of Columbia get on its feet, including a reduced capital gains tax rate and a first-time homebuyer tax credit. It contains a guaranteed and secure source of funding for Amtrak to enable our national rail passenger system to move to privatization. And it also has a measure allowing taxpayers to expense the cost of cleaning up brownfields, as well as several measures to help taxpayers who have been victims of floods in the Upper Midwest. And finally, we offer tax simplification in the pension, individual, foreign, and small business areas.

Mr. President, this package includes several revenue raisers that partially offset the cost of the tax cut. The most prominent is an extension and improvement of the funding stream for our national aviation system and a 20-cent tax on cigarettes. Beyond these, we close loopholes in the foreign tax area, as well as in the area of corporate-owned life insurance and tax shelter reporting.

I wish to express my sincere appreciation for the spirit of bipartisanship that prevailed as we crafted this tax relief package. It has been a successful, productive experience because we have worked together, taking the recommendations and concerns of each member of the Finance Committee, as well as the recommendations of our colleagues outside of the committee, and we have put together a package that is workable, a package that will go a long ways toward offering relief, especially to America's overburdened middle class.

Now, I realize that in the course of debating this proposal in the Chamber there will be those who stand against this bipartisan bill. In a partisan effort, there will be those who attack this tax relief bill. Before they begin their arguments, however, I want to put them on notice. I want them to understand that the lion's share of the

tax package—82 percent—goes for the family tax credit and the education package. Eighty-two percent is directed to middle-income families.

I want them to understand that according to the Joint Committee on Taxation, at least three-quarters or 75 percent goes to families making $75,000 or less, and at least 90 percent goes to families making $100,000 or less.

These are the facts, and they are understood on both sides of the aisle. They are understood by those who believe that the time has come to provide real, meaningful tax relief to hard-working families that have been overburdened for too long.

They are understood by those who realize, as President Clinton has said, that the era of big Government is over and now Washington must promote an environment where the genius of enterprise and the market economy can sustain long-term economic growth and bring jobs and security to families everywhere.

I began my remarks by quoting an article that highlights the economic strain placed on families today, and let me close by using three hypothetical Delaware families and show how the Taxpayer Relief Act of 1997 will benefit each of them.

Let's begin with a single mother whom we will call Judy Smith. Judy has two young children. She works as a legal secretary in Wilmington making $35,000 a year. Currently, she pays over $3,000 in Federal income taxes—over $3,000. Now, to put that into perspective, $3,000 is what her family of three will pay all year to buy the food they eat at home. In other words, Judy's paying the Federal Government what it costs to feed her family.

Now, when the Taxpayer Relief Act of 1997 becomes law, Judy's taxes will be cut by $1,000—$500 for each child. A third of her Federal tax liability will be gone. And what can Judy do with that extra $1,000?

I am sure she can think of a number of good uses, but if she wants—again thanks to the Taxpayers Relief Act of 1997—Judy will be able to set up education IRA's for her two children.

The second hypothetical family I want to introduce you to is a married couple, Jim and Julie Wilson. The Wilsons own a farm in Sussex County. They have three children. Jim works the farm and Julie is a homemaker. They earn $55,000 per year from their farm. Of that $55,000, they pay over $5,500 in Federal income taxes—fifty-five hundred dollars. That, Mr. President, is more than they will pay for all the food they consume at home during the year. After the Taxpayers Relief Act of 1997, however, the Wilson's taxes will be cut by $1,500—$500 for each child. Julie Wilson will be able to set up a homemaker IRA to save for her retirement.

If Delaware adopts a State-sponsored prepaid tuition plan, the Wilsons will be able to participate in the plan and save for their children's college education. Looking far ahead, if the farm prospers, Jim and Julie will be able to pass it on to their children free of the burden of the estate tax. All of these benefits to this middle-income family are contained in the Taxpayers Relief Act of 1997.

Finally, Mr. President, let's look at a young two income couple. We'll call then John and Susan Jones. They live and work in Dover, DE. College graduates, John is a veterinarian and Susan is a physical therapist. They make $75,000 and have one young child. Under current law, the Jones family pays about $11,500 in Federal income taxes. After we pass the Taxpayers Relief Act of 1997, the Jones will be able to deduct a portion of the interest on their student loans. They will receive the $500 per child tax credit, and they will be able to set up IRA Plus accounts for themselves and an education IRA for their child.

It is for families like these that we have created the Taxpayers Relief Act of 1997. It is because of its fairness that this bill received strong bipartisan support in committee. I believe the Finance Committee fairly reflects the Senate as a whole—as well as the broad interests and concerns of the constituents our Members represent. This is their package. It delivers to the American people what they asked us to do in the last election—a bipartisan and fair return of the fiscal dividend accruing from a balanced budget.

I am grateful to all who worked so long as so well to draft this bill. I am grateful for Senator MOYNIHAN's leadership, as well as for the other members of the committee who allowed bipartisan cooperation to prevail throughout the process. And again, Mr. President—as I did yesterday—I thank the professional capable staff of the Senate Finance Committee for their countless hours and lost sleep. This was, indeed, an heroic effort, and it is my honor to bring it to the floor.

(Ms. COLLINS assumed the Chair.)

Mr. BYRD. Madam President, will the Senator yield if he has completed his statement?

Mr. ROTH. I will be happy to yield.

Mr. BYRD. Will the Senator indicate what the plan is for the rest of the day and tomorrow?

Mr. ROTH. It is my plan to continue for several hours this evening, probably until 9, 9:30, 10, come back in the morning around 9:30 and proceed throughout the day.

Mr. BYRD. When you say your plan is to continue to about 9 or 9:30 tonight—was that it?

Mr. ROTH. That is my thought now, yes.

Mr. BYRD. Will there be amendments called up?

Mr. ROTH. Yes, amendments will be called up, but there will be no votes tonight. They will be held over until the morning.

Mr. BYRD. What is the plan with regard to votes on tomorrow?

Mr. ROTH. There will be votes, hopefully, throughout the day.

Mr. BYRD. Beginning when?

Mr. ROTH. The first vote, I think, I would say to my good friend from West Virginia, would start around 9:30.

Mr. BYRD. Does the Senator plan to attempt to stack these votes this evening if amendments are called up?

Mr. ROTH. Yes. It has been announced by the leader that there will be no more votes tonight, so if we complete debate on any amendment, it would be stacked in the morning.

Mr. BYRD. I had not heard any announcement with regard to the modus operandi with respect to this bill, insofar as the evening is concerned, and actions on tomorrow.

What I am concerned about is it appears to me we are going to get ourselves right back in the same situation that we were in today with stacked votes and only a couple of minutes for explanations and some Senators like myself really not knowing what is in the amendments.

Mr. ROTH. I do not expect that many amendments to be raised tonight. I will say at most it will be one or two, and there will be time in the morning for the sponsors and opponents to review the pros and cons of the amendments.

I would, of course, urge Members to bring their amendments to the floor.

Mr. BYRD. I thought most Members were leaving when I saw them lined up for the vote. Does the Senator contemplate any point in time when all amendments will be presented to the Senate? Is there going to be a deadline of that, as to a time? I think in connection with the bill that was passed today, it seems to me that all amendments had to be offered before the close of business, or by the close of business, last evening. What is the plan in regard to this measure?

Mr. ROTH. We do not have any plan at this time to say amendments have to be submitted by such and such a time. But, of course, as you know, there is a 20-hour limitation on reconciliation. So, hopefully, everybody will bring their amendments down early so they can be considered early and we can avoid the situation that we had of a lot of Senators bringing their amendments at the end.

Mr. BYRD. How much time does the Senator plan to have between amendments on tomorrow for explanations of the stacked amendments?

Mr. ROTH. I hadn't really considered that.

Mr. BYRD. I am not trying to create problems for the Senator.

Mr. ROTH. No, I understand. I would say we would give 5 minutes to a side.

Mr. BYRD. Five minutes to a side?

Mr. ROTH. Yes; 10 minutes.

Mr. BYRD. That would be quite an improvement over what we have been seeing with only 2 minutes and so much noise in the Chamber it was difficult for Senators to hear what was being said in the 2 minutes.

Mr. ROTH. I think the situation, of course, arose on the legislation we just passed upon because people did not

bring their amendments in until the last minute and then, under the rules, there is no more time. You know better than I, in a sense, giving 2 minutes goes beyond the rule.

Mr. BYRD. Well, could we have a limitation on the number of amendments that will be called up this evening and stacked for tomorrow morning?

Mr. ROTH. I suspect our real problem is going to be to get people down here to offer them. But I don't want to discourage anyone in the course, so I would prefer not to try to limit it, for that reason.

Mr. BYRD. Yes. Does the Senator have any idea how much time is going to be—there is a total of 20 hours on the measure. Does the Senator have an idea how much time we will have of the 20 hours on tomorrow?

Mr. ROTH. No, I can't really answer that.

Going back to your question about tonight, if we could bring up six tonight, that would be a maximum and I would be pleased at that.

Mr. BYRD. I realize the Senator is not in a position to make certain pronouncements that would be binding on others interested in the measure, but I am concerned lest we tomorrow find ourselves short of time; quite a number of votes that have been stacked, not much time for explaining those amendments and, in the final analysis, voting on the measures that we know very little, if anything, about. I am not talking about the Senator. He is on the committee. He knows what is in the amendments.

Mr. ROTH. No. I appreciate what the Senator is saying.

Mr. BYRD. I will probably have two amendments. One of my amendments—I may offer an amendment that will attempt to extend the time on reconciliation measures. So I might say to the Senator, I want to be able to call up that amendment tomorrow, if I am able to develop one in the short amount of time that we have.

I have another amendment that I have been working on, and I hope we could count on, say, 4 minutes equally divided between each amendment that is stacked, so we would get 2 minutes on a side. I find the explanations that are offered on amendments between votes are more edifying, in many instances, than the debates that went along earlier. Most Senators are able to capsule their remarks and focus more. But I really don't think a minute to a side is enough. I have seen some Senators cut off in the middle of sentences because the minute ran out. So, if we could say 4 minutes equally divided, would the Senator be agreeable to that?

Mr. ROTH. I would certainly be agreeable at this stage, I would say to the distinguished Senator. Once we utilize the full time, it is something I might want to review from time to time. But I understand what the former majority leader is saying, and I appreciate his reasoning behind it.

So, as far as the morning is concerned, I assure him there will be 4 minutes equally divided on any amendment.

Mr. BYRD. I believe that the rule with regard to reconciliation bills provides for 2 hours on any amendment.

Mr. ROTH. I think that is correct.

Mr. BYRD. And 1 hour on any amendment to an amendment. That being the case, if the Senators so chose, they could use up the 20 hours on several amendments.

Mr. ROTH. That is correct. That is, I guess, part of the basic structure of the reconciliation. I think, to be candid, that was deliberately done at that time.

Mr. BYRD. Circumstances have changed since that measure was written.

Mr. ROTH. And we all learn from experience.

Mr. BYRD. I had a lot to do with writing that in 1974.

Mr. ROTH. You played a critical role.

Mr. BYRD. Things were different then. If I could foresee what I now see, looking backward, I probably would have changed it a little bit. But, in any event, I thank the distinguished Senator. I didn't want to intrude on his time or impose on him, but I am just concerned, as I said today, and frustrated—without complaining about any individual. I don't find fault with any individual.

Mr. ROTH. I fully understand.

Mr. BYRD. Every individual is acting in good faith. With that understanding that we will have 4 minutes equally divided between each amendment and there is no deadline at this point in time drawn with regard to the offering of amendments, I will yield the floor.

Mr. ROTH. I agree that on any amendments considered and stacked today, there will be 4 minutes prior to the votes tomorrow.

Mr. BYRD. I thank the distinguished Senator.

Mr. ROTH. I thank the Senator for the exchange.

Mr. MOYNIHAN. Mr. President, as we begin the debate on the second of two budget reconciliation bills called for under the concurrent resolution on the budget for fiscal year 1998, I again want to commend and thank the chairman of the Finance Committee, Senator ROTH, for the fine bipartisan manner in which he has led us this year. I look forward to that spirit of bipartisanship continuing today as we work toward the adoption of the tax bill by the full Senate.

It is my belief, although it is not much shared just now in Congress or in the White House, that this is no time for tax cuts. Just yesterday, in a report released by Treasury Secretary Rubin, the International Monetary Fund, in its annual review of the U.S. economy, stated that the United States should delay tax cuts ''in order to achieve an earlier reduction in the budget deficit'' and strengthen the credibility of the balanced-budget pact between Congress and President Clinton.

Were it up to this Senator, we would continue on the deficit reduction course begun in the Omnibus Budget Reconciliation Act of 1993, which has had extraordinary results. The economy is in its best shape in 30 years. CBO projects that the deficit will be $67 billion for fiscal year 1997, far below original estimates. Inflation was just two-tenths of 1 percent in May—equivalent to an annual inflation rate of only 2 percent. The unemployment rate stands at 4.8 percent, its lowest in more than a quarter century, and the Wall Street Journal reported today that the measurement of consumer confidence in the economy is at a 28-year high.

Given this success, we may well come to regret having enacted the tax cuts in this bill. Nevertheless, we do not have a majority in the 105th Congress. The congressional leadership and the President have agreed that there will be tax cuts this year. And so given that reality, I joined with other Democratic members of the Finance Committee in working with Chairman ROTH—in a bipartisan mode—to help shape the bill now before us. The resulting legislation is not altogether what some of us would prefer, but even so it does include a number of redeeming provisions.

I would particularly wish to commend and thank the chairman for the inclusion of the following provisions: Making permanent the single most successful tax incentive for education, the exclusion from income of employer-provided educational assistance under section 127. The Roth-Moynihan bill to make 127 permanent now has over 50 cosponsors, including all 20 members of the Finance Committee; repealing the cap on issuance of section 501(c)(3) bonds for universities, colleges, and nonhospital health facilities; providing $2.3 billion in funding for Amtrak by allocating one-half cent per gallon of the Federal gasoline excise tax; and extending the fair-market value deductibility of gifts of appreciated property to private foundations.

Mr. ROTH. Madam President, I say to my friends and colleagues, please come down and present your amendments. The bill is now open to amendment.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Thank you very much, Madam President. I first want to congratulate the Senator from Delaware for an excellent bill he has put forward on an important topic. We are finally talking about tax cuts, something we should have been talking about for a long period of time, but we haven't since 1981. This is a great day. I think it is a great opening that we are finally doing something about the tax burden on the American people, where they are paying over 40 percent of their income in taxes. I congratulate the chairman of the Finance Committee for raising this.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BROWNBACK. Madam President, as I was stating briefly earlier, I want to recognize the work of the Finance Committee chairman, who is doing an extraordinary job and doing something we haven't done since 1981, and that is cut taxes. We need to do this, we need to do it to stimulate the economy.

Mr. ROTH. Will the Senator yield?

Mr. BROWNBACK. Yes, I will.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

POINT OF ORDER

Mr. BROWNBACK. Madam President, we have had some good discussions here. Looking at the overall tax cut bill that we have, which I think is very important that we do, I am congratulatory toward the chairman.

I chair the District of Columbia Subcommittee. We have really been looking strong at what we need to do in the District of Columbia to make us a shining city. The chairman has done an extraordinary job of including things like zeroing out capital gains on real property in the District of Columbia, something I think we ought to look at nationwide, but let us try it here first.

We also have in there a provision for new homeowners and new home buyers, a $5,000 tax credit provision in there for new home buyers in the District of Columbia to attract people back to Washington, DC, to make it a shining city.

Unfortunately, there is one other provision, section 602, in the bill that creates an economic development corporation—requires the creation of an economic development corporation—in order to access some of the tax credits. I have great difficulty with this entity. It is something that would have to be created by the District of Columbia Committee. It is an entity that would have condemnation authority. It is an entity that would have a broad base of authority, appointed by the President. It is in effect going to be a department of commerce for the District of Columbia with a lot more authority and a lot more power.

I do not think that survives the Byrd rule test, and I raise the point of order on section 602 of Senate bill 949 under the Revenue Reconciliation Act of 1997, the Byrd rule provision, because I believe these are extraneous. I think this is an ill-conceived concept even though I am very supportive of what the chairman has done overall for the District of Columbia. He is stepping up to solve the problem. But I do not think this provision is the way to go. I do raise a point of order under the Byrd rule to that particular provision, section 602.

Mr. ROTH. Madam President, first, let me say that I appreciate the interest and concern expressed by my colleague from Kansas. I will and do hereby, under section 904 of the Budget Act, move to waive the point of order raised by him.

I urge that in the meantime he might work with my staff to see if we can develop some alternative that meets his concern with the present language and see if we cannot develop something that will move this proposition ahead.

Mr. BROWNBACK. Madam President, I will take those suggestions to heart and will see if we can work something out.

Let me again say one more time, this chairman—anybody in Washington, DC, watching this should be thankful for what he has done in stepping up and solving a tough problem of how we do make this a shining city again. I applaud that effort and will work with his staff to see if we can resolve particular concerns that he has before a vote tomorrow.

Mr. ROTH. I thank the Senator from Kansas.

The PRESIDING OFFICER. The motion to waive is pending.

Mr. ROTH. Madam President, I ask unanimous consent that it be set aside.

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

Mr. ROTH. At this time it is my pleasure to call upon my distinguished colleague from the State of North Dakota.

Mr. DORGAN. Madam President, I rise this evening to offer some amendments. I will do so and understand that they will be set aside for other business to be conducted after these amendments. I wanted to have an opportunity to discuss them, some of which I hope the chairman and ranking member will be able to support. Others I expect they will not.

But I do so with great respect. And I say, as I begin this process, that I was very impressed that the chairman of the Finance Committee, the Senator from Delaware, clearly sought bipartisanship and sought a working relationship with all members of the committee as he constructed the piece of legislation that is now on the floor of the Senate. I, for one, applaud him for that.

Some of the proposals in this piece of legislation I think are excellent proposals, I support them. Others, I would have written differently. And that is the purpose of offering some amendments. But generally speaking, I think the Senator from Delaware has done the Senate a service by saying, when the committee writes a bill, he wants to involve all members of the committee. Instead of, as is so often the case here in the Senate, having a political debate ending up with the worst of what each has to offer, reaching out and getting the best of what both sides have to offer on these issues makes a great deal of sense.

So I begin by paying my compliments to the manner in which the Finance Committee wrote this bill. As I said, some parts of the bill I support very strongly. Other parts, I would have written differently and would like to change. That is the purpose for this discussion.

MOTION TO REFER

Mr. DORGAN. Madam President, let me describe a motion to refer I intend to offer that I want to get a vote on as we proceed. It is a motion that would do the following:

We are proposing, and Congress will likely allow to become law, a series of tax cuts. I support some of these proposals. I want to be certain, however, that the direction that we are heading is a direction that will not explode the deficit in the outyears.

We are all familiar with the stories about the 1981 tax cut proposals and the discussion about the fiscal policy in which we then had less revenue but built up our military spending, double, and then entitlements continued to rise, and the result was we blew a real hole in the Federal deficit.

I am going to propose a trigger, in essence. I will do it, however, in a different manner. I will do it with a motion to refer the bill back to the committee with instructions to report back with an amendment providing for a mechanism to temporarily suspend sections of the bill dealing with capital gains and the IRAs in any fiscal year after the year 2002 if two things occur:

One, the Congressional Budget Office reports that the revenues lost due to the bill have exceeded the budget agreement's restrictions on tax cuts, and, two, the Department of the Treasury reports there has been a deficit in the previous fiscal year.

My point is very simple. I would like us to have some safety mechanism in this piece of legislation that says, if where we are headed beyond the first 5 years results in additional Federal budget deficits, that then we could suspend temporarily a part of these tax changes so that we can get the budget back into balance.

I have proposed it the way I have proposed it because I do not want us to discover that we are having budget deficits in the outyears simply because we are spending more money. That is not my purpose. But I do want to be in a circumstance here or have the Senate be in a situation that if the amount of tax cuts exceed the revenues that we had an agreement for in this piece of legislation, and if the Treasury Department reports that we had a deficit the previous year, that four sections of this tax cut would be temporarily suspended in order to get the budget back in balance.

That will be one of my recommendations. I do that simply because I want us to be certain beyond the first 5 years that we maintain the fiscal discipline that I think is commendable and I think is necessary.

We have, I think, achieved some things together in this Congress with a budget agreement, one which I voted for. I do not want to blow that apart in the sixth, seventh or eighth years out believing then, well, we balanced the budget for 5 years and then all of a sudden the budget is out of balance and in a deficit condition once again.

So I send this motion to refer to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report the motion to refer.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] moves to refer the bill, S. 949, to the Committee on the Budget, with instructions to report the bill back to the Senate within 3 calendar days of session with an amendment providing for a mechanism to sunset temporarily Sections 301, 302, 304 and 311 of the bill in any fiscal year after fiscal year 2002, if (1) the Congressional Budget Office reports that the revenues lost due to the bill have exceeded the budget agreement's restrictions on tax cuts and (2) the Department of the Treasury reports that there has been a deficit in the previous fiscal year.

Mr. DORGAN. Next, Madam President and the chairman of the committee, I intend to offer three amendments that are relatively small, targeted amendments that deal with the issue of disasters, natural disasters. Most of us recognize that we have spent a lot of time talking about disaster relief and issues affecting people dealing with flood disasters, earthquake disasters, tornadoes and fires and so on.

We had a circumstance in our region of the country where the Red River had a massive flood, a 500-year flood. We had 90 percent of a community of 50,000 people who were displaced out of their homes, many hundreds of those homes—nearly 1,000 homes—have been totally and permanently destroyed.

In many of those cases, all of their records were destroyed as well. People left with a half hour's notice and only the clothes they were wearing and lost everything. The Internal Revenue Service knowing that this happened the first week or so of April, second week of April, they said, ''We will allow an extension to file income tax returns.'' It is pretty clear people fleeing a flood and who have lost everything, including all of their records, will not be able to file tax returns on April 15.

So the Internal Revenue Service said they would extend the tax filing deadline. I appreciate that. And it made a lot of sense because hundreds of those people, thousands of those people could not have complied, people in South Dakota, Minnesota, and North Dakota. The IRS said, ''We will consider a tax return timely filed if it's filed by the end of May.'' Then as this flood continued, they moved it to August, and that is where it is.

The IRS said to those victims of that disaster, ''If you file by that date, there will be no penalty because we have moved the filing date,'' recognizing you could not possibly comply. But then the IRS said, ''But you are going to have to pay interest because we don't have the authority to waive the interest.'' The disaster victims have asked the question, ''Well, if it is considered timely filed, why are we being charged interest?'' And the Internal Revenue Service said, ''Well, you're being charged interest because we don't have the capability of waiving it.''

The Treasury Secretary said he is sympathetic to my amendment, he will support it. I have talked to the majority on this, and I hope this will be one that—it will have an almost insignificant revenue consequence, but just makes sense. It gives the IRS the authority clearly to do what it wants to do and should do but does not now have the authority to do.

Madam President, I ask unanimous consent to set aside the motion to refer.

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

AMENDMENT NO. 515

(Purpose: To authorize the Secretary of the Treasury to abate the accrual of interest on income tax underpayments by taxpayers located in Presidentially declared disaster areas if the Secretary extends the time for filing returns and payment of tax (and waives any penalties relating to the failure to so file or so pay) for such taxpayers)

Mr. DORGAN. I offer the amendment and send it to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 515.

Mr. DORGAN. Madam 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:

On page 211, between lines 5 and 6, insert the following:

SECTION 724. ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by adding at the end the following:

''(h) ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—

''(1) IN GENERAL.—If the Secretary extends for any period the time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 (and waives any penalties relating to the failure to so file or so pay) for any taxpayer located in a Presidentially declared disaster area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax.

''(2) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of paragraph (1), the term 'Presidentially declared disaster area' means, with respect to any taxpayer, any area which the President has determined warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters declared after December 31, 1996.

Mr. DORGAN. Madam President, I will be brief on the next two amendments. They relate to the same issues. As I indicated, the first dealt with the waiver of interest, which I hope we can do. It will have almost insignificant consequence, but will be significant to the disaster's victims.

The others, I have been visiting with the staff of the majority and the minority and other Members.

One deals with the question of the use of IRAs by victims of the disaster who now find themselves with a need to invest in their home to repair it, but they do not have any money except that which is in an IRA, or the need to invest in a business that has been destroyed, and they have no resources except that which is in an IRA. I hope with the chairman that we can find a way to provide that opportunity. I am happy to provide a reasonable limit on it.

I offer the amendment and hope we can visit about it in the ensuing hours prior to this bill's conclusion.

Let me offer that amendment.

AMENDMENT NO. 516

(Purpose: To provide tax relief for taxpayers located in Presidentially declared disaster areas, and for other purposes)

Mr. DORGAN. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the previous amendment will be set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 516.

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

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

The amendment is as follows:

On page 211, between lines 5 and 6, insert the following:

SEC. 724. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS MAY BE USED WITHOUT PENALTY TO REPLACE OR REPAIR PROPERTY DAMAGED IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions), as amended by sections 203 and 303, is amended by adding at the end the following new subparagraph:

''(G) DISTRIBUTIONS FOR DISASTER-RELATED EXPENSES.—Distributions from an individual retirement plan which are qualified disaster-related distributions.''.

(b) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—Section 72(t), as amended by sections 203 and 303, is amended by adding at the end the following new paragraph:

''(9) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—For purposes of paragraph (2)(E)—

''(A) IN GENERAL.—The term 'qualified disaster-related distribution' means any payment or distribution received by an individual to the extent that the payment or distribution is used by such individual within 60 days of the payment or distribution to pay for the repair or replacement of tangible property which is disaster-damaged property. Such term shall only include any payment or distribution which is made during the 2-year period beginning on the date of the determination referred to in subparagraph (C).

''(B) DISASTER-DAMAGED PROPERTY.—The term 'disaster-damaged property' means property—

''(i) which was located in a disaster area on the date of the determination referred to in subparagraph (C), and

''(ii) which was destroyed or substantially damaged as a result of the disaster occurring in such area.

''(C) DISASTER AREA.—The term 'disaster area' means an area determined by the President to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1996, with respect to disasters occurring after such date.

SEC. 725. ELIMINATION OF 10 PERCENT FLOOR FOR DISASTER LOSSES.

(a) GENERAL RULE.—Section 165(h)(2)(A) (relating to net casualty loss allowed only to the extent it exceeds 10 percent of adjusted gross income) is amended by striking clauses (i) and (ii) and inserting the following new clauses:

''(i) the amount of the personal casualty gains for the taxable year,

''(ii) the amount of the federally declared disaster losses for the taxable year (or, if lesser, the net casualty loss), plus

''(iii) the portion of the net casualty loss which is not deductible under clause (ii) but only to the extent such portion exceeds 10 percent of the adjusted gross income of the individual.

For purposes of the preceding sentence, the term 'net casualty loss' means the excess of personal casualty losses for the taxable year over personal casualty gains.''.

(b) FEDERALLY DECLARED DISASTER LOSS DEFINED.—Section 165(h)(3) (relating to treatment of casualty gains and losses) is amended by adding at the end the following new subparagraph:

''(C) FEDERALLY DECLARED DISASTER LOSS.—The term 'federally declared disaster loss' means any personal casualty loss attributable to a disaster occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.''.

(c) CONFORMING AMENDMENT.—The heading for section 165(h)(2) is amended by striking ''NET CASUALTY LOSS'' and inserting ''NET NONDISASTER CASUALTY LOSS''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to losses attributable to disasters occurring after December 31, 1996, including for purposes of determining the portion of such losses allowable in taxable years ending before such date pursuant to an election under section 165(i) of the Internal Revenue Code of 1986.

Strike section 751 of the bill.

On page 239, strike lines 18 and 19.

On page 239, lines 20, strike ''(5)'' and insert ''(4)''.

On page 240, line 1, strike ''(6)'' and insert ''(5)''.

Mr. DORGAN. Madam President, let me ask unanimous consent that amendment No. 516 be set aside.

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

AMENDMENT NO. 517

(Purpose: To impose a lifetime cap of $1,000,000 on capital gains reduction)

Mr. DORGAN. I offer one additional amendment this evening to be sent to the desk. Let me describe the amendment before I send it to the desk. It is an amendment that I wrote years ago, and I have offered it previously but feel that I want to offer it again on the issue of capital gains. I have long felt when we provide capital gains differential treatment that we should provide a lifetime limit on the amount of capital gains one is able to take at a preferred tax rate.

I have proposed in the past, and will propose with this amendment, a $1 million lifetime limit on capital gains tax treatment per taxpayer. I will describe later, and we will have an opportunity tomorrow to discuss some of these issues, but I really feel that the Congress should address this with respect to capital gains.

Let me make one additional point. There are some—and we can have a philosophical discussion about the tax situation—some that say, let us exempt income from investments which tend to favor those who invest. Why not say, let us exempt income from work and favor those who work, or maybe a balance between those who work and those who invest. But I have great difficulty believing that somehow investment has more merit than work.

Let's index investment. Let's index the income from work. I want to have a discussion in the context of capital gains as to why do we always in Congress, when we talk about giving some break or cuts, why do we always talk about taxing work and exempting investment? It is not that I am opposing trying to provide encouragement to investment, but why not provide similar encouragement to work?

I want to have that discussion on the issue of capital gains, and I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 517.

Mr. DORGAN. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 96, strike lines 11 through 16, and insert:

''(3) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection—

''(A) In general.—The term 'adjusted net capital gain' means net capital gain determined without regard to—

''(A) IN GENERAL.—The term 'adjusted net capital gain' means net capital gain determined without regard to—

''(i) collectibles gain, and

''(ii) unrecaptured section 1250 gain.

''(B) $1,000,000 LIFETIME LIMITATION.—

''(i) IN GENERAL.—The adjusted net capital gain for any taxable year shall not exceed $1,000,000, reduced by the aggregate adjusted net capital gain for all prior taxable years.

''(ii) SPECIAL RULE FOR JOINT RETURNS.—The amount of the adjusted net capital gain taken into account under this section on a joint return for any taxable year shall be allocated equally between the spouses for purposes of applying the limitation under clause (i) for any succeeding taxable year.

''(C) CAPITAL GAINS RATE REDUCTION NOT TO APPLY TO CERTAIN TAXPAYERS.—The adjusted net capital gain for any taxable year in the case of any of the following taxpayers shall be zero:

''(i) An individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

''(ii) A married individual (within the meaning of section 7703) filing a separate return for the taxable year.

''(iii) An estate or trust.

Mr. DORGAN. A final comment. I wanted to offer these amendments so we could begin discussing them. I hope a couple of them might be accepted and a couple of them we can have votes on, especially the issue of triggering the tax cuts beyond the first 5 years to make certain we are not once again experiencing a Federal deficit in the long term. I am very interested—and I will be here to talk tomorrow—about other issues with respect to an alternative that I think has great merit.

Let me leave, as I began, to compliment the Senator from Delaware. There are a number of provisions in his piece of legislation I support and think have great merit. I hope some of the amendments that I offer and others offer that will improve the bill might be accepted, as well. If we can get the best of what both sides have to offer in this debate, the Congress will pass a tax bill that is worthy of consideration by the American people.

Madam President, I yield the floor.

AMENDMENT NO. 518

(Purpose: To repeal the depletion allowance available to hardrock mining companies already enjoying substantial subsidies due to the largesse associated with the 1872 mining law)

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. GREGG, and Mr. ROBB, proposes an amendment numbered 518.

Mr. BUMPERS. Madam President, I ask unanimous consent the reading of the amendment be dispensed.

The amendment is as follows:

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

SEC. . REPEAL OF DEPLETION ALLOWANCE FOR CERTAIN HARDROCK MINES.

(a) IN GENERAL.—The first sentence of section 611(a) of the Internal Revenue Code of

1986, 26 U.S.C. 611(a), is amended by inserting immediately after ''mines'' the following: ''(except for hardrock mines located on land subject to the general mining laws or on land patented under the general mining laws unless such patented land was acquired (subsequent to the date the patent was issued), pursuant to an arms-length transaction prior to June 25, 1997)''.

(b) DEFINITIONS.—Section 611 of the Internal Revenue Code of 1986 is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

(c) DEFINITIONS.—For purposes of subsection (a), 'general mining laws' means those Acts which comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Mr. BUMPERS. Madam President, this is the 9th consecutive year that I have tried my very best to do justice to the taxpayers of the United States. I have heard an awful lot of talk in the last 60 days by people on both sides of the aisle about the $135 billion in tax cuts for those long-suffering taxpayers. I do not intend to debate the merits of the tax cuts tonight.

What I want to debate is the cynicism, the contradiction, the hypocrisy of talking about doing justice to the taxpayers on one hand by giving them a massive tax cut, and at the same time allow the biggest mining companies in the world to take billions of dollars worth of gold off land that belongs to the taxpayers of the United States and not pay one red cent for the privilege and then turn around and give these same mining companies an enormous tax break which they never did anything to deserve.

In 1872, Ulysses Grant signed the famous mining law of 1872 that encouraged people to go West and stake 20-acre claims. The 1872 mining law is still firmly intact. There are now over 330,000 claims that have been legitimately filed that belong to people who went out and simply drove 4 stakes in the ground every 20 acres and then went down to the courthouse and filed their claim. In addition, there are approximately 650 applications that have been filed with the Bureau of Land Management for patents on some of those claims which would permit the applicants to buy the land for $2.50 or $5 an acre.

The people in the Senate do not pay much attention to this issue. They apparently pay little attention to the people watching C-SPAN because they are the ones who are getting the shaft.

Madam President, can you imagine this scenario. Newmont Mining Co., one of the biggest mining companies in the world, has a gold mine in Nevada. They pay the owners of the land on which that gold mine is situated an 18 percent gross royalty for the gold they take off that land. However, when they mine on public, taxpayer-owned land, they do not pay one red cent to the taxpayers of this country.

And you wonder why the people of this country are cynical. You wonder why the words ''corporate welfare'' were used so generously around here when we were looking for offsets for this massive tax cut, and this bill comes back to us from the Finance Committee with not a word about corporate welfare.

Do you know what else these mining companies do? They find somebody that has a bunch of claims that they think have some potential, and they buy the claims and then they mine it. Then they go to the Bureau of Land Management and say, ''We have commercial gold or silver on this land and we want to buy it, and we will give you the princely sum of either $2.50 an acre or $5 an acre.''

Do you know what Bruce Babbitt, the Secretary of Interior, has to do? He has to, by law, give them a deed to that land. Here is what has happened just in the past several years.

Barrick Gold Co. paid the U.S. taxpayers $9,000. Do you know what they got for that? They got almost 2,000 acres in Nevada with 11 billion dollars worth of gold on it. It belongs to the taxpayers of the United States. Do you know what the taxpayers are going to get for that $11 billion? Zip, zero, nothing. No royalty, no severance tax, no reclamation fee, and then they take a 15 percent depletion allowance on the gold they take out. We not only give it to them for $2.50 an acre or $5 an acre, we give them a depletion allowance for mining what they never paid for.

In 1995, Faxe Kalk, a Danish company, bought land in Idaho containing 1 billion dollars' worth of travertine. Do you know what they paid the taxpayers of the United States for this land containing the $1 billion in minerals? They paid $275.

There is an application pending at the Bureau of Land Management right now by the Stillwater Mining Co. for about 2,000 acres of Forest Service land in Montana. Stillwater will pay a maximum of $10,000 for that land. What do you think lies under that 2,000 acres of land? This is their figure, not mine: 38 billion dollars worth of palladium and platinum—$38 billion. Do you know who that belongs to? It belongs to the taxpayers of the United States. Do you know what the taxpayers of the United States are going to get in exchange for their $38 billion? You guessed it—the shaft. Nothing, not a penny. And people stand up and defend this thing as though it is some kind of a righteous cause.

These mining companies do not mind paying private property owners a royalty. They pay the States a royalty when they mine on State lands. They also pay the states a severance tax. It is only when the land belongs to the taxpayers of the United States that they object.

When you hear people in the coffee shops in your hometown talk about Government being sold off to the highest bidder, you cannot find a better case of it. The Halls of Congress and the Senate office buildings have been so full of lobbyists since I announced I was going to try to do away with the depletion allowance for companies mining on public land, you could not stir them with a stick. I can hardly get down the hall from my office because the Finance Committee office is between my office and the elevator.

So what I am saying, Madam President, let's at least have the courage to tell the taxpayers of this country that we are not going to give the mining companies, after we give them lands for $5 an acre, a 15 percent depletion allowance to mine minerals they never paid for.

When the oil companies buy a lease in the ocean, when the coal companies buy a lease on lands in the West, when the natural gas companies explore for gas on Federal lands, any time they find it, they pay a royalty for the interest in the minerals. They take a depletion allowance and they are entitled to a depletion allowance because, by definition, if you are depleting a capital asset, that is a legitimate thing to do when you paid for it in the first place. The oil and gas companies deplete oil and gas, and they have a right to do it. They paid a handsome price for it, and they are depleting an asset they paid for. These people paid nothing.

What have the taxpayers gotten out of this besides not 1 red cent in royalties? Well, for openers, they have gotten 557,000 abandoned mine sites, 57 of which are on the Superfund list. The Mineral Policy Center says that the estimated cost of cleaning up the mess that these mining companies have left us is between $31 billion and $72 billion.

I hate to be repetitive, but just to emphasize the point, let me go through it again. The mining companies give the taxpayers $5 an acre for gold. They take billions of dollars worth of gold off the land. They pay the taxpayers no royalty at all, they get a 15 percent depletion allowance; and then they leave an unmitigated environmental disaster, which is going to cost the taxpayers of this Nation between $31 billion and $72 billion to clean up.

Madam President, I have announced that I would not seek reelection, and in deliberating on that decision, I got to thinking about debates, what would be debated, what would be said, who would say it, and how would you respond. And I thought, how would you respond to an accusation that you voted for allowing the gold and silver and palladium and platinum mining companies to continue raping and pillaging the taxpayers of this country—all the time you are talking about a big tax cut for the taxpayers because they deserve it? And how are you going to pay for the tax cut? You are going to pay for the lion's share of it by cutting Medicare by $115 billion. You can put any face on it you want. I didn't vote for it. I have no intention of voting for it. Take $115 billion off Medicare and that, in turn, will come off of services for the elderly, part of the most vulnerable in our society, and then you ask

your opponent, did you vote for that? Yes, I voted for that. Well, this $115 billion that you cut in Medicare, what did you do with it? We gave it away in tax cuts to the wealthiest people in America. You didn't put it on the deficit? No, we didn't put it on the deficit. You are going to balance the budget by cutting taxes? Isn't that the same old line you gave us back in 1981 that gave us a $5.3 trillion debt? Then what if somebody said, how about those mining companies? I have heard Senator BUMPERS, and I have read in the paper some of the things he said—for 9 years—about how the mining companies take billions of dollars worth of gold off of what is or was Federal lands, and they pay nothing for it, isn't that true? It is true. Nobody will deny it. And they don't pay 1 red cent. It gives corporate welfare a bad name.

The Western Senators, which have gold mines in their States on Federal lands, ask what if you bought a mining claim from some nester that staked out 500 acres, and the mining companies pay him handsomely for it, aren't they entitled to a depletion? Now, that is a neat way to avoid the issue. It also makes this point. When you buy 500-acre claims, for example, from some old nester that has been sitting on them for 10 years, they not only pay him a handsome price for it, they pay him a royalty, or what we call residual, an override. Now, they are willing to pay State's royalties, they are willing to pay private owner's royalties, and when they buy this land from some old nester that staked it 10 or 20 years ago, they are willing to pay him a royalty. It is only if the words ''U.S.'' are on it anyplace that they don't want to pay a penny in royalty.

The questions I ask every year, and the questions that never get answered, are: Why are you willing to do this to the taxpayers? Why are you willing to pay a royalty of 18 percent on private lands in Nevada? Why are you willing to pay an average of 5 percent on all private lands in the United States? Why are you willing to pay the States a severance tax? Why are you willing to pay the States a royalty on their lands? But when it comes to lands that belong to the taxpayers of the United States, you are not willing to pay 1 red cent? Everybody falls silent when you pose those questions.

(Mr. BROWNBACK assumed the Chair.)

Mr. BUMPERS. Well, Mr. President, all but the freshman who just came in here this year have heard this debate before. A lot of people here have heard this debate in spades over the years. The problem is identical to what it was 9 years ago when I brought it up the first time. It is the most egregious, outrageous scam being perpetrated on the people of this country.

I have only got a year and a half left here, but I promise you, I am going to bring this up until the last day I am in the U.S. Senate. I am immensely offended by it. I cannot believe my colleagues have allowed it to continue. We have made one or two little modest gains—very modest gains. But the mining companies are fighting like saber-toothed tigers—they are standing in the hallways, they are in the committee rooms, they are all over the place—to protect the greatest sweetheart piece of corporate welfare in the history of mankind.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I thank the Chair. I have listened to my good friend from Arkansas embellish one of his favorite subjects, and that, of course, is the American mining industry as we know it today.

I think it is fair to say that we have had, with the minority, a continuing, ongoing effort to try and bring about changes in our mining law—meaningful changes that are supported by the industry, meaningful changes that are supported by the minority. Unfortunately, we haven't been able to generate a resolve of many of these issues. But I think it is fair to say that the attack today proposed by my friend from Arkansas is not just an attack on the percentage depletion allowance, but, in reality, it is an attack on the American mining industry as we know it today.

Now, I don't know about my friend from Arkansas coming over here, but I didn't run into anybody in the Halls. I didn't run into any lobbyists. Nobody has talked to me. I venture to say that if you walk out now, you won't run into any either.

What we are looking at here is a matter of equity for an industry that is very important to our Nation, to our security interests, who must compete in a worldwide marketplace. We are either competitive or we are not.

For the information of my friend from Arkansas, the value, in 1995, of the combined contribution of the mineral industry to Arkansas was $744 million. So when he says ''they don't pay one red cent,'' well, they contributed $744 million to the economy of Arkansas. In Alabama, it is $2 billion; in Arizona, it is $9 billion; in Texas, it is $7 billion; in New York, it is $8.3 billion. So when you say they don't pay anything, let's look at the working men and women in the mining industry today, and let's look a little more closely at reality.

What is proposed by my friend from Arkansas—and he is right, it is a punative proposal, as he has been working at it for 9 years and he is committed until the day he leaves to work on it. I admire that spirit. But he is not telling you the whole story. There was a proposal by the administration earlier this year to do away with percentage depletion for this industry. And the important thing, Mr. President—and I would like my friend from Arkansas to acknowledge the reality of it—it was rejected by both the Finance Committee in the Senate and the House Ways and Means Committee, and it should also be rejected by the full Senate.

When you strip away the rhetoric—and there is lots of it around here—on this matter, the issue boils down to one simple question: whether this body wants to go on record now in support of a nearly $700 million tax increase on the domestic mining industry. We talk about tax bills, we talk about tax breaks, we talk about stimulating how much more earnings the average family member can make and take home and save. But this proposal by my friend from Arkansas would tax America's mining industry an additional $700 million—and this is a domestic industry, mind you. Well, I think it is fair to say—and I think most of you would agree—that the Treasury will never see anywhere near $700 million from this proposal, because this latest assault on the industry will simply speed up one thing—the departure of the mining industry from our shores.

This is a worldwide market. You compete or you don't compete. Now, the continuing decline of this industry is reflected on the chart I have on my left. As my colleagues can see, jobs in this industry have been declining dramatically. Let's look at it. Metals make up the gold, silver, lead, and zinc production. The others are in iron ore and copper. In 1980, we had 98,000 jobs; today, we have 51,000 jobs. This is the gold, silver, lead, and zinc. That is not to assume we are not using as much gold, silver, lead, and zinc. We are. We are importing it from other countries. Why? Because we are not as competitive in the world marketplace.

Iron ore. In 1980, we had 21,000 workers. In 1995, we had 9,000. Where has the industry gone? It has gone to South America, South Africa. That is the reality we live under. Now, does my friend simply want to tax this industry another $700 million and drive it offshore? That is what is going to happen, make no mistake about it.

The copper industry. In 1980, 30,000 jobs; today, 15,000 jobs in the United States It isn't that we don't have the minerals. We are not competitive in an international marketplace. My friend from Arkansas simply ignores that reality. He never mentions it. It is always they are getting a free ride. He doesn't mention the jobs that are created in each State or the contribution associated with what that prosperity means to the families.

I think it is important to point these things out. These are accurate figures. This is the condition of the industry today. It competes worldwide. The jobs, Mr. President, that have disappeared are good-paying jobs. Make no mistake about it, these are not the MacDonalds minimum-wage jobs. The average yearly wage for miners is nearly $46,000, one of the highest wage levels of any segment of America's workers. That doesn't include the benefits provided for these workers.

What does the Senator from Arkansas propose to do with these workers if you tax the industry that much more? Are these people going to be retrained? They are going to be out of a job. They are going to be on welfare. You know where these jobs are going to go. They are going to go to Latin America, Canada, Indonesia, the Philippines, and Central Asia.

For example, gold mining exploration budgets have been dipping in the United States from a high of $149 million in 1992 to $120 million in 1996. But at the same time spending in Central and South America has increased more than five times—from $28 million in 1992 to $145 million last year. These are investments that could have and should have been made in the United States but for the hostile environment that this industry, which is a basic industry in the United States, faces at home.

If this tax increase is approved, we will merely hasten the further decline of this domestic industry, for instead of using capital to invest in exploration and development in new sites in the United States, the mining industry will be forced to abandon new projects at home. It will have to close marginally profitable mines with the loss of hundreds, if not thousands of permanent good-paying jobs.

Mr. President, the underlying predicate of this amendment, I think, is fatally flawed for it assumes that mining operations on Federal lands are cost-free. That is what my friend from Arkansas said. He said ''not one red cent'' did they pay for it. Nothing is further from the truth. Mining operations on Federal lands are not cost-free. It is a myth that patenting of land under the Mining Act of 1872 is somehow an easy event; that it simply is as easy perhaps as going out and writing a check to the Federal Government. That is not reality.

The reality is that the exploration process leading to the discovery of valuable mineral deposits can cost several hundreds of thousands of dollars per claim just for the drilling, the sampling, and the expense associated with proving up that claim.

I also note that in some cases mineral patent applications can contain as many as 500 claims per application, and the cost of processing a single claim can run $35,000 to $40,000 to $45,000. Multiply that by 400 or 500 claims. What do you have? You have $19 million in costs merely for processing claims. So when the Senator from Arkansas says they are not ''paying one red cent,'' that is not reality.

Moreover, the time required to explore land and permit it before mining begins has increased dramatically, with a concomitant increase in the cost of mining. The average time for simply permitting new mines, as my friend from Arkansas is well aware, on Federal land has increased from 1 year to 3 to 5 years. And over the course of the last 4 years it has averaged close to 5 years.

Where is it going to be in another few years? At some point in time you are going to overload this. They are not going to be competitive in the domestic market. Where are they going? They will go where they have to go to survive, and that unfortunately is outside the United States.

Once the companies have passed all of the hurdles, a company then faces the daunting capital costs that are associated with bringing a modern mine on line.

This isn't like the chicken industry. This is an industry that is volatile relative to costs. Costs are not necessarily controllable in the mining industry because you run into different types of production exposure. Some of it is very, very deep. Some of it can have water in the mines. There are many, many unknowns associated with that. And the biggest risk is that you develop a mine and you have no assurance that your price is going to stay stable. The price fluctuates dramatically. But you have made a tremendous capital investment, and you are risking this capital relative to your belief that you can operate an efficient mine, an efficient operation, and control costs. But the unknowns are very, very high.

In my own State, we recently opened a mine called the Fort Knox Mine which began operations outside Fairbanks. The company invested nearly $375 million in capital before a single ounce of gold had been mined, or refined, on that project.

So they don't pay a red cent. They put up $375 million in advance on the supposition that they would be able to generate a reasonable return. Now the price of gold has dropped to a point where their margins are within a couple of dollars. That is the reality associated with that kind of a business.

I think my colleagues will agree that there is no free ride when it comes to the cost of exploration, acquisition, development, and processing in the industry—whether on Federal or private land. Yet, the amendment before us assumes little or no costs to the industry when mining on Federal land.

Mr. President, the rationale for the percentage depletion allowance is it recognizes the unique nature of resource depletion by providing a realistic and practical method for the creation of funding necessary to replace the diminished resource.

Moreover, percentage depletion reflects reality. This is a reality unlike in the chicken business. It is a reality that when the mines are exhausted, the companies must replace the depleted deposits of mineral resources, which are more difficult and in many cases more expensive to develop. These new deposits, because of lower grade ores, could create more difficulty in mining and development. They could be more expensive to operate.

So where do you go after you deplete your mine and when the economics are that you can't generate a recovery? You go find a new one to stay in business, and hopefully it will be of the quality of the last one. But you have no guarantee.

Hence, the justification for the percentage depletion allowance, as it responds to the unique nature of mineral deposits, provides for realistic and practical methods of reflecting the decreasing value of a mine as the mine is depleted. That is what it is all about. It helps companies maintain the capital necessary to make future investments for replacement of mineral resources.

I would also note that minerals are commodities whose prices are set, as I said, by the world marketplace. With an increase in mining costs with the repeal of the percentage depletion allowance, what are you going to do? You can't pass it on to the purchasers in the form of higher selling prices. You either absorb it and take a loss and ultimately if your losses are too high, you go out of business.

Mr. President, I would also point out that mining companies commonly package mining rights from a variety of sources into a single operation. For example, a large open-pit mining operation may include private property acquired through homestead laws, patent and mining claims, unpatented claims, States lands, and so forth.

The repeal of percentage depletion—as proposed by my friend from Arkansas—from those mining rights which originate with the mining law of 1872 would require a complex system, so complex that we would have to track every single shovel of ore on the mining site. In other words, some of it would be from lands that originated through private property, homestead laws, unpatented claims, State lands. How do you sort that out? What will likely be the result is that the depletion allowance would apply to a shovel of ore from one location but not a shovel of ore from an identical ore body 10 feet away.

That is simply absurd. But that is the solution that is suggested in this amendment.

Mr. President, I think there is no doubt that percentage depletion for minerals in mines on Federal lands is clearly appropriate tax policy. But I would suggest to all of my colleagues that this amendment is not about depletion on lands obtained under the Mining Act of 1872. As I indicated in my opening statement, this amendment is about the act itself. This is really just another attempt to gain leverage on the industry by attacking the depletion allowance.

Remember, Mr. President, by adopting the proposal in the amendment of the Senator from Arkansas, we would be going on record as supporting nearly a $700 million tax increase on America's domestic mining industry.

I can categorically state, Mr. President, that the U.S. mining industry agrees, they agree with the Senator from Arkansas, that the mining law of 1872 is substantially due for an overhaul. And we have passed reforms, ultimately to see them vetoed by the

President. But I continue to work to see that this law is reformed. I continue to work with my friend from Arkansas and my colleagues on the other side to accomplish such a result, and we have been doing it for the last several years. The industry has supported the concept of a 5-percent net proceeds royalty, a fair market value for land—a fair market value for land—a permanent maintenance fee, and the earmarking of revenues generated from mineral production on Federal lands to create and fund abandoned mines and cleanup programs.

These are the things that are mentioned by my friend from Arkansas. He is concerned about abandoned claims and the cleanup. We provide for that in our proposed legislation. The Senator from Arkansas makes quite a point of the wide variance in royalties. What he doesn't point out is that the royalty agreements on private lands are just that. They are agreements. Those agreements are made between two parties. The determination of what the costs are to be allocated out is something that the Senator from Arkansas doesn't look into. He just simply says, ''Well, there is a 10-percent royalty here. There is an 11-percent royalty here. And the 5-percent royalty is not applicable.'' You have to go into what the royalty consists of. A 5-percent net proceeds royalty is fair. It is one that I support. A number of my colleagues basically support substantial changes in the 1872 mining law which we are attempting to address and hope to have before this body yet this year.

There are a couple of other interesting things, Mr. President. The administration has never sought to develop compromise legislation that reforms the 1872 law while offering the U.S. mining industry the economic ability to develop Federal mineral assets. That is a fact. This amendment, as with the administration's identical budget proposal, is clearly designed to bring the industry to its knees by putting a $700 million tax on the industry. Remember, as we reflect on the merits, that this matter has been studied and gone into in great detail by both the House and the Senate—the Senate Finance Committee and the House Ways and Means Committee. Both have said, no, this increased tax on the mining industry of $700 million is not justifiable.

So it is acknowledged we want to overhaul the 1872 mining law, but that is not what we are debating today.

What we are debating today in this amendment is an amendment that would simply kill the domestic mining industry in this country, make no mistake about it. As you look at the merits of an adequate royalty, it has to be based on consideration of comparisons that are real. Just what is the negotiated in and out of a higher royalty figure does not necessarily represent the return to the Government agency. This is modeled exactly after the royalty program that is currently operating in one of the most prosperous States for mining, and that is the State of Nevada.

My colleagues from Nevada I see are on the floor. I am sure that they will point that out.

So, in conclusion, let us recognize where we are on this. This is a $700 million tax proposal on our mining industry, our domestic industry.

One final point I would like to bring up is the matter of germaneness. This amendment is not germane. This amendment does not belong on this bill. At the appropriate time a point of order will be made. I urge my colleagues not to support a waiver of the point of order.

Mr. President, I yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Nevada?

Mr. BRYAN. I say to the distinguished chairman of the Finance Committee, I would be happy to yield.

Mr. ROTH. Mr. President, I ask unanimous consent that the following list of staff members of the Joint Committee on Taxation be granted full floor access for the duration of S. 949 and that the list be printed in the RECORD.

It should be noted that these staff members will not be in the Chamber all at the same time but will rotate on and off as needed. There is a long list, and I will just submit it.

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

The list is as follows:

JOINT COMMITTEE ON TAXATION

Steven Arwin.
Tom Barthold.
Ben Hartley.
Harold Hirsch.
Ken Kies.
Kent Killelea.
Roberta Mann.
Laurie Mathews.
Alysa McDaniel.
Joe Mikrut.
John Navaratil.
Joe Nega.
Judy Owens.
Cecily Rock.
Bernard Schmitt.
Mary Schmitt.
Carolyn Smith.
Maxine Terry.
Mel Thomas.
Barry Wold.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I wonder if we might possibly get a time agreement here. I have talked to the chief opponents of my amendment. We have two Senators from Nevada here, and as I understand it there are a couple more besides Senator CRAIG of Idaho, and Senator MURKOWSKI has just finished his statement. I was just wondering—we have an hour each, but I was just wondering if we could, since this is in the evening if they could—I don't know of anybody else on my side. Senator GREGG is my chief cosponsor, and he is not going to be here this evening. I wonder if we could allow people to come in and speak as long as they want to tonight with the understanding we will have 20 minutes equally divided in the morning on the vote.

How does that sound?

Mr. MURKOWSKI. I think we have a number of Senators on our side we want to accommodate so why not let them speak as long as they want.

Mr. BUMPERS. Let them speak as long as they want with the understanding we will have a 20-minute time agreement equally divided tomorrow morning. I make that request.

Mr. DURBIN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I have an amendment which I would like to offer this evening. I want to accommodate the Members who wish to speak on this issue, but I would like to have some understanding we would have an opportunity. I would need 15 or 20 minutes to offer my amendment this evening.

Mr. REID. Will the Senator yield?

Mr. DURBIN. I would be happy to yield.

Mr. REID. I think the Senator from Nevada would like probably 10 minutes?

Mr. BRYAN. At most, 10 minutes.

Mr. REID. Ten minutes.

Mr. CRAIG. No more than 10 minutes. That could conclude at least for this evening debate on this issue.

Mr. REID. We will visit during Senator BRYAN's statement and we may be able to cut that down a little bit and decide what procedure we are going to follow.

During the time Senator BRYAN is speaking, we will get together and try to accommodate the Senator from Illinois.

Mr. DURBIN. I thank the Senator.

Mr. MURKOWSKI. Mr. President, if I may, I ask unanimous consent to have printed in the RECORD an article from the Wall Street Journal called ''Gold Mining Firms Act to Meet Price-Slump Challenge,'' which I think makes my point to the increasing of difficulty in meeting production costs with the declining price of minerals in the world marketplace today.

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

GOLD-MINING FIRMS ACT TO MEET PRICE-SLUMP CHALLENGE—THEY REDUCE COSTS, SCRATCH NEW MINES, WITH NO QUICK RELIEF IN SIGHT

(By Mark Heinzl and Aaron Lucchetti)

Gold companies are hunkering down, struggling to weather one of the most prolonged slumps in gold prices in years.

Mining companies are slashing costs and tearing up plans for new mines as the price of the precious metal continues to slide to three-year lows. Just since November the price of gold futures traded on the New York Mercantile Exchange's Comex division has plunged to $353.40 an ounce from above $380. The skidding price is enough to turn many high-cost mines into money-losing duds and spoils the economics of many planned projects.

''No question, if prices stay at this range, you will see fewer new gold mines,'' says

Dennis Wheeler, chairman and chief executive officer of Coeur D'Alene Mines Corp. in Coeur D'Alene, Idaho.

Many analysts believe gold prices will linger at current levels or lower for several months. Gold prices have been pushed downward by slumping investment demand and the fear of increasing supplies from central banks. In Europe, central banks have been pressured to sell their gold reserves in an effort to meet debt requirements for European monetary union in 1999.

OUTLOOK FOR INVESTMENT

Unless the stock market experiences a hefty correction or inflation rears its head, gold investment demand probably will remain low as investors turn to financial investments with higher returns.

''It would take a very substantial market correction of about 15% to turn things around for gold,'' says William O'Neill, chief futures strategist for Merrill Lynch & Co. The price could bottom out at between $330 and $350 an ounce, before turning slightly upward, analysts say. The decline in the mineral's price has sent investors in gold-mining stocks running for cover. The Toronto Stock Exchange's gold-stock index has dropped 8.5% since mid-November. Last year investors were focused on gold companies with potential discoveries of new deposits; this year ''we will see the market start to reward companies that have cash flow, production and reserve value,'' says Victor Flores, a gold-fund manager with United Services Advisers Inc., a San Antonio mutual fund company.

WRITE-DOWN ON PROJECT

An early casualty of gold's weakness is the Casa Berardi mine in Quebec. One of its owners, Toronto-based TVX Gold Inc., recently announced plans to shutter the mine, which eats up more than $350 an ounce in cash operating costs. The company said it will take an undetermined write-down on the project.

At five of the 22 largest U.S. mines, cash costs to produce gold are at or above $347.30 an ounce, the 39-month low that gold touched last week. At current prices ''most mines are keeping their head above water, but the others will have to take cost-cutting measures, from stopping low-grade production to shutting the mine down,'' says John L. Dobra, an economist at the University of Nevada-Reno.

''CHALLENGING TIMES'' AHEAD

About 10%–15% of the world's gold mining could be postponed if prices stay at current levels for a sustained period, says Jeffrey M. Christian, managing director of CPM Group, an industry consultant. World-wide, gold is produced at an average cash cost of $257 an ounce, says Gold Fields Mineral Services Ltd., a London industry research consultant. However, the total cost including capital expenditures comes to $315 an ounce, only about $40 an ounce lower than the current commodity price.

''Every company is looking very carefully'' at cutting costs, says Leanne Baker, gold analyst for Salomon Brothers Inc. Companies are expected to reduce spending in exploration, administration and low-grade gold mining, which has a higher cost of production, analysts say.

Coeur D'Alene Mines has recently laid off 4% of its staff, halted all charitable donations and sold the company jet in an effort to make up lost profits. ''We anticipate more challenging times ahead,'' says Mr. Wheeler, its chief executive.

Pegasus Gold Inc., a Spokane, Wash., gold concern that mines about 570,000 ounces a year, has also taken steps to survive in the new lower price range. The company recently announced it would reduce its exploration budget by about 20%, freeze senior-management salaries and delay construction on new gold projects in Montana and Chile until 1998.

''We looked at the current gold market and our cost structure, and we just needed to reduce spending,'' says John Pearson, director of investor relations for Pegasus. Mr. Pearson says the construction delay will shift about $100 million in capital spending to 1998, when the company will reassess the market. ''Right now, the whole gold market is a negative environment; investor sentiment is weak,'' he says.

Lower gold prices have also hurt Echo Bay Mines Ltd., a Denver company struggling to increase its gold reserves and production. The company recently took a charge of $77 million after ripping up plans to develop its big Alaska gold project, Alaska-Juneau, and also canceled common-share dividend payments to conserve cash after a string of quarterly losses. Gold's recent nose-dive ''made the economics that much more difficult'' for the project, says Echo Bay's chief financial officer, Peter Cheesbrough.

While marginal projects and mines fall by the wayside, the price slide is also heating up the competition between mining companies for exceptional, higher-grade gold projects. Lower prices are expected to heighten the gold industry's consolidation. ''We'll continue to see merger mania,'' predicts CPM Group's Mr. Christian.

Placer Dome Inc., a Vancouver, British Columbia, gold miner, is offering $4.5 billion in stock in a battle against Toronto-based Barrick Gold Corp. The price: Bre-X Minerals Ltd. of Calgary, Alberta, and its Indonesian Busang gold deposit. Bre-X says Busang could produce as much as four million ounces of gold a year at cash operating costs below $100 an ounce, compared with Placer Dome's cash costs of about $240 an ounce.

With Busang, Placer Dome could ''rid themselves of their higher-cost, more risky mines,'' says Marc Cohen, a gold mining analyst at PaineWebber Inc. Indeed, if Placer Dome gets the Indonesian mine, the company says smaller projects in Mexico, Costa Rica or Australia could be shelved, especially if prices stay weak.

The deals have been getting bigger. Homestake Mining Co., San Francisco, and Newmount Mining Corp., Denver, both recently offered more than $2 billion in stock to acquire Santa Fe Pacific Gold Corp., which analysts say has a solid production and exploration profile.

Meanwhile, low gold prices are hurting most companies' results, especially relatively unhedged producers such as Echo Bay and Homestake, analysts say. Hedging involves using derivatives such as options and futures to lock in future revenue from gold.

Some companies were blind-sided by gold's fall. Montreal-based Cambior Inc. dropped its overall hedge position in 1996 to roughly one year's worth of production from the company's more traditional level of two years, says Henry Roy, Cambior's chief financial officer. Cambior's remaining hedge position leaves about 50% of the 500,000 ounces in annual output hedged at nearly $440 an ounce.

The PRESIDING OFFICER. The Senator from Nevada.

The Senator from Alaska is yielding to the Senator from Nevada such time as he might consume?

Mr. ROTH. Mr. President, I would be willing to informally agree that tomorrow there be 20 minutes equally divided prior to a vote.

Mr. REID. On this amendment.

Mr. ROTH. On this amendment.

Mr. BUMPERS. The distinguished floor manager is just suggesting to proceed as we were with the understanding there be 20 minutes equally divided tomorrow morning on this amendment.

That is essentially my unanimous consent request.

Mr. REID. Reserving the right to object, I would rather that Senator BRYAN proceed. That would give us an opportunity to speak and take about 10 minutes and then we would be happy to consider the unanimous consent request.

Mr. BUMPERS. Will the Senator repeat that?

Mr. REID. Senator BRYAN is going to speak for approximately 10 minutes. During that time, we have some procedural things we would like to discuss before we enter into a unanimous-consent agreement, because it may not be this amendment we will be debating. It may be a second degree.

Mr. BUMPERS. I understand you may offer a second-degree amendment this evening, and I certainly have no objection to that. I need to be gone from here for about an hour, and that is one of the reasons, I do not mind telling you, I am trying to get an agreement here so I will feel free to leave the floor for an hour. Perhaps we ought to just keep going here.

Mr. REID. Yes. I say to my friend from Arkansas, we will be real quick, and as soon as Senator BRYAN finishes we will work something out with the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. BRYAN. Will the distinguished Senator from Alaska yield the Senator from Nevada 10 minutes? I believe I can do it in a shorter time.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. MURKOWSKI. We are not keeping time, I would advise my friend from Nevada. So I have yielded the floor.

Mr. BRYAN. I thank the Senator.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank the distinguished Senator from Alaska, and I very much appreciate his statement, which I think effectively deals with the amendment that our friend from Arkansas has offered.

Let me preface my comments while the distinguished Senator from Arkansas is in the Chamber that he noted that at the end of this Congress he will not be a candidate for reelection and this will represent his last Congress as a Member of this body. I must say that I regret the decision of the Senator from Arkansas. He has a distinguished record of public service in his own State as Governor and as a Member of this body. I have been pleased to share common cause with him on many, many issues which I believe in his public policy pronouncements are correct for the country, and he, indeed, has been a visionary in some of the things he wishes to do.

I do not quarrel for one moment with his sincerity. I know the depth of his conviction and I know them to be deeply entertained. I believe, however, that

the Senator's zeal for this issue has obscured some of the facts that I think important for us to understand before we follow the course of action that he would suggest to us.

First, I want to point out the importance of this industry to my own State and to correct what is oftentimes, because of an oversimplified presentation, an impression that is given that the industry pays no taxes. We hear this continuously in the course of the debate on the mining law of 1872.

According to the National Mining Association, the industry, coal and hard rock, paid more than $600 million in Federal taxes in 1995. The General Accounting Office issued a report recently —this is not a publication that emanates from the mining industry but a General Accounting Office report—that indicates the average tax rate for the mining industry from 1987 to 1992 was 35 percent. Now, that is compared with 23 percent for the automobile industry, 19 percent for the chemical industry, and 33 percent for the transportation industry. In Nevada alone, the gold mining industry paid more than $141 million in State and local taxes in 1995, including $32.7 million in property taxes.

So let no one who is listening to this argument be misled that the industry pays no taxes, that it is given a free ride. That simply is not true. The industry pays a substantial amount of taxes at the Federal level, at the State level, and at the local level.

This issue really is not about the depletion allowance. This is really the stalking horse for an issue which we have been debating for some years, and that is the mining law of 1872. There is no disagreement among Members that the mining law of 1872 needs to be updated and modernized. The industry recognizes that and is in agreement, and my colleague from Arkansas recognizes that. And there is, indeed, fundamental agreement on the general areas that need to be updated.

Let me just refresh my colleagues' memories and identify the issues. The industry acknowledges that a royalty needs to be paid, and they are prepared to pay a 5 percent net proceeds royalty.

Now, there is a difference as to how much the industry should pay, but there is a recognition on behalf of the industry that a net proceeds royalty tax is appropriate and the industry is prepared to pay that.

Second, there is a recognition that the mining law of 1872 needs to be changed, and those who gain access pursuant to the law of 1872 need to pay a fair market value for the surface estate, in addition to the royalty which I have just indicated. That is a second area of agreement, the fair market value.

Third, there is a fundamental recognition, if entry is gained as it is under the mining law of 1872 and there is no longer utilization of the land for that purpose, of the possibility of revert, allowing the Secretary of the Interior to revoke the authority and to reenter the lands at his discretion.

There is a recognition of the need to pay a permanent maintenance fee for every claim that is held on Federal lands, and that fee needs to be made permanent; that an abandoned mines land fund should be established, and that as part of that a reclamation requirement be imposed as well.

VISIT TO THE SENATE BY MEMBERS OF THE COLOMBIA NATIONAL SENATE

Mr. BRYAN. It is my understanding, Mr. President, that we are honored by the presence of dignitaries. I will yield the floor and simply ask unanimous consent that after their introduction, I might be recognized again for purposes of continuing my comments. If the Senate is agreeable to that, I will yield the floor.

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

Who seeks recognition? The Senator from Florida.

Mr. GRAHAM. Mr. President, first, I thank my good friend and colleague from Nevada for his generosity in allowing us to take a moment at this time to introduce some distinguished guests. I might say that Senator BRYAN visited Colombia in March of this year and I think came away with some of the same positive feelings about the country and the people that I share.

We are honored today to have visitors, members of the Colombia National Senate: First, Senator Luis Londono, the President of the Colombia National Senate; Senator Amilkar Acosta, the President-elect; Senator Luis Velez, Senator Carlos Garcia, Senator German Vargas, and Senator Luis Perez.

I present these members of the Colombia National Senate to the Members of the United States Senate.

I thank the Chair.

The PRESIDING OFFICER. The Chair thanks the Senator from Florida. We welcome our guests. We are delighted to have them here in America.

RECESS

The PRESIDING OFFICER. Without objection, the Senate will stand in recess for 3 minutes in order to greet our guests.

Thereupon, the Senate, at 7:43 p.m., recessed until 7:49 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BROWNBACK].

REVENUE RECONCILIATION ACT OF 1997

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

AMENDMENT NO. 518

Mr. BRYAN. Mr. President, as I have indicated, there is broad agreement within the industry that the mining law of 1872 needs to be updated. There is agreement in those areas that have been identified as: 5 percent net proceeds royalty; the fair market value of the surface estate; that a reverter provision be provided so that in the event the property is no longer used for mining purposes, the Secretary of the Interior would have the right to reclaim the land for public purposes; that there be a reclamation requirement and a permanent maintenance fee as part of that reclamation. So, there is a broad agreement that the mining law of 1872 needs to be reformed.

In the context of this debate, the issue is not whether the mining law of 1872 should remain inviolate, unchanged and sacrosanct, it is a question of how it needs to be updated to reflect the realities of the latter part of the 20th century. In that respect, the mining industry has been engaged in a dialog, now, for the better part of the last decade. There is obviously disagreement as to the specifics. I am hopeful, before my colleague, the distinguished senior Senator from Arkansas, retires from this body, that we can indeed have an agreement on these issues and produce a piece of legislation that all of us can embrace.

Let me speak specifically to the provisions that are contained in the proposal of the Senator from Arkansas. He would, in effect, repeal the percentage depletion allowance as it has existed in the code, in one form or another, since 1913. A percentage depletion allowance is not, as the senior Senator from Arkansas suggests, a giveaway to the mining industry. Rather, it is a longstanding tax policy that recognizes the unique nature of the mining industry.

Congress has long recognized that the principal capital asset of a mineral producer is its mineral reserves, the ore body itself. These mineral reserves are classified as wasting assets. As the minerals are produced or sold, the mineral deposit from which they are taken is gradually exhausted. Indeed, that is the history of every mining exploration in the history of my own State. These ore bodies are not inexhaustible; they last for a finite period of time, and the tax law reflects the reality of those circumstances.

That was first recognized in 1913, when the Congress allowed a portion of the value of these assets or reserves to be deducted from taxable income to allow producers to replace that ore body, their wasting asset. So depletion is similar to the depreciation allowance for the use of physical properties. It is an allowance that allows an investor in natural resources to recover his capital outlay in the mineral through a depletion allowance to producers to simply level the playing field between those classes of taxpayers. So, although it is unique, its underlying premise, its principle is the same: to recognize that the asset is not inexhaustible, that it has a finite lifespan, and the Tax Code reflects that circumstance.

The capital investment necessary for modern mining is astronomical. It is not unusual to anticipate capital expenditures that will exceed $1 billion when opening a new mine. So the notion that somehow this land is turned over and immediately the next day the entrant is able to extract a large body of ore and make fantastic profits with no outlay, either in terms of ultimate tax liability or expenditures, simply is divorced from reality. Many explorations prove unsuccessful; that is, the quality of the reserves are simply unsustainable in terms of their economic feasibility. And that is a reality.

Many claims turn out to be unsuccessful because the mineral is not identified and cannot be located for purposes other than exploration. So the risks here in a mining operation are enormous. The Bumpers amendment would repeal the percentage depletion allowance for only those minerals obtained from land granted under the 1872 mining law. I think therein lies the true nature of the Bumpers amendment. This has little or nothing to do with tax reform. It seeks to punish the mining industry because Congress has been unable to reach an agreement on reforming the mining law of 1872. And that is patently unfair.

We recognize that reform needs to occur. The dialog continues. As I have indicated, I am hopeful that in this Congress it will be possible for us to achieve an agreement with respect to that reform.

Moreover, as the Senator from Alaska pointed out earlier, this industry is part, as other parts of our economy are, of a global competition. For us to remain competitive in America it will be very important for us not to impose a tax system that is viewed as so punitive as to discourage mineral exploration in its entirety.

I speak with some personal knowledge of the situation because, in my own State, we have gone through a series of mining booms. The origin of Nevada's history—born, as it was, during the Civil War—is a result of the first great mineral discovery in our State, the Comstock Lode, in 1859. That discovery, which brought thousands of people into what is now Nevada, laid the predicate for Nevada's admission to statehood. The mining industry was such an important part of the early economy in Nevada that the first attempt at statehood failed because of the way the State Constitution, as then proposed, contemplated the imposition of the tax on mining. So our heritage is linked to this industry, and the taxable implications are something that all of us in Nevada are very mindful of.

That mining boom lasted for a period of roughly 25 years. By the end of the century, the ore bodies having been depleted in the Comstock Lode, Nevada's mining industry was in a pronounced state of recession. It was resurrected ever so briefly during the period of World War I, and then declined at the end of that war. The modern period really began about 10 or 15 years ago, with the technology that makes it possible to recover microscopic particles of gold, so small, so minute that they are undetected by the human eye.

So this is an industry which has had a series of cyclical ups and downs. The suggestion of recklessly imposing this new tax structure is something that apprehends great fear for all of us in Nevada because of the sensitive nature of the industry and its transitory nature, based upon market circumstances as well as the ability to continue to locate new bodies of ore.

For Nevada and for America, it has been a good industry. It employs about 120,000 people in America. In my own State, it employs 15,000. And, as has been pointed out by the Senator from Alaska, if one looks at the pay scale of major industries in America, the average salary in mining is close to $46,000 a year, and in the context of the debate that we had earlier today about Medicare and Medicaid, and coverage of hospital and physician services, most mining companies provide a full range of insurance coverage for their employees and their dependents. So they have been good citizens with us in Nevada. And they have contributed immeasurably to the prosperity that we enjoy in Nevada.

In point of fact, Nevada produces more in the way of gold than any other State in the country. Indeed, if we were a separate country, we would rank internationally somewhere among fourth, fifth and sixth in terms of production worldwide. So this is a major industry with enormous significance to my State, that pays good money to good people. We are not going to allow that industry to be devastated by an improvident, zealous attack on the industry and the failure to properly consider what the impact of this would be.

Let me, by way of a concluding comment, indicate what kind of an administrative nightmare this provision would be. As I indicated a moment ago, this change would apply only with respect to those minerals that are recovered under public lands, under lands which were entered pursuant to the provision of the mining law of 1872. That suggests that a mining operation is finitely defined and that an operation that derives its origin from entry under the mining law of 1872 is a separate and distinct and discrete operation from that part of the operation in which the mining company may have acquired title to the property through private sale.

Indeed, if you look at the mining operations that currently exist in my own State, and if you look at the source of title or occupancy of those lands, you will find as many as five or six different derivative sources for the occupation and/or title or patent to those claims. So it would be an administrative nightmare in allocating this new system of taxation to a single operator on a single mine who is mining bodies of ore through different areas within a fairly confined area of a few of those acres. So it is totally impractical.

I hope my colleagues recognize that this is not the sort of thing we should do without giving due deliberation to the broader issue which will be discussed during this Congress and I hope will be resolved, and that is to deal with the update of the mining law of 1872. That is what this debate ought to be about, rather than a punitive approach which is taken in the proposed Bumpers amendment.

I hope, at the appropriate time, my colleagues will join us in rejecting this proposal and allow us to continue the debate with respect to reform during the course of this Congress.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Idaho.

Mr. REID. Will my friend from Idaho yield for a minute?

Mr. CRAIG. I yield.

Mr. REID. Senator BUMPERS is off the floor, but he asked if I would propound a unanimous consent request on his behalf. First of all, I suggest that the unanimous consent request will be that at the time debate is completed in the morning, a point of order will be raised against this amendment on the basis of germaneness.

Mr. CRAIG. Will the Senator from Nevada withhold for a moment? Staff has, I believe, comprised that unanimous consent request and will provide it to you.

Mr. REID. The one thing I ask, because he has been so patient here, is that the Senator from Illinois—he has been waiting here for several hours while we worked our situation out—would it be appropriate that he be allowed, as part of the unanimous consent request, to offer the next amendment?

Mr. CRAIG. We have to check with the floor managers.

Mr. President, while that is going on, let me reclaim my time and discuss the Bumpers amendment for a few moments.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I join the Senator from Alaska and the two Senators from Nevada in our commitment and belief that the 1872 mining law deserves to be reformed. These four Senators have worked for the last 4 to 5 years to bring responsible and sensitive reform to this old, but very important, law, a law that has served our country well on public lands that allows an individual to go forth to explore, to discover and to develop the mineral wealth of our country.

It is also important to recognize that this is a public resource, and there needs to be an appropriate balancing act in the effective utilization of a public resource and a return to the taxpayer of the value of that resource.

Because the 1872 mining law was really intended at a very early time in our

country's history to be a development law that allowed growth and development primarily in the public lands of Western States, I, a Western Senator, along with the Senator from Alaska and the two Senators from Nevada as Western Senators, saw a need, along with a good many others of our colleagues, to provide good reform to this old law to allow the mining industry to go forth, to assure there would be a right to discover, a right to develop, but to do all of that in the context of sound environmental policy and, for the first time, to propose a royalty on hard-rock mining; also, to recognize that there was a surface value that is no longer there and an absolute sense of a need to develop western lands. So, therefore, there ought to be a market value placed on the surface rights that one gained as they gained title through the patenting process which allowed that public resource to go to private utilization.

But for 4 years, this administration has literally refused us the right to do that. This Senate passed mining law reform. It was in the budget reconciliation 2 years ago, and the President vetoed it. So for the Senator from Arkansas to stand on the floor this evening and say there has been no meaningful mining law reform isn't quite true. There has been a very aggressive effort on the part of this Senator; the Senator from Alaska, the chairman of the Energy and Natural Resources Committee; the Senator from Louisiana, now retired, Senator Johnston, who was the chairman of that committee; and, of course, the Senators from Nevada who understand the importance of mining, as I do, because it is a critical part of their economic base and the resource development in their State.

The Senator from Arkansas has another vision of mining. It is called no-mining. For some reason, he believes that this is a source of wealth to the Treasury of this country, and when he sees millions of dollars invested, somehow he immediately equates that as millions of dollars returned to the Treasury, when the fact is that while money can be returned to the Treasury, it takes an average of $400 million to develop an operating mine today, to make sure it is in compliance with the Clean Air Act and the Clean Water Act, to make sure it meets the NEPA requirements, to make sure it is operated in a sound environmental way, while returning a profit to the company and to the investors that put up the nearly $400 million for that development.

Unlike other kinds of resources, minerals are not sold in Little Rock at a Little Rock value or Boise, ID, at a Boise value. They are sold in Little Rock or in Boise based on a world value, a world market, because gold and silver and iron, zinc and lead, and all of those kinds of things that make up the fundamental base of the industrial society that we enjoy are traded in a world environment.

When that price slips, so it slips at the mine. A mine that one year can be very profitable, the next year can be very unprofitable and can lose money. That has been and is the history of mining in our country. You talk about striking it rich, that happens in mining, but I also know a lot of miners who struck it poor.

A mining company in our State just a year ago called me and said they wanted me to know that they were shutting down a major mining operation in one of the counties in the State of Idaho. Why? After they had invested millions of dollars, their exploration didn't pan out to be quite what they thought it ought to be. Their drilling didn't determine the projections of the ore body that existed. So they were shutting it down and walking away and writing off millions and millions of dollars of cost in the development of a mill and a plant and a site and all of those necessary tools to bring that mineral out of the ground to the smelter in a refined way.

I say nothing new on the floor of the Senate tonight. I only bring current the 200-plus-year history of the mining industry of our Nation.

But reform is necessary, and this Senator, along with the Senator from Alaska—the two Senators from Nevada have just authored a new mining law reform approach. We sat down with the Senator from Arkansas and his staff to try to see if we could not build a bipartisan compromise. That hasn't happened yet, and we want that to happen. We believe in the reform.

But what the amendment of the Senator from Arkansas proposes tonight is not constructive. It doesn't add to the overall effort to build strong mining law for this country that allows continued development in an environmentally sound way, to build the resource and the wealth base of our Nation and to assure a domestic supply of minerals and metals.

It does quite the opposite. It goes directly at mining industries in this country, and it could very well render them marginal and, in some instances, less than profitable. When that happens, the mining industry doesn't stay around. It very quickly closes its doors and the average job of $46,000 a year goes wanting, and that mining industry goes to Peru or to Chile or to Colombia or to Ecuador or to Mexico to build the wealth base of those countries and to deny us the $100 billion industry that we have here.

I don't think that makes good sense. I never have. And I can't understand the thinking of the Senator from Arkansas in that regard, other than he just appears to have it out for the mining industry.

In my State, it is an important industry. Nationwide, it is tens of thousands of very high-paying jobs, and there is no question that this industry contributes a great deal to our country and hundreds of millions of dollars to the economy on an annualized basis.

The mining industry already pays taxes. Somehow, because they are able to patent public resources and then develop them, the Senator from Arkansas suggests they pay nothing, they ''get a free ride.'' That one example on the bottom line of the chart of the Senator from Arkansas is an Idaho-based operation. There may be a billion dollar's worth of reserves in the ground, but that operation isn't operating today. They are not functioning, and the reason they are not is that they are not current in the economy of the marketplace. They may have invested millions of dollars, and they may have paid the Federal Government through the process of the $2.50 an acre surface value in the patenting process, but they are not returning any money today, and their mine sits idle. That is not unusual. That is the way the mining industry works. That is the way it has always worked. My guess is it won't change.

The mining industry already pays an average in Federal taxes at 32 percent, according to the General Accounting Office. Because of the corporate alternative minimum tax, they currently pay a very high rate. But the Senator from Arkansas says, ''Whoop, that's not good enough, stick them again 8 to 10 percent.'' So we get them up to 42 percent. Why do you want to pay 42 percent on your income flow if you can move across the border and pay less? That is exactly what has happened. The Senator from Alaska and the Senators from Nevada spoke very clearly about that in their past statements. The exodus out of this country of the mining industry and the jobs and the expertise and the engineering that flows with it is a tragedy to which we shouldn't contribute.

So I hope that Senators will recognize that we shouldn't be legislating more in relation to this tax bill that we have before us. This comes outside of the agreement. We have worked very hard, and, I must say, the chairman and the ranking minority member of the Finance Committee have done what I think is an excellent job in working to stay inside an agreement that the leadership of the Senate and the House and the President struck as it related to revenue and tax relief.

Tax relief ought to be creating jobs, it ought to be promoting economic development, it ought to be growing our economy instead of shrinking it, instead of destroying thousands of jobs that I believe this kind of legislation and the Bumpers amendment would accomplish.

I have before me a chart that talks about the combined direct and indirect contribution of the metals mining industry to the economy of the individual States of this Nation. I could go through that, but here is the bottom line, Mr. President.

The bottom line is $134,378,000,000 a year. Is that in the pocket of some mining executive? Absolutely not. It is in the work force of Caterpillar equipment in Illinois. It is spread across the country in the supplies and the direct and indirect services that provide for

the mining industry. It is in the chemical industry of Delaware.

I am amazed, but I look down here and see that in Connecticut alone is $1,792,000,000—Connecticut—directly attributable to the mining industry of the country. I did not know there was a mine in Connecticut. Well, there probably is not, but there are major corporate headquarters and there are suppliers, and those suppliers create jobs.

Of course, when you have a broad-based industry like metals and mining, all States benefit. Literally every State in the Nation has nearly $100 million or more in value of directly associated or related jobs to the metal and the mineral industry of our country.

That is why we should not be stepping forward in some form to destroy it. We ought to be promoting it. Most importantly, the Senator from Arkansas ought to be working with the Senators from Nevada and from Idaho and from Alaska to get reform that we all want so that the mining industry of the country can know the ground on which it operates and the law to which it must comply. That is what we ought to be about.

So I hope that tomorrow when we vote on the Bumpers amendment, we can vote it down, recognizing that when we deal with reform in the mining industry, let us deal with it in a comprehensive way in the appropriate authorizing committee with the hearings that are necessary to make sure that what we do fits so that we do not wound an industry that has provided for us well and that continues to employ tens of thousands of people across our country and provide well over $100 billion annually to the wealth base of this country. That is the issue.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask through the Chair to the manager of the bill, is the unanimous-consent request now ready to be propounded?

Mr. ROTH. No. We are still waiting for clearance on the Democratic side.

Mr. REID. Mr. President, the chairman of the Energy and Water Committee entered into the RECORD this evening a news article that was printed earlier this year in the Wall Street Journal. The news article says a great deal about the debate that is taking place here tonight.

We can talk about all the jobs that mining produces—and there are over 100,000 of them in the United States alone—we can talk about all the direct and indirect income that it generates for States, but the most important thing that I think brings this in proper perspective is to look at what is happening to mining today.

''Gold-Mining Firms Act to Meet Price-Slump Challenge.''

The price of gold has dropped precipitously. The price of gold is low. As indicated in this article, ''[Mining Companies] Reduce Costs, Scratch New Mines, With No Quick Relief in Sight.''

The article says, among other things:

> Mining companies are slashing costs and tearing up plans for new mines as the price of the precious metal continues to slide to three-year lows. . .[the prices] plunged to $353.40 an ounce . . . The skidding price is enough to turn many high-cost mines into money-losing duds and spoils the economics of many planned projects.

Dennis Wheeler, chairman and chief executive officer of Coeur D'Alene Mines, which is headquartered in Coeur D'Alene, ID, says, ''No question, * * * you will see fewer new gold mines.''

This is a quote from this article.

> Gold prices have been pushed downward by slumping investment demand and the fear of increasing supplies from central banks.

> At [least] five of the 22 largest U.S. mines, cash costs to produce gold are at or above $347.30 an ounce. . .

What this means, Mr. President, is that the cost of gold is not enough to meet the costs of producing the gold. That is why in Nevada you have seen companies laying off people. That is why you have seen mines going out of business. At this stage they have been the small operations, but the big ones are going to come unless something happens to raise the price of gold or to cut costs, or both.

> Coeur D'Alene Mines has recently laid off 4% of its staff, halted all charitable donations, and [as Mr. Wheeler said] . . . ''We anticipate more challenging times ahead.''

And that, Mr. President, is an understatement.

Pegasus Gold is a substantial company based in Spokane, WA. They have operations in the State of Nevada. They mine over half a million ounces of gold a year. But they have taken steps to survive in the new lower price range, or trying to survive.

> The company recently announced it would reduce its exploration budget by about 20%, freeze senior-management salaries and delay construction on new gold projects in Montana . . .

Echo Bay Mines, a Denver-based company has operations in the State of Nevada, among other places. Lower gold prices have also hurt Echo Bay, causing its gold reserves to go down.

> The company recently took a charge of $77 million after ripping up plans to develop its big Alaska gold project [in] Alaska-Juneau . . .

Now, I say, Mr. President, this is only a little example. So $77 million they spent before they turned a single spade of dirt.

A little operation outside the town of Searchlight, NV, where I was born, still maintain my residence—that operation took about $100 million before they could do any mining. It is a relatively small operation.

Echo Bay:

> . . . also canceled common-share dividend payments to conserve cash after a string of quarterly losses.

Many, many gold companies are suffering the same fate as the few of these that I have referred to out of this article.

Gold mining companies are having real difficulty. As has been indicated already on the floor, the General Accounting Office has indicated that gold companies now—the mining industry now—is paying about a 32 percent effective tax rate. Now, if this goes up, as indicated by my friend from Idaho, they will be out of business in a large scale.

This amendment, Mr. President, would create an administrative nightmare for the Department of the Interior. For example, the origin of the claims and lands currently being mined, they could not be tracked, or if they could it would be extremely difficult. Often these claims have been owned and conveyed at arm's-length transactions.

How do you go back and effectuate this depletion allowance that he wants to dispose of? Many properties are obtained through a variety of ways other than the 1872 mining law. Remember, they have been mining in the State of Nevada since the 1840's. Many claims were filed prior to the 1872 mining law.

Mining companies often put together their operation from private property acquired through laws, both State and Federal.

How would we keep track of ore on a property that has several different property origins? The depletion allowance would apply to a shovel of ore for one location but not to a shovel of ore identical to that just 10 feet away.

In principle, there is little difference between allowing mineral producers a depletion allowance and allowing a manufacturer to depreciate a plant and equipment.

In the process of manufacturing, the manufacture's equipment requires replacement.

Therefore, a depletion allowance for mineral producers a simply levels the playing field between these classes of taxpayers.

Again this amendment unfairly targets the western mining industry.

This amendment is an attempt to do mining law reform, and this is not the place or time for such an effort.

If this Congress wants to rewrite the current mining law then it should begin in the Energy and Natural Resources Committee, not on the Senate floor tonight.

The Bumpers amendment proposes to eliminate the percentage depletion for non-fuel minerals.

This amendment to eliminate Percentage Depletion is an ill-conceived and ill-advised attempt to circumvent congressional efforts to reform current mining law.

The U.S. mining industry has long agreed that the mining law is due for an overhaul.

Serious efforts to accomplish such a result have taken place over the past several years.

Legislation has reached the President's desk that would have, among

other things, imposed significant royalties on minerals produced from new mines developed on Federal lands.

The administration has never sought to develop compromise legislation that reforms the mining law.

This amendment is simply another attempt to attack the industry on yet another front.

The capital investment necessary for modern mining is astronomical.

It is not unusual to anticipate capital expenditures well in excess of $1 billion when opening a new mine.

With the repeal of the investment tax credit, the extension of depreciable lives, and the imposition of the alternative minimum tax, the tax burden on the U.S. mining industry is significant and burdensome.

The most recent GAO report on the subject indicates that the mining industry is currently paying a 32 percent effective tax rate.

It is estimated by the State of Nevada that this proposal would result in the following: 2,300 jobs; $220 million in economic output; and $68 million loss in household earnings.

The PRESIDING OFFICER. The Senator's time and the opposition's time has expired.

Mr. REID. There is no time. There is no time.

The PRESIDING OFFICER. On a reconciliation bill there is an hour.

Mr. REID. Oh, all time is gone? That is fine.

Senator BUMPERS left anticipating that there would be a unanimous-consent request entered. I certainly want to do that before I leave today, if at all possible.

Mr. ROTH. Mr. President, I ask unanimous consent that at 9:30 a.m., on Thursday, there be an additional 20 minutes for debate equally divided between Senator MURKOWSKI and Senator BUMPERS, and immediately following that debate time, Senator MURKOWSKI be recognized to raise a point of order against the Bumpers amendment; and further, immediately following a motion to waive, the Senate proceed to a vote in relation to the Bumpers amendment; to be immediately followed by 20 minutes of debate equally divided in the usual form prior to a vote on or in relation to the Dorgan amendment No. 517; to be followed by 10 minutes of debate equally divided in the usual form on the Dorgan motion to refer, with Senator ROTH being recognized to raise a point of order against the Dorgan motion to refer; and, further, immediately following a motion to waive, the Senate proceed to a vote in relation to the Dorgan amendment.

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

PRIVILEGE OF THE FLOOR

Mr. DURBIN. I ask unanimous consent that Anne Marie Murphy of my staff be accorded floor privileges during the consideration of S. 949.

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

AMENDMENT NO. 519

[Purpose: To increase the deduction for health insurance costs of self-employed individuals, and to increase the excise tax on tobacco products]

Mr. DURBIN. Mr. President, I would like to present an amendment for floor consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mr. DORGAN, Mr. DASCHLE, and Mr. HARKIN, proposes an amendment numbered 519.

Mr. DURBIN. 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:

On page 267, between lines 15 and 16, insert the following:

SEC. 780. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.

(a) IN GENERAL.—Section 162(l)(1) (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer's spouse, and dependents.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

On page 337, beginning with line 14, strike all through page 339, line 15, and insert the following:

(a) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking ''$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)'' in paragraph (1) and inserting ''$27.50 per thousand'', and

(2) by striking ''$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)'' in paragraph (2) and inserting ''$57.75 per thousand''.

(b) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking ''$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)'' in paragraph (1) and inserting ''$2.531 cents per thousand'', and

(2) by striking ''equal to'' and all that follows in paragraph (2) and inserting ''equal to 28.6875 percent of the price for which sold but not more than $67.50 per thousand.''

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking ''0.75 cent (0.625 cent on cigarette papers removed during 1991 and 1992)'' and inserting ''1.69 cents''.

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking ''1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)'' and inserting ''3.38 cents''.

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking ''36 cents (30 cents on snuff removed during 1991 and 1992)'' in paragraph (1) and inserting ''$1.9933 cents'', and

(2) by striking ''12 cents (10 cents on chewing tobacco removed during 1991 or 1992)'' in paragraph (2) and inserting ''75.33 cents''.

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking ''67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)'' and inserting ''$1.5188 cents''.

(g) IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5701 (relating to rate of tax) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of 81 cents per pound (and a proportionate tax at the like rate on all fractional parts of a pound).''

Mr. DURBIN. Mr. President, simply put, this amendment which I have offered asks that we move toward more equitable tax treatment for the self-employed with respect to the deductibility of their health insurance premiums within this budget process. I believe this issue enjoys wide support among my colleagues in the Senate.

I would like to draw my colleagues' attention to a letter which has been sent to the Senate Finance Committee signed by over half of the membership of this body. A total of 53 Senators have urged that there be movement in this legislation toward the equitable treatment for the self-employed with respect to the deductibility of health insurance premiums.

Today, I would like to reaffirm our commitment to helping the self-employed afford health insurance and receive parity with their corporate competitors who can already deduct 100 percent of their health insurance premiums by passing this amendment.

Let me say at the outset, the term ''self-employed'' is a term of art used in the Tax Code but for those who are following the progress of this debate, they may be interested in the people who fall into the category of the self-employed. Those would include, of course, entrepreneurs, small business people, family farmers and the like. It is the fastest growing segment of the American economy.

More and more people are starting businesses. More and more people aspire to own their own businesses. More and more women are getting involved in entrepreneurial endeavors. So this amendment addresses a problem which exists and one which can only become worse as more people get into self-employment categories and still do not enjoy the same positive tax treatment as corporations and their employees.

There are over 23 million self-employed in the United States today. Unfortunately, over 5 million of these people have no health insurance. The rate is higher for self-employed people than the rate for salaried and waged workers. On the average, salaried and waged workers have only 16.8 percent of their membership uninsured, as against 25 percent of the self-employed that are uninsured.

The simple fact of the matter is there is a 50 percent higher likelihood that a person is uninsured—without health insurance—if they are self-employed, as opposed to being a salaried employee.

Not only are the self-employed less likely to have health insurance, but those that do pay on the average 30 percent more for their health insurance premiums. They do not have access to group health insurance. They pay some of the highest rates in the Nation.

For those who follow closely the National Federation of Independent Businesses, which as I understand it is the largest organization of small businesses in America, they might be interested to know that when their membership was surveyed nationwide last year and asked their No. 1 issue for Washington, it was not capital gains; their No. 1 issue was the cost of health insurance. When I traveled across Chicago last year and met many entrepreneurs and small business people, I asked them the challenges they face, and time again they said, it is such a great concern to us and to our families that once having left the protection of a group health insurance plan and having moved into self-employment, into small business, or in many cases to family farms, they found themselves unable to afford health insurance.

I can recall a telephone call to my congressional office, when I served in the House. A woman called when she heard of my interest in this issue and said, ''I want to tell you my family story.'' It is one that is repeated many times on farms across America. She said, ''I was at home as a farm wife raising our children, raising the family. Then I decided I had to go to work in town.'' She said to me, ''Congressman''—I was a Congressman—''Congressman, the reason I work is because the salary I earn pays for two things: Day care for my children, which otherwise I would take care of at home, and the premiums for health insurance for our farm family.'' That story is repeated many times over, across the United States, where people are struggling to come up with the resources to be able to afford health insurance.

Currently, the self-employed in America may only take a tax deduction of 40 percent for the cost of health insurance premiums. However, corporations and their employees enjoy a full 100 percent deductibility. This is not fair.

I once asked some of the older Members of the House who had been around during many, many years of debate on tax bills why this disparity existed, why would we take one group of Americans working for businesses and give them full deductibility of health insurance, and say to self-employed people, you can only deduct 40 percent. I was certain there had to be some rationale behind this dichotomy. I spoke to Sam Gibbons, now retired Congressman from Florida, who served on the House Ways and Means Committee for many years. He said there is no good explanation for it. It came about sometime after World War II when corporations and unions asked for this advantage and it was given to them. The self-employed did not speak out. Health insurance was not a major issue, and as a consequence this dichotomy, this divergence in the deductibility of health insurance became enshrined in law.

Scheduled increases in current law for the deduction of the self-employed will slowly, slowly increase from the current level to 45 percent by 2002. We are talking about waiting 5 years for it to go up 5 percent more for deductibility, and then even by 2006, almost 10 years from now, under current law the deductibility for self-employment will only be 80 percent—never reaching 100 percent deductibility of a corporation or big business. That is a very long time for self-employed people to wait.

We should make progress on this issue on increasing deductibility this year within this budget package. Farmers and many other hard-working, self-employed individuals, including many women who recently started small businesses in record numbers, deserve help in this area, sooner rather than later.

You might take into consideration this fact: Of the 10 million uninsured children in America today, 1.3 million of them live in families where there is at least one parent who is self-employed. These children comprise approximately 13 percent of all uninsured children. So for these families, for the breadwinners who own the small businesses, for the family farmers and for their children, this is a very critical amendment.

Now, the obvious question to be asked of myself and others who come to the floor with changes in the Tax Code is this: How are you going to pay for it? How will you provide the resources to offset the cost of giving this new deduction to the self-employed? I will tell you, upfront, we raise the tobacco tax, the Federal tobacco tax.

The current cigarette tax is 24 cents per package. The current tax on smokeless tobacco is about 2.7 cents, for snuff; and 2.3 cents for a pouch of chewing tobacco. This bill increases the cigarette tax by 20 cents per pack to 44 cents. That is the bill that comes out of the Senate Finance Committee. It increases the tax on smokeless tobacco products by the same 83 percent. That will raise the tax to around 5 cents for snuff, 4.2 cents for chewing tobacco.

The amendment I offer to provide the deductibility, full deductibility for health premiums for the self-employed, is paid for by adding about 10 cents to the tax on cigarettes, about 10 cents, a tax—maybe a fraction higher that might be necessary to make certain that it meets this budgetary requirement. Ten cents, 10 pennies for a person buying a package of tobacco.

What will we buy as a Nation for these 10 pennies? We will buy protection for millions of Americans who today do not have it, health insurance that they can afford, giving them fair treatment under the Tax Code, saying to people who buy tobacco products you will pay a few pennies more for those products. We, as a Nation, will see great benefit coming to many families and many children across America.

We are waiting for a formal revenue estimate from the Joint Tax Committee. We have been in negotiation with them. We are told that the amount of the tax on a package of cigarettes may be slightly over 10 cents, but we are in this range of between 10 and 11 cents.

What happens when you raise the price of a package of cigarettes, as this bill does, by 20 cents already? Fewer children buy them. As you make tobacco products more expensive, kids stay away. Now, isn't that a good idea? Don't we all agree that to have 3,000 children start smoking for the first time every day in the United States is a bad idea? Shouldn't we discourage this addiction of our children? I think we all agree on that. I think even the tobacco companies have come to acknowledge that they are a major part of the problem that we have today in addiction to nicotine and tobacco.

In addition to taking care of a lot of children who are uninsured and a lot of self-employed and their families by increasing the tax on tobacco products slightly, by 10 cents or a few fractions beyond that, we will discourage children from using tobacco products. Is that a critical problem in our country? I think we all know that it is. Teenage smoking in America has risen by nearly 50 percent since 1991.

I will close with just a few brief remarks about the sales tax and just say to my colleagues it would be foolish, foolish, for us to ignore the reality that tobacco taxes are going to increase. We have asked for a survey of State existing tobacco taxes as of today. What are the taxes in each State imposed by those States and their legislatures on tobacco products? I say to my friends and colleagues if you will take a look here, you will see that more and more State legislatures are dramatically increasing tobacco taxes as a source of revenue.

For example, let me give you a few. In the State of Hawaii, the State cigarette tax will go from 60 cents to 80 cents in just a few weeks. In the State of Maine, the cigarette tax is going to double from 37 cents to 74 cents by the end of the year. In the State of Alaska, the tax rate on cigarettes and tobacco products will move from 29 cents to $1 dollar by the end of the year. In the State of Utah, from 26½ cents to 51.5 cents. State legislatures understand this is a good source of revenue. The Senate Finance Committee understood that when it added a 20-cent tobacco tax.

So I ask my colleagues to seriously consider a very minor increase of about 10 cents a pack to tobacco and measure it against what we will win as a Nation. We had this long debate a few years ago about universal health care. I certainly believe in it and subscribe to it. We did not finish that debate with a work product that achieved results. I hope with this amendment,

though, we can move forward on the path toward moving more people into the protection of health insurance. The 5 million uninsured self-employed people deserve that type of protection. Those self-employed and their children will benefit greatly from this amendment.

I know that this may be a tough amendment for the Senate Finance Committee. I have watched the course of this debate over the last couple of days and it is clear that they do not always warm up to suggestions of change. Maybe this time there might be an exception. Maybe with the bipartisan support of some 53 Senators, the members of the Senate Finance Committee, the leadership, might consider this amendment. It is one which would greatly enhance the tax package which they offered.

I yield back the floor and offer my amendment.

AMENDMENT NO. 520

(Purpose: To provide for children's health insurance initiatives)

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I now send to the desk the amendment that was reported out by the Finance Committee regarding the children's health insurance initiative. This amendment provides $8 billion over 5 years for children's health insurance coverage.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 520.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

AMENDMENT NO. 521 TO AMENDMENT NO. 520

(Purpose: To improve the children's health initiative)

Mr. ROTH. I now send to the desk a second-degree amendment pursuant to the order of the Senate agreed to today which incorporates the provisions of the Roth and Chafee amendments on the children's health initiative.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 521 to amendment No. 520.

Mr. ROTH. I ask unanimous consent that the reading of the amendment be dispensed.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. ROTH. I ask the Chair this question: Do I understand correctly that the second-degree amendment which I offer is by virtue of today's order of the Senate considered adopted?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROTH. Mr. President, I ask unanimous consent to lay it aside.

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

AMENDMENT NO. 519

Mr. DURBIN. Mr. President, might I inquire of the chairman of the Senate Finance Committee, can we reach some agreement about debate that will be allowed on my amendment tomorrow when it is considered?

Mr. ROTH. I have to tell my good friend, no, we cannot agree at this time.

Mr. DURBIN. So under the rules would the amendment automatically be considered tomorrow or subject to any debate?

Mr. ROTH. It could come up tomorrow but we cannot limit debate at the present time.

Mr. DURBIN. My current understanding, I have 43 minutes left on the debate on this amendment and the opposition has 59 minutes as we have concluded debate this evening?

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. Would the chairman give me a couple of minutes to make a statement as it relates to the Durbin amendment?

Mr. ROTH. Two minutes?

Mr. FORD. Two minutes.

Mr. President, no one here in the Chamber is opposed to helping children. We have tried our best over the years, and we are trying our best now. It seems like every time you want some money you go to tobacco. We have had Senators from the other side of the aisle that voted against tax on tobacco or any other excise tax because they thought that was the prerogative of the State, and the Senator from Illinois just laid out how much additional tax is going on. So we have a negotiated agreement that people are getting something they never thought they would be able to get. We have to get that through Congress.

Now, if we had 10 cents from this committee, and 20 cents there, and 43 cents tomorrow, we have killed the agreement and there is no way the income can equal the projection because with a dollar additional on a pack of cigarettes we lose 20 percent of production and have a 20 percent reduction.

We are trying to get in this package reduction of teen smoking or underage smoking. We have a criteria there if they do not do it, they pay more money. Yet we are putting it where they cannot do that.

I say to my friends, I am from a tobacco State, absolutely, and I plead guilty to that. I am going to represent them the best I can, but pile on, pile on, pile on—you are not going to have any money left. The States won't be able to get any money and their budgets will be behind, our projections will not reach that total, we will be behind, so everybody piles on tobacco.

I hope you will take a step back with all these crocodile tears I see around here. I understand those. But there is some point where we have to meet reality, and reality is do you want to complete a job that is started or do you want to do something that will unbalance this budget within a very short period of time.

I thank the Chair, and I thank the Senator for allowing me the time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. How long would the Senator from Illinois like?

Ms. MOSELEY-BRAUN. Five minutes.

Mr. ROTH. I yield 5 minutes to the distinguished Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I am the first woman in history to serve on the Senate Finance Committee, and I have been just delighted to work with the chairman and his staff and my ranking member, Senator MOYNIHAN. They have been accommodating, they have been supportive and they have listened. And I have to say that this was the third occasion that I have had to work on a tax bill. While the tax bill did not result as I would have written it, at the same time, I can think of no better group with which to work than the members of the Senate Finance Committee and, particularly, its leadership.

Mr. President, I want to share a few preliminary thoughts about the tax bill. I intend to file an expanded statement at a later time. At the outset, I want to say that I intend to vote for this bill. It was worked on by the committee. We worked hard on behalf of the goals of achieving a balanced budget. We worked hard on behalf of achieving an opportunity for the American people to focus their resources in the most productive way for our economy as a whole.

When I came to Congress, my overarching goal was to create a more fiscally responsible environment, a better fiscal environment for our children. We needed to reverse the trend to borrow, to pay for things now, at the cost of having our children pay back our debts and foreclosing their options and opportunities. Even though it caused some consternation, I supported a balanced budget amendment precisely because I believe that we have an obligation to prepare and to make it easier for our children than our parents left it for us. I believed that we had to ensure that we do not leave our children in greater debt than our parents left to us.

So my main focus in coming here to Congress was to focus in on getting some order about our fiscal house, reducing the deficit, and actually beginning to create the framework in which our economy can go forward, and the strength that not having this burden of debt would have given it. For that reason, I also took the position that it was not time yet for us to go into providing

for tax cuts, that we needed to restrain our desire to cut taxes until such time as our fiscal house was in order. Deficit reduction should have been our goal as a matter not only of our fiscal responsibility, but of generational fairness. And so I started off with that proposition from the very beginning.

In 1993, the first year I was here in the Senate, I voted for the budget that President Clinton submitted that began the path toward deficit reduction. Since that bill, which was very controversial at the time—I remember people calling it the ''biggest tax increase in history,'' even though it only increased taxes on the very top wage earners or top income earners in our country. It was very controversial at the time. In fact, in the election that followed, a number of people lost office because people thought they had sent our country on the wrong fiscal path.

However, that bill has proved, I think, over time, to be the jump-start that this economy needed in order to give rise not only to the booming stock market and booming economy that we have seen, but the deficit reduction that we have seen. Since the time of that vote, the deficit has gone from about $290 billion—almost $300 billion—to $65 billion this year. Now, without a tax cut, we could have retired our debt entirely before the year 2002. While it is a fact that some of the economists argue that we don't need to worry about deficits and we don't need to retire our debt, at the same time, I think there is an expectation from the American people that we would do everything we could to get that done in as timely a fashion as possible. Reducing the deficit would have had the effect of lowering interest rates and would enable us to provide even larger tax cuts, once we have paid all our bills. But that is not the case at this time. There is consensus for cutting taxes this year—a budget deal that explicitly tailored the amounts of net tax cut and outlays with some specific parameters.

So since there is consensus on the tax cut that came out of the Budget Committee, and that is the direction we have been ordered to take in the Finance Committee, I believed that the tax cut given should be targeted to provide the maximum benefit to relieve families of the tax burden that they have to carry. Unfortunately, this bill only partially meets that goal.

The problem, as I see it, and my one sadness about what we have seen here, is that this tax bill is not progressive. To make the bill progressive, the distribution of the tax cuts should allow the largest portion of the tax cut to go to the greatest number of families. This is simply community fairness. Unfortunately, this bill still allocates the largest amount of the tax cut to the fewest number of Americans instead of the other way around.

This bill allows some 22 million American families to receive almost $40 billion in tax cuts, while 88 million families receive only about $20 billion from this tax cut. The average tax cut that will be received by families making less than $17,000 a year will be about $12. Families with incomes of less than $33,000 a year will receive an average of $64 from this tax cut. Families with incomes of less than $55,000 will receive an average $274 from this tax cut. Families earning less than $94,000 will receive an average of $583 from this tax cut. However, if you go beyond that, families with incomes above $94,000 will receive an average of $1,789 from this tax cut.

In short, Mr. President, the 22 million Americans making over $100,000 will receive 65 percent of the tax cut here, while the 88 million people earning under $100,000 will receive about 34 percent of the tax cut.

Now, there is no question that tax cuts are always popular. Many of the tax cuts which give rise to this result are popular, particularly the estate tax, capital gains reduction, and IRA expansion. But it seems to me that just based on sheer numbers, working class people should have fared better. Even though we tried to remedy some of these issues, we were not successful. Senator ROCKEFELLER and I, for example, tried to remedy the effect of the $500-per-child tax credit; nonetheless, a majority of the working poor will be excluded from the largest part of this bill.

Well, Mr. President, I have taken up my 2 minutes. I thank the chairman for his indulgence. I want to point out that, as we direct these issues of tax policy, we should be mindful that, if we really care about family values, about our total community, we need to have tax fairness as a guiding principle in our deliberations, with the greatest benefit going to the greatest number. It seems to me that what ought not to guide our deliberation is just what sounds good or what is politically popular or easy to do. We could have done a better job with this tax bill. I know the chairman tried and the ranking member tried; we all tried. This bill is a better bill than the House bill by a long shot. But, at the same time, I hope as we go into conference, we will be mindful that there are an awful lot of working people and families out there who need our help, and we have an opportunity and an obligation to give it to them.

Thank you, Mr. President. I thank the chairman for his indulgence.

I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

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

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

AMENDMENT NO. 522

(Purpose: To provide for a trust fund for District of Columbia school renovations)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 522.

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

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

The amendment is as follows:

Beginning on page 168, line 8, strike all through page 174, line 19, and insert the following:

''SEC. 1400B. TRUST FUND FOR DC SCHOOLS.

''(a) CREATION OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for DC Schools', consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

''(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

''(1) IN GENERAL.—There are hereby appropriated to the Trust Fund for DC Schools amounts equivalent to the revenues received in the Treasury from the applicable percentage of the income taxes imposed by this chapter after December 31, 1997, and before January 1, 2003, on individual taxpayers during their residency in the District of Columbia.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage necessary, as determined by the Secretary, to result in revenues equal to the net losses in revenues to the Treasury that would have occurred during the period beginning after December 31, 1997, and before January 1, 2003, if the section identified as section 1400B of the Internal Revenue Code of 1986 as added by section 601 of S. 949, 105th Congress, as reported by the Committee on Finance of the Senate, had been enacted.

''(3) TRANSFER OF AMOUNTS.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund for DC Schools on the basis of estimates made by the Secretary of the amounts referred to in such paragraph. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

''(c) EXPENDITURES FROM FUND.—

''(1) IN GENERAL.—Amounts in the Trust Fund for DC Schools shall be available, without fiscal year limitation, in an amount not to exceed $70,000,000 for the period beginning after December 31, 1997, and ending before January 1, 2008, for qualified service expenses with respect to State or local bonds issued by the District of Columbia to finance the construction, rehabilitation, and repair of schools under the jurisdiction of the government of the District of Columbia.

''(2) QUALIFIED SERVICE EXPENSES.—The term 'qualified service expenses' means expenses incurred after December 31, 1997, and certified by the District of Columbia Control Board as meeting the requirements of paragraph (1) after giving 60-day notice of any proposed certification to the Subcommittees on the District of Columbia of the Committees on Appropriations of the House of Representatives and the Senate.

''(d) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund for DC Schools and to report to the Congress each year on the financial condition and the results of the operations of such Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as a

House document of the session of the Congress to which the report is made.

''(e) INVESTMENT.—

''(1) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund for DC Schools as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

''(A) on original issue at the issue price, or

''(B) by purchase of outstanding obligations at the market price.

''(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund for DC Schools may be sold by the Secretary at the market price.

''(3) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund for DC Schools shall be credited to and form a part of the Trust Fund for DC Schools.''

Mr. JEFFORDS. Mr. President, this is a scaled-down, in fact, a way scaled-down version of an amendment that I offered in the Finance Committee markup. It failed on a very close vote, with the full amount of close to $900 million. This is an attempt to ensure that this next winter we do not have the kinds of emergencies we have faced with the inability to finance the school repairs necessary to keep the DC schools open.

This amendment is to the provisions in the bill dealing with the District of Columbia. What this will do—hopefully, if accepted—is also place in the hands of those at the conference an amendment to help in the most critical area this city faces, and that is the decreasing capacity of its schools to even stand up, to keep the kids out of rain, and to protect the boilers from blowing up, and everything else.

It is a modest start of only $70 million, but it will open a path, hopefully, that may be utilized in case these emergencies continue to increase. What it strikes is a provision in the bill that is only a $75 million provision.

The provision that is in the bill attempts to set up some sort of tax credit system for businesses and people in the District of Columbia interested in having assistance in developing businesses. That is all very fine. I point out and emphasize again and again that that provision is in the House bill. So if mine does pass, it still will be in the committee of conference, and the members, then, will have a choice of whether they desire to try and protect the city schools from shutting down, or whether they prefer to use this provision with respect to tax credits.

Let me give you the dimensions of the school problems in this city. First, very briefly, we have, for better or worse, one of the worst school systems in this country—and this is the Nation's Capital. I remind all of my colleagues that we have accepted responsibility for those schools. We have basically replaced the city council with the control board. We have replaced the school board with the board of trustees. We have given authority to the control board to basically run the city. Yet, the capacity of the city to do anything about its schools is greatly limited. Although they have substantial revenues, those revenues are critical and important to just keeping the schools open. They have $2 billion in necessary code repairs in order to make these schools up to code.

Each year, we have had emergency appropriations to try and handle this situation. Those emergency appropriations have been in the terms of $20 million, $30 million, $40 million, $50 million a year. This is in an attempt to find a way to take care of those problems through the appropriations process in its normal form.

I point out that these tax breaks that are included, which I will strike, really do nothing to bring middle-class families back to the District. The only thing that will bring families back to the District is a school system that will provide them with schools in which their children will learn something. We have one of the worst records, as far as our students go, of any city in the country. Without that, all the other things we try to do here will not bring back the middle-class families, unless we take care of the school system.

I point out that Andrew Brimmer, chairman of the DC Control Board, says that the impact of the tax break provisions in this bill will do little or nothing. We must improve the schools and public safety. Let's get real in the efforts to help the city. Every week I travel the DC schools I see leaky faucets and roofs, broken boilers, and I could go on. The boilers are going to be the critical problem this next year. They are likely to shut the schools down in the middle of winter unless we do something. The students are suffering every day.

All my amendment will do is allow the committee of conference to have another option, along with the one I am striking, in order to be able to take care of some of the emergency repairs for the schools. So, Mr. President, I also point out what has been lost and how we have hamstrung this city to do anything about it. The District has lost more than 200,000 residents since 1970; 200,000 people have moved out. And 50,000 have moved out in this decade alone. The only way to stem this tide is to improve the District services.

There is a time and a place for tax breaks. Again, this is just putting another option on the table. But you don't offer tax breaks to attract residents back to a city where the schools are collapsing around them. That is like giving free popcorn to keep people in the seats in a burning theater.

This isn't going to work. It is important that we do something about it.

So, Mr. President, I want to make sure that we have an opportunity to give a seat to that conference committee for the kids in this city so that they may have a chance to see their schools restored to the point where this city can be proud of them and proud of their school system.

Mr. President, I reserve the remainder of my time.

Mr. ROTH. 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. ROTH. 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. ROTH. Mr. President, the pending amendment is not germane to the provisions of the reconciliation measure. I therefore raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

The PRESIDING OFFICER. Until the time has been used or yielded back, the point of order is not in order.

Mr. JEFFORDS. Mr. President, I am not clear on the situation. The point of order does not lie at this time?

The PRESIDING OFFICER. The point of order is not in order until all time has been used or yielded back.

Mr. ROTH. Mr. President, I withdraw the point of order and ask that the matter be laid aside.

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

Mr. ROTH. I now yield 5 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I thank the chairman for the time.

AMENDMENT NO. 518

Mr. THOMAS. Mr. President, I wanted to talk very briefly about an issue that is before the body with regard to an amendment on mining law reform.

First, let me just say very briefly that I am delighted that this debate is going on. I am delighted that we are talking about tax relief for the first time really seriously in 10 years. We are going to hear a lot about different kinds of details. We will hear a lot of different views, and that is healthy. That is the way it ought to be.

There are many here who do not support tax relief. I understand that. It is a legitimate point of view—not one I share—of those who do not want tax relief but would rather have more Government spending. We have not had tax relief since the early 1980's. It is time we do that.

I certainly want to congratulate the chairman of the Finance Committee for bringing this package forward. It is time that we gave some relief to working families, and relieve people who are paying taxes and allow families to keep more of their own money. That is what it is all about.

We hear people say, ''Well, there shouldn't be tax relief because we need to balance the budget.'' Their notion is that you have to balance the budget and continue to spend more. But what we ought to be doing is controlling

spending. And that is part of what this package does.

We heard earlier in the evening debate about mining. I wanted to talk just a bit about two aspects of that. One is there is an amendment, of course, which would eliminate the depletion allowance for hard-rock mining. However, in the presentation we heard more about the mining law of 1872 than we did about the depletion.

Let me tell you that we would have a revised mining law of 1872 if we could get some of those who constantly complain about it to agree to something. I have been here in the House, and now in the Senate for 2 years. We have had this every year. We have been very close to having a decision. But the very folks who complain the most about not revising it are the ones who never find anything to agree to.

I can tell you that there has been agreement on the idea of having royalties from the users, from the producers, and from nearly everyone here. There has been agreement on the idea of paying marketplace price for the land, or in fact not taking title to the land. That could well be done. And I would suggest that those who complain the most about change are the ones that cause it not to happen.

I simply want to say that when you want to start talking about depletion allowance and talking about the fact that the minerals are there and free, I want to tell you that they are not free. They are not doing you much good unless there is a substantial kind of investment to extract those minerals—probably as much as $400,000 or $500,000 to be able to do it at all.

The value of the resource is not there unless someone has an incentive to invest the money to do the mining. And then, of course, the idea is to create jobs. The idea is to create jobs. Some 2,300 jobs in Nevada—high-paying jobs in the neighborhood of $50,000 a year as compared to $25,000 as a national average. These are the kind of jobs that are there. With tremendous investment in these kinds of jobs there is revenue. There are taxes, and there is payment. We ought to encourage that rather than discourage it.

The suggestion was made that somehow mining goes on and there is no reclamation of land. That is not true. There were in earlier years a lack of reclamation laws but there are not now. There are tons of laws that cause reclamation.

So, Mr. President, I do not want to go on forever. But I do want to tell you that mining is one of the basic industries in this country—that minerals are relatively valueless unless there is someone willing to make the investment to extract them. They create some of the highest-paying jobs in this country. They generate local taxes. They generate taxes through wages. And they are very much part of our economy—an economy that tends to be forced out of this country by continuing to raise taxes.

I suspect this issue is not a proper one to have there. But it is one we are talking about, and voting on in the morning.

I urge my associates here in the Senate to vote against the Bumpers proposal.

Mr. President, I yield the floor.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, first of all, are we in a quorum call?

The PRESIDING OFFICER. We are not in a quorum call. But we are in controlled time. The Senator from Delaware controls time.

Mr. ALLARD. Mr. President, I ask the Senator from Delaware for permission to go ahead and make some comments, a general floor statement, and then I would like to introduce an amendment.

Mr. ROTH. I yield the Senator 10 minutes.

Mr. ALLARD. I thank the Senator. I would like to, Mr. President, compliment the chairman for his hard work on this particular piece of legislation.

Mr. President, this week I am confident that the Senate will approve the largest tax cut since the Reagan tax cuts of 1981. And it is about time.

In the 16 years since the last tax cut, Congress has enacted two major tax increases—one in 1990, and the other in 1993.

Mr. President, it is time for a change. It is time to put American families ahead of Washington, DC's insatiable appetite for more Government spending.

Taxes are now higher than they have ever been. Taxes constitute one-third of the economy. And Tax Freedom Day—the day to which the average American works to pay the combined Federal, State, and local tax burden—and that date is May 9. It is the latest it has ever been.

Mr. President, I view this tax cut as a downpayment. My long-term objective is to ensure that no American family pays more than 25 percent of its income in taxes.

A balanced Federal budget, and a reasonable level of taxation should be the twin objectives of Congress as we enter the next century.

I invite all of my colleagues to support this tax cut and to help ensure that the bridge to the 21st century does not become a giant toll bridge.

Today I would like to focus on what I call the growth tax. This is typically referred to as the capital gains tax, a term which liberals often use derisively to help create the impression that only the rich pay the growth tax.

In fact, as you may know, Mr. President, nearly all Americans own capital, and they experience a tax on that capital when they sell a house or when they sell stocks or a small business or a farm or a ranch.

Under our current Tax Code, gains on capital investment are taxed at a 28-percent Federal rate, and often an additional 5 percent or more in State taxes comes in on top of that. This is the growth tax, and this is among the highest growth tax of any major industrial nation.

The real growth tax is often much higher than 28 percent. This is because our Tax Code does not protect Americans from taxation on capital gains that result only from inflation. This means, for example, that an investment held for 10 years where up to one-third of the gain can be due to inflation, taxes are due even on this.

This is clearly one of the most unfair aspects of this tax. Government policies contribute to inflation, and Government then turns around and taxes its citizens on that inflation.

For this reason, Mr. President, I intend to fight very hard to see that indexing is included in our growth tax cut. The House bill wisely includes this provision—and I commend Chairman BILL ARCHER for this. The Senate bill, unfortunately, does not yet have indexing. Hopefully, by the end of the week, it will.

Some have dismissed indexing as too costly for this tax bill. But for me this is an issue of fundamental fairness. It is wrong for the Federal Government to tax its citizens on inflation.

It is not too costly not to include indexing. Indexing simply means that Americans would be permitted to disregard any gains due solely to inflation, and then pay taxes only on real gains.

Mr. President, let's take a look at how this capital gains growth tax hits ordinary working Americans beginning with their home.

The Tax Code generally allows gains on a personal residence to be deferred as long as the proceeds are used to purchase another larger home. However, many Americans eventually pay capital gains on their home, particularly as they get older and find that their residence has appreciated substantially in value.

Our tax bill deals with this issue by exempting all but the very rich from any taxation on gains from their principal residence. This is a long overdue reform.

Next, let's look at financial investments. Stocks are a frequent source of capital gains taxes, and stock ownership today is more widespread than ever before. Stock ownership has doubled in the last 7 years to the point where 43 percent of all adult Americans own stocks.

Obviously, with those numbers, Mr. President, it is spread throughout society. Today, half of the investors are women and half are noncollege graduates.

Stocks are typically held for retirement, education expenses, and other long-term goals. This is precisely the type of savings and investment that we need in our economy. Investments foster business expansion, and job creation. Capital is the lifeblood of a free

market economy. Clearly you cannot have capitalism without capital. And our Tax Code should encourage capital investment.

Mr. President, I cannot leave this topic without talking about small business owners and farmers.

There is no clearer area where the growth tax makes no sense. Millions of American families put their lives into building small businesses and farms. Often those businesses or farms are sold to finance a decent retirement. But this can occur only after Uncle Sam gets his cut of 28 percent of all the gains. Often, over half of these gains are due only to inflation. It is no wonder that millions of our most ambitious citizens have lost faith in our tax system.

Fortunately, Mr. President, tax relief is on the way. This bill lowers the growth tax from 28 to 20 percent for most families, and those in the lowest tax bracket would pay only 10 percent. This tax cut would help make life easier for millions of Americans, and it will help our economy to grow and create new jobs.

To those Americans who own a home, who save for retirement or who own a small business or farm, I say that next time a liberal says that capital gains are only for the rich, remember, he is thinking of you.

AMENDMENT NO. 523

[Purpose: To strike the extension of the Temporary Federal Unemployment Surtax]

Mr. ALLARD. Mr. President, I now would like to send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Colorado [Mr. ALLARD] proposes an amendment numbered 523.

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

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

The amendment is as follows:

On page 397, strike section 881.

Mr. ALLARD. This amendment would strike section 881 of the tax bill.

This section extends the so-called temporary unemployment surtax on small business and other employers through the year 2007. The House tax bill does not include this provision. The Senate bill, unfortunately, does. I rise to support the House position on this matter.

The description of this provision put out by the committee notes that in 1976 Congress passed a temporary surtax of .2 percent of taxable wages to be added to the unemployment tax rate.

I would suggest that at a minimum, if we are going to keep extending this tax, we ought to be honest with the American worker and small business owners and stop calling this a temporary tax. Enough is enough.

Between 1970 and 1990, there have been three unemployment tax rate increases and three wage base increases. These have resulted in a dramatic increase in the unemployment tax burden. There is no reason to continue this temporary surtax when we have the lowest unemployment in a quarter century and a full trust fund. This is no more than an additional and unfair general revenue raising.

The reason for the unemployment surtax no longer exists. The temporary surtax was put in place in 1976 in order to repay borrowing of the Federal unemployment trust fund from the general fund of the Treasury. Even though the borrowings were repaid in May 1987, Congress has continued to extend the surtax in tax bill after tax bill. As of today, all the States' reservoirs now have surpluses.

Since 1987, the surtax has been used solely to raise revenue to pay for tax packages. The tax takes money out of the private economy for no valid reason.

I have two concerns with this surtax. First, the Federal Government is breaking its commitment to employers and to workers that this added tax would be temporary. Clearly, it is not temporary, and if this provision remains in the bill and is enacted, the tax will have been in place for 30 years. This is not the way Government should do business.

The second problem I have is that we should not be imposing unnecessary payroll taxes. Payroll taxes cost jobs. Because small businesses are generally labor intensive, payroll taxes, which are a tax on labor, strike small businesses particularly hard. Payroll taxes are paid whether there is a profit or a loss.

I would note that high payroll taxes in Europe, particularly in Germany, is one of the principal reasons that unemployment is so high. This should be a warning to us to work steadily to limit the payroll tax on U.S. businesses.

Mr. President, I understand that there is some concern about my amendment, so I will withdraw this amendment and urge the Senate to agree to the House position on this issue.

There are a number of Senators, and I can assure you there are many thousands of small businesses, that would like to see this provision out of the bill, but before I withdraw my amendment, I would like to make an inquiry to the distinguished chairman of the Finance Committee, Senator ROTH. In light of the fact that this tax was to be a temporary tax, would the chairman consider either removing the provision in conference or modifying it to at least terminate the tax more quickly than proposed in the bill?

Mr. ROTH. I am happy to answer the question raised by the distinguished Senator. I understand the concerns he has expressed. I understand the impact it has on small business. I say to him that this is an aspect of our proposal that was recommended by the administration, but I will certainly, in going into conference with the House Members, keep in mind the concern the Senator has expressed and look at this matter very carefully.

Mr. ALLARD. I thank the chairman for his sincerity and real concern about the surtax, and I would just, in conclusion, reflect on some of my own experiences with the surtax. When it was first applied in 1976, I was just basically starting out in my small business. I had just been in business 4 or 5 years. I had not been in business long enough to have to pay any unemployment compensation, never had to have any turnover in my business, but every dime counted in that new business. And when that surtax was imposed on that small business that I was starting at the time, it did have an impact.

I do not believe we can continue to disregard the impact that these unemployment taxes have on small businesses, particularly the small businesses that are just starting out. We need to encourage people to go in business for themselves. We need to encourage people to someday think in terms of being their own boss and being self-sufficient. These types of tax provisions do have a disproportionate impact on small businesses, particularly those just starting out.

With that, I yield back the remainder of my time.

I thank the Senator.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 523) was withdrawn.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I yield the distinguished Senator from Montana 10 minutes.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 518

Mr. BURNS. I thank the Senator. I thank the Chair.

Earlier this evening an amendment was offered to do away with the depletion allowance on mining. It seems every year we have to go through this process really explaining what the National Mining Act is all about.

Yes, we have been awfully close to coming up with some kind of agreement for reform of the act. We have been so close that everybody agreed, but one would get the feeling—although it seemed like it fell apart, I get the distinct feeling that those who would reform the act or be the reformers want the issue rather than the results. I am always reminded of John Adams when he come back to the Congress and was asked about an issue. He said duty is ours; results are reserved to God.

Let us look at the intent of the Mining Act. It is as true today as it was in the days it was written. This act has been around about 120 or 125 years. I would say to anybody who lives in this country and owns property, even though it may be his private home in an urban area, the ownership of his

own home, which means land ownership or property ownership, which has been one of the cornerstones of America, the building of America and the freedom of us as a people, has been the result of a land tenure act. It was a way that we moved all the lands in this United States of America into private ownership.

That is what the Mining Act was all about. We have had only two, I think, maybe three, major land tenure acts. One of them was the Homestead Act, and that was a result of the Louisiana Purchase, where you were deeded 160 acres of land, and if you proved it up to be viable, then they gave you ownership of that land. And ever since then, it has changed hands many times, but it has allowed us to own property, land, and real estate. It has been the cornerstone of our economy.

In mining, it was a little bit different, but yet it was a land tenure act. It was a deal struck by this Government that owned millions of acres of land telling a miner that if you go out and you find a mineral, whether it be precious metals or trace minerals or whatever, and it has value and you prove it up to be a viable enterprise, we will guarantee you the surface of that land and access to that deposit. You invest your money, and if there is nothing there, we do not as a government owe you anything and you can go merrily on the way, and the land belongs and stays in the ownership of the Government of the United States of America.

I think I would be laughed out of this building if I went down to appropriations and said I have a government agency that wants to explore for silver or gold or platinum or palladium or anything else and asked for an appropriation of $20 million to explore and to prove up a claim. That is risking a lot of taxpayers' money. I would be told, why, this is the craziest thing we have ever heard. Taxpayers didn't give us the money for such a cockamamy idea of going out and exploring for that mineral.

So what did we do? We struck a deal. You invest, Mr. Miner, your money, your time, your equipment. If you find it, that's good. If you do not, then the Government is not out anything. But we guaranteed access and we guaranteed surface rights if a mineral or precious metal was found.

The National Mining Act was never an environmental act. It does not exempt mining companies from the environmental laws that are in place both by the State and the Federal Government. They are not exempt of that—clean air, clean water. They are required to reclaim it after the mine has been mined out. All it was, was to guarantee Americans access to a precious metal or mineral. Yet, those who would want to change it say that is no longer important.

We could have settled on royalties, could have settled on land price, could have settled on all of that. But the reformers refused to accept it. So I say, before we do too much changing, let's really understand what the law is all about, because it works today as it did whenever the law was made the law of the land. It seems like there are a lot of folks who do not understand that. They did not understand the Homestead Act either. This country eats, provides food for its families, cheaper than any other society in the world as a percentage of your paycheck going solely for food for your family. That was done because American agriculture owns the land. It is their farm. They make it produce. It is as competitive as selling shoes or watermelons. It does not make any difference. But all of that was the result of a land tenure act called the Homestead Act.

Why do we have to turn around and explain this every time this issue comes up? Yet, there are those who would like to twist and turn and not really represent the act for what it really is and why it was designed that way. They say gold miners get rich on gold. Where is it used, for jewelry? No, not really. We wouldn't even have a space program if we didn't have gold and silver, because there is as much of it used in electronics as there is in jewelry.

The only platinum or palladium mine is found in Montana. It is the only one in this country. It is one of three in the whole world. If you didn't have palladium, you wouldn't have catalytic converters to protect our air. Yet, there would be those who would say maybe it is not a necessity—until we look at the manufacturing and our science and our technologies, of what these trace minerals and these other minerals are really worth to this country.

Do we want to get as dependent on our precious metals and minerals as we are on oil? We are almost 51 percent dependent on oil from offshore. Is that energy policy? Does that give us energy security? I don't think so.

So we have to be very, very cautious whenever we start talking about a subject and a law that a lot of people say, ''Well, they're ripping off the Government.'' What's just the opposite is true. Because that mine provides jobs; it provides a tax base in many counties. In the West, that is the only thing they have. It provides public safety and roads and schools. It is the backbone of that county's economy. Yet, there are those who say tourism is growing and it is taking over and we don't need mining anymore. I don't know of anybody who wants to stand around and flip hamburgers for $4.25 an hour, or whatever it is, when you could probably get a better job producing something, producing wealth for this country. It just doesn't make a lot of sense.

Those of us who come out of, let's say, natural resources or agriculture, I guess we look at it a little bit different. But you look at it different when you come up through those ranks, as some of us in this room have done, including the Presiding Officer who is in the chair tonight. It doesn't hurt to have a little dirt under your fingernails so you understand what makes things go in this country. All new wealth, all new wealth produced in this country comes from either the renewable resource of the Earth and, sometimes, some of it from the finite resources that are found in this Earth. That is where new wealth is produced. It is produced nowhere else. Every one of us chase the dollar around. But, especially in the renewables, that is the real worth of a nation. And those renewables were produced on private land ownership where people took care of it, managed their resources and made a community and a State and a nation grow.

So, when we start talking about the national mining act and how it should be changed, let's be very cautious and remember why it was passed in the first place. Why it was passed in the first place—mining is very, very risky. I can't go to Appropriations and appropriate money just to go out and scratch around the hills and try to find a gold nugget, because it just will not happen.

So I will oppose the Bumpers amendment tomorrow. I think there will be a point of order raised on it anyway. But, nonetheless, let's not forget just exactly the reason the mining act was passed and why it works today, just like it did when it was passed 120 years ago.

Mr. President, I yield the floor.

ELECTRIC UTILITY INDUSTRY

Mr. MURKOWSKI. Mr. President, the utility industry is undergoing drastic change as a result of deregulation.

I know that municipal utilities are concerned about the tax-exempt status of their outstanding debt if they enter the competitive market. I also know that investor-owned utilities are concerned about municipal utilities using their tax-exempt debt and their tax-exempt status to gain an unfair competitive advantage. In addition, there are a host of issues relating to how electric cooperatives will fare in the emerging competitive marketplace.

I believe that we need to re-examine the Tax Code to determine how best to ensure a level playing field in the era of electricity deregulation and competition.

Because of the importance of this issue to consumers, investors, the electric power industry, and to our economy, as I told Treasury Secretary Rubin in an April 22 letter, I believe this is a matter for Congress, not the IRS, to decide.

Mr. ROTH. How does the chairman of the Energy Committee suggest we proceed?

Mr. MURKOWSKI. Mr. President, I have asked the Joint Committee on Taxation to prepare a complete analysis of tax provisions relevant to the electric utility industry. Once this report has been prepared, I believe our committees should hold hearings and make recommendations once we have

had a chance to thoroughly examine these issues.

Mr. ROTH. Mr. President, I agree with the suggestion of the chairman of the Energy Committee.

Mr. MURKOWSKI. Mr. President, I thank the chairman of the Finance Committee and I look forward to working with him.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, on behalf of the majority leader, I have the task of asking unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, June 24, 1997, the Federal debt stood at $5,336,557,573,448.51. (Five trillion, three hundred thirty-six billion, five hundred fifty-seven million, five hundred seventy-three thousand, four hundred forty-eight dollars and fifty-one cents)

One year ago, June 24, 1996, the Federal debt stood at $5,110,927,000,000. (Five trillion, one hundred ten billion, nine hundred twenty-seven million)

Five years ago, June 24, 1992, the Federal debt stood at $3,941,032,000,000. (Three trillion, nine hundred forty-one billion, thirty-two million)

Ten years ago, June 24, 1987, the Federal debt stood at $2,293,521,000,000. (Two trillion, two hundred ninety-three billion, five hundred twenty-one million)

Fifteen years ago, June 24, 1982, the Federal debt stood at $1,070,688,000,000 (One trillion, seventy billion, six hundred eighty-eight million) which reflects a debt increase of more than $4 trillion—$4,265,869,573,448.51 (Four trillion, two hundred sixty-five billion, eight hundred sixty-nine million, five hundred seventy-three thousand, four hundred forty-eight dollars and fifty-one cents) during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING JUNE 20

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending June 20, the U.S. imported 7,630,000 barrels of oil each day, 301,000 barrels fewer than the 7,931,000 imported each day during the same week a year ago.

While this is one of the very few weeks that Americans imported less oil than the same week a year ago, Americans relied on foreign oil for 54.4 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil? By U.S. producers using American workers?

Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 7,630,000 barrels a day.

THE CIVIL RIGHTS ACT OF 1997

Mr. HATCH. Mr. President, last year, I stated on the Senate floor that ''our country stands at a crossroads on the path it travels in relations among the different races and ethnic groups that make up the American people. Down one path is the way of mutual understanding and goodwill; the way of equal opportunity for individuals; the way of seriously and persistently addressing our various social problems as America's problems. * * * Down the other path is the way of mutual suspicion, fear, ill will, and indifference; the way of group rights and group preferences.''

I am proud to stand today with my colleagues in the House and the Senate, and others who have worked so hard for the cause of opportunity, to announce the introduction of the Civil Rights Act of 1997. The act represents our best efforts to recommit the nation to the ideal of equal opportunity for every American—to emphasize that we must resist the temptation to define the nation's problems in narrow racial terms, and rather must roll up our sleeves and begin the hard work of dealing with our problems as Americans, and as fellow human beings.

Of course, our critics will imply that those of us who today reject divisive racial preferences and distinctions do so because we underestimate the social, economic, and discriminatory obstacles some Americans face. President Clinton, for example, told his audience in San Diego last week that ''[t]he vast majority of [Californians who supported that state's Proposition 209] did it with a conviction that discrimination and isolation are no longer barriers to achievement.'' But that is just plain wrong.

To the contrary, last week in the Senate Judiciary Committee we heard from a panel of ordinary citizens who movingly told us of their experiences with discrimination in America. Among them was a Chinese-American mother from San Francisco, Charlene Loen, who told us how her young son Patrick was denied admission to an elite public magnet school, Lowell High School, because he is Chinese. The school district's efforts to ensure diversity among its students led it to employ a system of racial preference that had the effect of capping Chinese enrollment in many of its schools, forcing Chinese children to score much higher on entrance exams than children of other races. At virtually every public school Ms. Loen approached, she was first asked whether Patrick was Chinese, and when learning that he was, would inform Ms. Loen that Patrick need not apply. The Chinese quota was in effect full. Ladies and gentlemen, that is not the promise of America.

There should be no question that discrimination indeed continues to deny opportunities to too many Americans. At the Judiciary Committee's recent hearing we heard from black Americans, white Americans, Asian Americans, and even a victim of an outrageous hate crime. But the question that we all must answer is whether one American's racial suffering should be valued above another's. It is a question that will only become more complicated and more urgent as our population grows ever more diverse.

As we in the Judiciary Committee now know, when we prefer individuals of one race, we must by definition discriminate against individuals of another. But America's great social divide can never be crossed until we begin the work of building a bridge of racial reconciliation. By saying today, with the introduction of this act, that the Federal Government stands for the principle that racial discrimination in all its forms is wrong, we hope to take a small step forward on the path to healing the nation's racial wounds by recognizing that every American is equal before the law.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:44 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the House:

H.R. 1316. An act to amend chapter 87 of title 5, United States Code, with respect to the order of precedence to be applied in the payment of life insurance benefits.

The message also announced that pursuant to the provisions of section 3 of Public Law 94–304, the Speaker appoints the following Members of the House to the Commission on Security and Cooperation in Europe: Mr. HOYER, Mr. MARKEY, Mr. CARDIN, and Ms. SLAUGHTER.

The message also announced that the House agrees to the following concurrent resolution, in which it requests the concurrence of the Senate:

House Concurrent Resolution 102. Concurrent resolution expressing the sense of the Congress that the cost of government spending and regulatory programs should be reduced so that American families will be able to keep more of what they earn.

At 5:12 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 1306) to amend the Federal Deposit Insurance Act to clarify the applicability of host State laws to any branch in such State of an out-of-State bank.

At 6:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2015. An act to provide for reconciliation pursuant to subsections (b)(1) and (c) of section 105 of the concurrent resolution on the budget for fiscal year 1998.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 1306. An act to amend Federal law to clarify the applicability of host State laws to any branch in such State of an out-of-State bank, and for other purposes.

H.R. 1902. An act to immunize donations made in the form of charitable gift annuities and charitable remainder trusts from the antitrust laws and State laws similar to the antitrust laws.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1316. An act to amend chapter 87 of title 5, United States Code, with respect to the order of precedence to be applied in the payment of life insurance benefits; to the Committee on Governmental Affairs.

The following measure was read and referred as indicated:

House Concurrent Resolution 102. Concurrent resolution expressing the sense of the Congress that the cost of government spending and regulatory programs should be reduced so that American families will be able to keep more of what they earn; to the Committee on Governmental Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on June 19, 1997 he had presented to the President of the United States, the following enrolled bill:

S. 432. An act to extend certain privileges, exemptions, and immunities to Hong Kong Economic and Trade Offices.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2322. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, a draft of proposed legislation relative to the Apalachicola-Chattahoochee-Flint and Alabama Coosa-Tallapossa River Basin Compact Act; to the Committee on the Judiciary.

EC–2323. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, a rule relative to death benefits from the Thrift Savings Plan, received on June 16, 1997; to the Committee on Governmental Affairs.

EC–2324. A communication from the Acting Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, transmitting, pursuant to law, a report of a rule entitled ''Redress Provisions for Persons of Japanese Ancestry''; to the Committee on Governmental Affairs.

EC–2325. A communication from the General Counsel, Office of the Secretary, Department of Transportation, transmitting, a report of a rule entitled ''Federal-Aid Highway Systems'' (RIN2125—AD74), received on June 20, 1997; to the Committee on Environment and Public Works.

EC–2326. A communication from the Assistant Secretary for Human Resources and Administration, Department of Energy, transmitting, pursuant to law, a report of a proposed amendment to a Privacy Act System of Records; to the Committee on Governmental Affairs.

EC–2327. A communication from the Acting Comptroller General of the U.S., transmitting, pursuant to law, a report relative to the General Accounting Office issued in May 1997; to the Committee on Governmental Affairs.

EC–2328. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, a rule relative to information to participants in the Thrift Savings Plan, received on June 20, 1997; to the Committee on Governmental Affairs.

EC–2329. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, a rule relative to contributions to the Thrift Savings Plan by an employee, received on June 20, 1997; to the Committee on Governmental Affairs.

EC–2330. A communication from the General Counsel, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, five rules relative to Airworthiness Directives (RIN2120-AA64) received on June 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–2331. A communication from the General Counsel, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, six rules relative to modification of class E airspace received on June 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–2332. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule relative to North Carolina's scup commercial quota, received on June 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–2333. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule relative to lobster harvest in the Northwestern Hawaiian Islands received on June 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–2334. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report entitled ''National Implementation Plan for Modernization of the National Weather Service for Fiscal Year 1998''; to the Committee on Commerce, Science, and Transportation.

EC–2335. A communication from the General Counsel, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, five rules relative to safety and security zone regulations in Fort Lauderdale, Florida received on June 20, 1997; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

AIR FORCE

The following-named officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. Wallace W. Whaley, 1451

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Henry T. Glisson, 2048

ARMY

The following U.S. Army Reserve officers for promotion in the Reserve of the Army to the grades indicated under title 10, United States Code, sections 14101, 14315 and 12203(a):

To be brigadier general

Col. Herbert L. Altshuler, 8024

The following-named officers for promotion in the Regular Army of the United States to the grade indicated under title 10, United States Code, sections 611(a) and 624:

To be major general

Brig. Gen. Phillip R. Anderson, 3613
Brig. Gen. Burwell B. Bell III, 7158
Brig. Gen. Bryan D. Brown, 2565
Brig. Gen. Julian H. Burns, Jr., 6198
Brig. Gen. Michael T. Byrnes, 3271
Brig. Gen. John S. Caldwell, Jr., 8372
Brig. Gen. Reginal G. Clemmons, 8649
Brig. Gen. George F. Close, Jr., 3767
Brig. Gen. Carl H. Freeman, 0411
Brig. Gen. Joseph R. Inge, 8482
Brig. Gen. Phillip R. Kensinger, Jr., 0022
Brig. Gen. Donald L. Kerrick, 7369
Brig. Gen. Larry J. Lust, 3201
Brig. Gen. John J. Marcello, 0589
Brig. Gen. Timothy J. Maude, 3591
Brig. Gen. Dan K. McNeill, 4203
Brig. Gen. Paul T. Mikolashek, 2507
Brig. Gen. Mary E. Morgan, 3594
Brig. Gen. Bruce K. Scott, 8736
Brig. Gen. Jerry L. Sinn, 7044
Brig. Gen. James R. Snider, 6531
Brig. Gen. Edward Soriano, 3068
Brig. Gen. Julian A. Sullivan, Jr., 0245
Brig. Gen. John D. Thomas, Jr., 4220
Brig. Gen. Howard J. von Kaenel, 8603
Brig. Gen. William S. Wallace, 1708
Brig. Gen. William E. Ward, 9000
Brig. Gen. David S. Weisman, 2064

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. David K. Heebner, 6059

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. Darrel P. Baker, 3645
Brig. Gen. Murrel J. Bowen, Jr., 3419
Brig. Gen. John D. Havens, 8278
Brig. Gen. Eugene S. Imai, 4034
Brig. Gen. Thomas D. Kinley, 4548
Brig. Gen. Federico Lopez III, 0744
Brig. Gen. Joel W. Norman, 9456
Brig. Gen. John C. Rowland, 0461

To be brigadier general

Col. John C. Atkinson, 8232
Col. John A. Bathke, 6037
Col. William H. Hall, 6256
Col. Dennis A. Kamimura, 1117
Col. Eugene P. Klynoot, 5848
Col. Dennis D. Krsnak, 8983
Col. Benny M. Paulino, 5606
Col. James L. Pruitt, 4534
Col. Edwin H. Roberts, Jr., 0530
Col. Charles L. Rosenfeld, 2361
Col. John R. Scales, 7861
Col. John A. Tymeson, 5473
Col. Brian D. Winter, 0493

ARMY

The following-named officers for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Richard A. Chilcoat, 0462
Maj. Gen. Thomas N. Burnette, Jr., 2524
Maj. Gen. Paul J. Kern, 5577

To be general

Lt. Gen. Eric K. Shinseki, 3256

To be lieutenant general

Maj. Gen. Robert S. Coffey, 3824
Maj. Gen. John W. Hendrix, 7900

MARINE CORPS

The following-named officer for appointment in the U.S. Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Frank Libutti, 7862
Maj. Gen. John E. Rhodes, 6880

NAVY

The following-named officers for appointment in the Reserve of the Navy to the grade indicated under title 10, United States Code, section 12203:

To be rear admiral

Rear Adm. (lh) William H. Butler, 0815
Rear Adm. (lh) Casey W. Coane, 8883
Rear Adm. (lh) William E. Herron, 9271
Rear Adm. (lh) Stephen T. Keith, 7895
Rear Adm. (lh) William J. Logan, 2986

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Henry C. Giffin III, 4832

The following-named officers for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

To be rear admiral

Rear Adm. (lh) Timothy R. Beard, 3629
Rear Adm. (lh) David L. Brewer III, 8778
Rear Adm. (lh) Stanley W. Bryant, 0482
Rear Adm. (lh) Toney M. Bucchi, 9527
Rear Adm. (lh) William W. Copeland, Jr., 7826
Rear Adm. (lh) John W. Craine, Jr., 9037
Rear Adm. (lh) Robert E. Frick, 6699
Rear Adm. (lh) Paul G. Gaffney II, 0479
Rear Adm. (lh) Edmund P. Giambastiani, Jr., 8318
Rear Adm. (lh) John J. Grossenbacher, 5514
Rear Adm. (lh) James B. Hinkle, 6582
Rear Adm. (lh) Gordon S. Holder, 2235
Rear Adm. (lh) Martin J. Mayer, 0493
Rear Adm. (lh) Barbara E. McGann, 1961
Rear Adm. (lh) Charles W. Moore, Jr., 5696
Rear Adm. (lh) John B. Nathman, 6751
Rear Adm. (lh) William R. Schmidt, 6316
Rear Adm. (lh) Robert C. Williamson, 8427

To be rear admiral (lower half)

Capt. Joseph W. Dyer, Jr., 0881

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably 17 nomination lists in the Air Force, Army, Marine Corps, and the Navy which were printed in full in the CONGRESSIONAL RECORDS of January 9, February 5, April 7, May 15, June 2, 6, 10, and 11, 1997, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of January 9, February 5, April 7, May 15, June 2, 6, 10, and 11, 1997, at the end of the Senate proceedings.)

**In the Army there are 345 appointments to the grade of colonel (list begins with John A. Adams) (Reference No. 155).

**In the Army there are 130 appointments to the grade of colonel (list begins with Robert T. Anderson) (Reference No. 194).

**In the Marine Corps there is 1 appointment to the grade of colonel (Gilda A. Jackson) (Reference No. 271).

**In the Air Force there is 1 appointment to the grade of major (Andrew J. Jorgensen) (Reference No. 315).

**In the Army there are 34 appointments to the grade of lieutenant colonel (list begins with Charles R. Bailey) (Reference No. 316).

**In the Army there are 5 appointments to the grade of major (list begins with Chessley R. Atchison) (Reference No. 317).

**In the Marine Corps there is 1 appointment to the grade of colonel (Richard L. Songer) (Reference No. 318).

**In the Marine Corps there are 51 appointments to the grade of captain (list begins with Robert E. Ballard) (Reference No. 319).

**In the Navy there is 1 appointment to the grade of commander (Timothy S. Garrold) (Reference No. 320).

**In the Marine Corps Reserve there are 47 appointments to the grade of colonel (list begins with David J. Biow) (Reference No. 352).

**In the Navy there are 348 appointments to the grade of captain (list begins with James P. Adams) (Reference No. 353).

**In the Army Reserve there are 3 appointments to the grade of colonel (list begins with Robert R. Bottin, Jr.,) (Reference No. 360).

**In the Marine Corps there is 1 appointment to the grade of colonel (John M. Metterle) (Reference No. 367).

**In the Marine Corps there is 1 appointment to the grade of lieutenant colonel (John J. Egan) (Reference No. 368).

**In the Army there are 269 appointments to the grade of major (list beings with Doreen M. Agin) (Reference No. 369).

**In the Army there are 377 appointments to the grade of major (list beings with Bret T. Ackermann) (Reference No. 370).

**In the Navy there are 216 appointments to the grade of captain (list beings with Christine L. Abelein) (Reference No. 373).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KERRY (for himself, Mr. BUMPERS, Mr. HARKIN, Mr. GRASSLEY, Ms. LANDRIEU, Mr. CLELAND, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. LEVIN, Ms. SNOWE, and Mr. LAUTENBERG):

S. 956. A bill to amend section 7(m) of the Small Business Act to establish a Welfare-to-Work Microloan Pilot Program; to the Committee on Small Business.

By Mr. BINGAMAN (for himself, Mr. JEFFORDS, Mr. BOND, Mr. MACK, and Mr. D'AMATO):

S. 957. A bill to establish a Pension ProSave system which improves the retirement income security of millions of American workers by encouraging employers to make pension contributions on behalf of employees, by facilitating pension portability, by preserving and increasing retirement savings, and by simplifying pension law; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 958. A bill to provide for the redesignation of a portion of State Route 17 in New York and Pennsylvania as Interstate Route 86; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG:

S. 959. A bill to amend chapter 44 of title 18, United States Code, to prohibit the sale or transfer of a firearm to, or the possession if a firearm by, any person who is intoxicated; to the Committee on the Judiciary.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 960. A bill to amend the Atomic Energy Act of 1954 to authorize the Nuclear Regulatory Commission to direct that a portion of any civil penalty assessed be used to assist local communities; to the Committee on Environment and Public Works.

By Mr. INOUYE (by request):

S. 961. A bill to provide for rail passenger programs; to the Committee on Commerce, Science, and Transportation.

By Mr. BOND:

S. 962. A bill to amend the Indian Gaming Regulatory Act with respect to certain gaming practices on tribal lands held in trust by the Secretary of the Interior, and for other purposes; to the Committee on Indian Affairs.

By Mr. CHAFEE (for himself, Mr. GRAHAM, Mrs. BOXER, Mr. BENNETT, Mr. HATCH, and Mr. MOYNIHAN):

S. 963. A bill to establish a transportation credit assistance pilot program, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. MOSELEY-BRAUN [for herself and Mr. DURBIN]:

S. Res. 103. A resolution to congratulate the Chicago Bulls on winning the 1997 National Basketball Association Championship and proving themselves to be one of the best teams in NBA history; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY (for himself, Mr. BUMPERS, Mr. HARKIN, Mr. GRASSLEY, Ms. LANDRIEU, Mr. CLELAND, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. LEVIN, Ms. SNOWE, and Mr. LAUTENBERG):

S. 956. A bill to amend section 7(m) of the Small Business Act to establish a Welfare-to-Work Microloan Pilot Program; to the Committee on Small Business.

THE WELFARE-TO-WORK MICROLOAN PILOT PROGRAM ACT OF 1997

Mr. KERRY. Mr. President, I send a bill to the desk and ask for its appropriate referral.

Mr. President, I am pleased to introduce today the Welfare-to-Work Microloan Pilot Program Act of 1997, and I do so with Senators BUMPERS, HARKIN, GRASSLEY, LANDRIEU, CLELAND, LIEBERMAN, WELLSTONE, LEVIN, SNOWE, and LAUTENBERG. I thank and congratulate all of them for their commitment to this important program. This legislation will assure that Americans who have had to rely on public assistance have the same opportunities as other Americans to start and operate a small business.

Mr. President, America is the home of the entrepreneurial frontier. Here, anyone can explore boundless opportunities to try new things, to begin again, and to build new lives. Americans have inherited characteristics from the frontiersmen—embracing risk, change, and individualism—and applied it directly to starting and expanding American small businesses. As the ranking member of the Small Business Committee and a Senator from Massachusetts, I am honored to represent a State that employs more and more people and continues to fuel the national economy and job market. Massachusetts' 360,000 small firms are employing over 50 percent of our workers. From 1991 to 1995, all American businesses with fewer than 500 employees created 11 million new jobs, while businesses with more than 500 employees cut three million jobs overall.

I want to open the entrepreneurial frontier to all Americans who want to leave the welfare system behind and build new lives for themselves and their children.

The Welfare-to-Work Microloan Pilot Program is geared to assist people in moving people from welfare into the work force, not just as workers but as entrepreneurs. It is more than a jobs bill. It will not only build businesses, but it will build communities. This bill builds on the foundation of the SBA's remarkable Microloan Program which allows businesses and startup companies to receive development counseling and small loans of up to $25,000. The average microloan size is only $10,800. Under the Welfare-to-Work Microloan Pilot Program local organizations will serve welfare recipients by using SBA grants for intensive business development assistance. In addition, the bill will allow local organizations to help future business owners overcome two of the greatest obstacles that they have, access to affordable transportation and convenient child care.

Mr. President, I urge my colleagues to support this legislation—to assure that the American dream can be realized by all Americans and future generations. We must build a system now that will help our children. One in five of America's children—14.3 million—live in poverty. Two-thirds of welfare recipients are children. If we want to lift them up and out of poverty, we must give them new opportunities to explore and benefit from the resources of America's frontier. We must act now to provide their parents and guardians with a map across the entrepreneurial frontier.

Mr. President, the fact is that this type of program has already worked, and I just want to share a couple of quick examples with you. One of the people who has already received this type of grant under the Microloan Pilot Project is Karla Brown, owner of Ashmont Flowers Plus in Boston. In 1990, she found herself divorced with a young daughter, a mountain of debt, bad credit and unemployed as a result of major surgery. After being on disability for 3 years, she decided to start her own business. In 1993, she started selling flowers at a subway station. As the business grew, she leveraged the resources of local organizations, developed a business plan, received an SBA funded Microloan, and opened a store in Codman Square, a critical commercial node in a low-income neighborhood in Boston. With a $19,000 loan from the Jewish Vocational Service in Boston and a tremendous commitment to become a successful entrepreneur, she is now the proud owner of a business that has annual sales of $100,000 and employs two people part-time. Karla Brown's big idea of a flower shop was one of many new businesses applauded by an article entitled ''SBA Microloans Fuel Big Ideas'' in a recent issue of the U.S. Chamber of Commerce's magazine.

Karla is joined by others on this entrepreneurial frontier. In 1995, the Western Massachusetts Enterprise Fund made a loan of less than $10,000 to a divorced, single mother who was receiving public assistance. The woman believed in her own skills as a hairdresser and her own personal efforts. With the help of her community organization, she developed a marketing plan, targeted special underserved markets—homebound elderly, group home residents' and disabled people—and, in just 2 years, she is now busy with appointments all day long and has never missed a loan payment. In fact, under the SBA's Microloan Program, the Government has not lost one dime in the 6 years of operation because loan repayment rates are so high. The reason this program is so successful is because the SBA provides grants for technical assistance for the loan recipients and helps to make certain that these ventures are successful.

Another Massachusetts organization, Jobs for Fall River, Inc., saw the potential in a 35-year-old woman who was relying on welfare while caring for her elderly mother and her young son. She wanted to start a business to design clothing. Her first attempt at the enterprise failed because she was not able to afford the child care, transportation costs, and operating costs for running the business without a loan. However, after attending an 8-week intensive training session, she was able, through the assistance of Jobs for Fall River and SBA-provided funding, to develop a business plan and receive a loan in May of 1996.

We can open the entrepreneurial frontier for more Americans on public assistance with the Welfare to Work Microloan Pilot Program—partnering the resources of the SBA with local organizations like the Western Massachusetts Enterprise Fund, Jobs for Fall River, and the Jewish Vocation Services in Boston.

During a recent hearing before the Small Business Committee, an inspiring witness from Iowa, Mr. John Else of the Institute of Social and Economic Development, told of the successes his organization is working with welfare recipients under the SBA Microloan Program. Individuals in their program have a business success rate that is three times higher than the average for new businesses. His testament, combined with the requests of other local organizations for more flexibility to help this community, convinced me that we need to expand the success of this program.

Opening the frontier for more small businesses is critical to achieving the aims of welfare reform. States are now facing tall goals to reduce the welfare roles—their caseloads must be reduced by 25 percent this year under the new law. The growth in job creation is directly parallel to the growth in small businesses. In America today, there are over 22 million small businesses compared with only 14,000 big businesses. We see more women than ever exploring the entrepreneurial frontier. Women-owned businesses represent one-third of all U.S. companies, contribute more than $1.5 trillion in sales to the U.S. economy, and employ more people than the Fortune 500. Women-owned sole proprietorships have a start-up rate twice that of male-owned

businesses. It is important for us to help women move into entrepreneurial roles because women comprise a large share of welfare roles. I suggest that the program I am introducing today is an excellent way to move people from welfare into the marketplace, not just as workers and wage earners, but as business creators, as people who will be able to provide jobs for other people as well as gain their own self-sufficiency.

Because the record shows that during the 6 years of the Microloan pilot project the Federal Government has not suffered one loss, we ought to be prepared to replicate these results with programs that create more jobs and enhance the economy. I hope my colleagues will support this effort.

Mr. HARKIN. Mr. President, I rise to express support for the Welfare-to-Work Microloan Pilot Program Act of 1997. The existing Small Business Administration [SBA] Microloan Program has enjoyed great success in moving people off welfare and helping them start their own business. The welfare-to-work initiative will not only continue this success, but it will also improve the services provided by the current Microloan Program.

The existing Microloan Program has two components. First, it works to provide short-term loans of up to $25,000 to small businesses. SBA makes these loans through various nonprofit organizations that have close ties to their communities. Second, the Microloan Program also provides technical assistance to help clients learn important skills such as accounting, marketing, and advertising.

It is important that we continue the Microloan Program, and we must also look to implement other services that will make it more effective. The welfare-to-work initiative does just that by establishing a 3-year program that will continue and expand upon the existing program. Like the current law, this bill will extend loans and technical assistance, but it will also allow for more business planning and training assistance prior to extending loans to welfare recipients. It will also allow intermediaries to use supplemental grants to help borrowers with transportation and child care expenses. Extending these services is essential in order to allow welfare recipients who don't have the money for transportation and child care to participate in the program.

An example of the Microloan Program's success is the Institute for Social and Economic Development [ISED] in Iowa City, IA. ISED is different from most development corporations in the Microloan Program because it does not extend loans to its clients. Rather, it provides technical assistance and will act as an intermediary to set up a loan between their client and a bank. ISED's technical assistance program provides structured training in which clients develop plans for a profitable business. Due to this effort, ISED has enjoyed an extremely high success rate, with 70 percent of its client's businesses still operational. This statistic becomes even more impressive considering that of all the small businesses started across the Nation in the last 8 years over 70 percent no longer exist.

We must recognize that the welfare-to-work initiative benefits both welfare recipients and our taxpayers. The Microloan Program presents welfare recipients with the preferable option of self-employment as a means to move off welfare. At the same time, it saves the State money and moves people from being welfare recipients to taxpayers. In Iowa, nearly 400 welfare recipients have started and maintained their own small business, and the total savings to the State have been $1 million in welfare benefits alone.

The welfare-to-work initiative gives welfare recipients the opportunity to be self-sufficient. It provides the entrepreneur with the money to start a business, and the skills and services to maintain it.

By Mr. BINGAMAN (for himself, Mr. JEFFORDS, Mr. BOND, Mr. MACK, and Mr. D'AMATO):

S. 957. A bill to establish a Pension ProSave system which improves the retirement income security of millions of American workers by encouraging employers to make pension contributions on behalf of employees, by facilitating pension portability, by perserving and increasing retirement savings, and by simplifying pension law; to the Committee on Labor and Human Resources.

THE RETIREMENT SECURITY FOR ALL AMERICANS PENSION PRO-SAVE ACT

Mr. BINGAMAN. Mr. President, the problem of retirement security is an ever mounting challenge to the future welfare of our Nation. More than 51 million Americans are not covered by any kind of pension plan. The aging of the baby boom generation will dramatically increase the retired population in proportion to the working population early in the next century. By the year 2029, when the youngest baby boomers reach age 65, more than 68 million persons will be older than 65—accounting for more than 20 percent of the U.S. population, compared to just 12 percent today.

In my own State of New Mexico just 29 percent of our work force has some kind of pension plan. As this chart shows, New Mexico has the worst ranking in the nation in terms of workers covered by pensions. Just a few states have private sector working populations with over 50 percent covered by pensions.

Our Nation is facing certain crisis if we fail to take steps to correct this problem of people working until retirement—and finding that their Social Security benefits fail to maintain adequate and acceptable living standards. Despite the proliferation of retirement products in various forms of IRA's and 401(K) plans, patterns clearly show that those who earn enough to save probably do. Our problem is that over the last 18 years, we have had no increase in the percentage of our work force that is participating in a qualified pension program.

Those who are well off and can look forward to retirement security cannot afford to just abandon those who are not. We have a market failure that we must address, particularly as the Nation's traditional safety net is being rolled back because of budget cuts on so many other fronts. I am not opposed to improving and even expanding the pension plans of those who have them now. My concerns, however, are focused on the reality that we are improving existing pension plans, expanding IRA opportunities and creating new forms of individual retirement accounts, but we are still doing absolutely nothing to get a large portion of our uncovered work force covered by some degree of retirement savings.

The costs of doing what we need to do will be large. But let's think for a moment about the IRA provisions in the tax bill we are discussing today. The IRA expansion provisions in the Senate version of the bill cost approximately $3.3 billion during the first 5 years and $20.5 billion in the following 5 years. These costs may be appropriate and necessary—but at the same time, we need to confront the revenue impact of covering the parts of our society that currently have no retirement savings at all. I think that it is poor public policy to expand only one-half of the equation like we have been doing.

Mr. President, in order to ensure that this Congress does face the issue of retirement security for all working Americans and not just the fortunate minority who are saving, I am here to introduce the ''Retirement Security for All Americans Pension Pro-Save Act.''

The bill I am introducing outlines a concept for pension expansion and portability that has been discussed in this Chamber several times over the last several decades but which has not evolved until now as legislation. The Pension ProSave System, a clearinghouse for individual pension accounts, would improve the retirement income security of millions of working Americans by encouraging employees to make contributions on their behalf, by facilitating pension portability, by preserving and significantly increasing retirement savings and by simplifying pension law.

Mr. President, this plan is not aimed at the existing pension and savings structures in this country. This proposal targets those who are working their way towards retirement—and will have little or nothing to supplement their Social Security benefits. Despite 18 years of availability of simplified pension plans, pension coverage remains low in the small business sector. Even when covered by a tax-advantaged pension plan, workers do not always continue to save their pension assets when they can receive them when

moving from one place of employment to another. Tax penalties unfortunately have not been very successful in discouraging the spending of these mid-career retirement savings disbursements. Of the $47.9 billion in pre-retirement distributions made in 1990, less than 20% of recipients reported putting the entire distribution into another tax-qualified retirement plan.

The Pension ProSave Clearinghouse is modeled after the highly successful Teachers Insurance and Annuity Association-College Retirement Equity Fund [TIAA–CREF], the largest private pension system in the world with assets over $136 billion and about 1.7 million participants at about 5,500 institutions. Not replacing existing pension programs, Pension ProSave is designed to supplement these other programs and will increase pension coverage to millions of Americans.

The benefits of Pension ProSave are first, that this plan would provide an incentive and a simple, hassle free way for employers to provide portable pension benefits to their workers. Employees could also make matching contributions to their accounts on a 2:1 basis to a maximum of $6,000. The employer's contributions also would not exceed $6,000. Mr. President, I want to emphasize that these are the employee's accounts—not the government's and not the employer's. These accounts will remain with those workers the duration of their lives.

Second, Pension ProSave would stop the leakage of retirement savings by furnishing employer's pension contributions into a privately managed, pension portability clearinghouse. Worker's account balances would be invested and managed by private sector firms in diversified portfolios.

Let me explain how Pension ProSave would work. Any employer wishing to take advantage of the Pension ProSave Program would furnish the names of all employees, employed for at least 6 months and over 21 years of age, to the ProSave Portability Clearinghouse established in this Act. The employer will indicate each employee's salary and the uniform percentage of all salaries which the employer will contribute to employee ProSave accounts. The employer will have the option of changing its percentage contribution each year, as long as that contribution equals at least 1 percent. This can help business owners—who want to provide pension benefits to their employees—avoid getting locked into a rate that remains fixed while the economic performance of their small businesses may be volatile.

Once a ProSave account is established for an employee, the employer will forward contributions to the account at the time of each paycheck or at least prior to the end of that year.

With the agreement of the employee, an employer who has another defined benefit or defined contribution plan for its employees and who does not choose to establish ProSave accounts will still be able to use the portability clearinghouse as a repository for retirement funds of an employee who is leaving its employ. When a worker leaves one job where retirement benefits have accrued, the employee may request the employer to deposit the cash value of those retirement benefits—or any portion of them—in the Pro Save account of the employee at the portability clearinghouse.

Mr. President, the funds contributed by an employer to the retirement security of his or her employees by way of a ProSave account will remain there and be invested at the direction of the employee until retirement. The portability clearinghouse will contract with investment firms to manage funds through the clearinghouse. Investment options would include a fixed income fund, an equity fund, a government securities fund, small business capitalization fund, an international fund, and an infrastructure fund. Accounts would be valued on a daily basis, and participants could transfer funds among investment accounts at intervals determined by an oversight board, perhaps at monthly or quarterly intervals. Employers will have no responsibility for administering a pension fund or managing funds for employees who have left their employment. This should be very attractive to businesses that do not desire to carry long-term responsibilities for workers who have moved on.

While employer contributions are locked into the Pension ProSave accounts until retirement, funds contributed by the employee are available to be loaned for certain purposes and under terms established by the Portability Clearinghouse Board.

At retirement, account balances would be paid out either in the form of an annuity—with survivor benefits—or a lump sum retirement. Spousal consent would be required.

Mr. President, I have no doubt that some who oppose this plan will rattle the cages and make claims that this act is nothing but more big Government, another bureaucratic institution that spreads the Government further into our lives. These claims will be wrong—and will only serve to help maintain an economic reality that permits those best off in our society to save up to $30,000 a year on a tax-advantaged basis. Others in simple 401(k) plans can save up to $9,500 a year. It is unacceptable that workers who don't have an available pension plan—can only save $2,000 a year in IRA accounts.

We have a responsibility not only to create a more equitable savings structure for those Americans who have the desire and wherewithal to save—but also to the many Americans who are low-income workers who move from job to job eventually to retirement, finding then that nothing has accrued to help them in their retirement years.

Government had a role in establishing IRA's and 401(k)'s. Now we must do what we can to provide incentives to employers to provide modest retirement security for more employees. This plan is an enabler—it creates a structure, similar in many ways to the TIAA–CREF model established at the beginning of this century by Andrew Carnegie to provide pension portability for professors and university employees moving between one higher education institution and another.

This is an issue in which the Government does have an important role to play because the market has failed to provide the extension of pension coverage to 51 million Americans. Pension ProSave promotes savings, helps more people reach retirement with pensions, helps buffer against the turbulence of the economy, and provides many employers with a good vehicle for profit-sharing. All of these are benefits for our Nation as a whole.

For the employer, Pension ProSave provides a hassle-free, no red-tape way to make contributions to a pension—and frees employers from the responsibility and requirement of administering a pension plan.

The plan also increases the amount of the tax-deferred savings permitted for the employer and each employee. It gives the employer a vehicle for profit-sharing, and the employer escapes any and all responsibility for the employee's pension. Funds contributed to Pension ProSave will be exempt from other savings limits under current law for other pension products. This should provide a powerful incentive to owners of small businesses who can save more themselves if they make equivalent commitments to their employees.

For the employee, the benefits are most importantly that millions of pension-uncovered workers in this country will get coverage. This plan increases the amount of tax-deferred savings permitted to each employee, provides immediate vesting, and removes the concern that employees might have about the solvency of pension plans or their previous employers. Among other benefits, Pension ProSave eliminates political corruption in the administration of pension funds and provides one account that can be permanently maintained and in which funds can continually accrue no matter the number of job changes in a worker's career.

By having national visibility, Pension ProSave would make the concept of saving for retirement more attractive and appealing to employees. This plan would increase employer pension contributions on behalf of their workers without existing pension plans, rather than relying on 401(k) plans that are funded largely by employees' voluntary saving decisions. Employers would be able to make voluntary, tax-deductible contributions on behalf of their workers and would have flexibility in the amount they contribute each year.

Vesting would be immediate. Plan sponsors would be relieved of the expense and responsibility of providing financial education to their employees

and the legal implications of providing investment options.

Mr. President, I think that one cause of the extraordinary economic anxiety in our Nation is related to the eroding sense of financial security at retirement. A recent study of workers' views of their present and future economic circumstances found that most people believe that despite the twists, turns, and pitfalls in our rapidly changing economy, they can chart a successful course to retirement. But their anxiety levels were extremely high when concerns about the solvency of Social Security and about the great number of Americans without pension benefits were mentioned.

Americans include retirement security in their personal strategies for economic success. I believe that America is calling for a credible proposal that will get more of our citizens covered by some kind of pensions.

There is no doubt that the costs will be high and will impact the Nation's short term tax revenue. However, it is also clear that increasing retirement savings will help bolster national savings, which will help spur more long-term investment and economic growth. The high cost of this plan would be true of any plan that succeeds in establishing more retirement security for our working population. We seem to be willing to sustain high costs for expanding retirement opportunities for some; I just think we need to make sure that we are doing whatever we can to provide retirement savings coverage to the rest of society.

These are costs that we must consider and should bear—for the long term benefit of our Nation in whole. Establishing Pension Pro-Save accounts is an investment that will help our Nation better able to cope with the retirement savings crisis that we will certainly face in the future.

Mr. JEFFORDS. Mr. President, I am pleased to be an original cosponsor of the Pension ProSave Act with Senator JEFF BINGAMAN of New Mexico. Senator BINGAMAN has done yeoman's work in drafting this bill. I hope my colleagues will take time to read the bill and join us as cosponsors.

As the average age of Americans is rising at a steady rate, we all have become more aware of the importance of retirement programs and retirement security. At the same time, only about half of all workers are covered by a retirement program—and of those, many who are covered, work for a Federal, State, or local government entity. An incredible 87 percent of workers employed by small businesses, those with fewer than 20 employees, have no private retirement or pension coverage. Less than 40 percent of the 33 million Americans aged 65 and older collect a pension, other than Social Security. These numbers are cause for concern.

There are three sources for retirement security: Social Security, personal savings and a pension. Our bill has been offered in an effort to expand pension coverage, especially among small business establishments where coverage and participation is least likely to occur. The complexity and expense involved in setting up a pension plan is daunting. It is outside the grasp of many small businesses. In addition to administrative complexity and the cost of hiring an actuary, accountant and a lawyer to set up a plan, a small business often decides against plan sponsorship because of laws and regulations that actually discriminate against them, such as the prohibition on matching contributions for self-employed individuals, or limitations on contributions for small plans that are even lower than those permitted for the medium-sized or large pension plan.

Pension ProSave would permit the establishment of either a simplified defined contribution or a defined benefit pension plan or both, with greatly reduced recordkeeping, reporting and regulatory requirements. The ProSave system encourages thrift, through its defined contribution provisions, which are individual account plans and similar in concept to an IRA or a 401(k) plan, and through its simplified defined benefit plan provisions which are traditional pension plans promising a specific benefit payment upon retirement.

In addition, one of the most appealing features of Pension ProSave is the portability clearinghouse. The clearinghouse would make it easier for workers with ProSave accounts to take their pensions with them as they change jobs. True pension portability has been a most elusive objective for policymakers and yet it is one of the most important features that Americans want in pension programs.

A lack of portability also discourages long-term pension savings because it can encourage leakage. Pension system leakage occurs when a worker changes jobs and either cashes out a pension benefit or receives a lump sum distribution from a retirement plan and spends the money, rather than saving it. Taxing distributions has not stopped leakage from the system. The more difficult it is for that worker to transfer his account from one plan to another, the more likely it is that the worker will just spend the money. The more complicated and punitive the laws and regulations surrounding pension rollovers, the less likely a worker is to bother to make one. He or she will simply pay the penalty tax and spend the money.

Consequently, pension experts have spent a great deal of time and effort trying to figure out ways to ease these pension rollovers and overcome obstacles to portability so that people can save their all retirement money in a single account.

Let me pause for a moment to say that while Pension ProSave's portability feature is the result of many years of consultation and careful drafting, we realize that it would be quite difficult to justify a new government sponsored entity in these days of fiscal stringency. Our experience with the Pension Benefit Guaranty Corp. leads me to suggest that there could be a more efficient means of making Pension ProSave accounts portable than by establishing a new government sponsored entity to manage and invest them.

Individual retirement accounts (IRAs) are portable and yet can be invested in banks, certificates of deposit, mutual funds, equities or any number of other investment vehicles. Should we permit Pension ProSave accounts to be managed and invested in the private sector and if so, how should that be accomplished? By leveraging the power of the private sector, savers have the potential for more investment choices, and for higher rates of return on their investments. In addition, there currently exists in the private sector, mutual fund/401(k) clearinghouses which are used to track individual accounts and keep records of investments and account balances. Are these models for the Pension ProSave clearinghouse?

I look forward to hearing about these and other substantive and drafting issues from experts who are concerned about increasing retirement savings at the individual level and in increasing retirement coverage among small businesses where it is needed the most. I am especially interested in the concept of a simplified defined benefit plan which is portable and hope that we can explore that issue when hearings are held on this bill in the Labor and Human Resources Committee. Pension ProSave Act is a good bill. I am proud to cosponsor it and thank Senator BINGAMAN for his leadership in bringing us together to introduce it.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 958. A bill to provide for the redesignation of a portion of State Route 17 in New York and Pennsylvania as Interstate Route 86; to the Committee on Environment and Public Works.

THE REDESIGNATION OF ROUTE 17 AS INTERSTATE 86 ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise today with my distinguished fellow Senator from New York to introduce legislation that will redesignate sections of New York and Pennsylvania Route 17 as Interstate 86. The southern tier of New York has waited over 40 years for this historic legislation that will correct a mistake made in 1955 that has contributed to the economic decline of this once prosperous region.

When the original plans were being developed for the New York Interstate System, Route 17 was to be designated the main east-west interstate route. The (Federal) Bureau of Public Roads thought otherwise. They preferred the New York State Thruway which was already under construction using state moneys. Albany did not object nor did representatives of the region.

The error had no significance at the time, since no special funding was

available for interstates. The very next year, however, the Federal-Aid Highway Act of 1956 was enacted, creating a Highway Trust Fund to be funded through gasoline taxes. The Federal Government would now pay 90 percent of the cost of any interstate segment. The Southern Tier Expressway—Route 17—was not eligible for those interstate funds.

In the 1950's the region was still bustling—IBM was in Binghamton, half the television sets in the world were built in Elmira, Corning was a high tech contender, and Jamestown was a major manufacturing center. What begun as an Indian trail, became a great railroad, and a strikingly creative industrial corridor, was allowed to languish.

It is time we do something about it.

This legislation we introduce today would finally ameliorate the legacy of an opportunity missed long ago.

The bill would immediately designate 360 miles of Route 17 between Erie, PA and Harriman, NY, that meet Federal interstate construction standards as Interstate 86, creating connections to I–90, I–390, I–81, I–84, and I–87. The remaining 30 miles of Route 17 would be designated as a future part of the interstate system and will become I–86 as soon as the State Department of Transportation upgrades them. I am confident the NYDOT, working together with the Federal Highway Administration, will soon have the rest of Route 17 up to interstate standards.

The southern tier region, along with the rest of Upstate New York, has suffered enduring economic hardship and job losses, even as the national economy has boomed. The bill I propose to redesignate Route 17 as I–86 would help enhance the visibility of this important region and highlight its potential for business development and tourism.

I would also like to recognize the efforts of Samara Barend, a southern tier native, who was so effective in mobilizing support for this issue. I urge my colleagues to join with me in support of this most important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) the designation of a portion of State Route 17 in New York and Pennsylvania as an Interstate route would promote the visibility of the region, the potential of the region for business development and tourism, and the economic regrowth of the region; and

(2) a major portion of State Route 17 is a logical addition to the Interstate System and will provide an east-west interstate highway that benefits a large region of New York and Pennsylvania that has suffered competitively from the lack of such a highway.

SEC. 2. DESIGNATION OF PORTION OF STATE ROUTE 17 IN NEW YORK AND PENNSYLVANIA AS INTERSTATE ROUTE 86.

(a) IN GENERAL.—Subject to subsection (b)(2), the portion of State Route 17 located between the junction of State Route 17 and Interstate Route 87 in Harriman, New York, and the junction of State Route 17 and Interstate Route 90 near Erie, Pennsylvania, is designated as Interstate Route 86.

(b) SUBSTANDARD FEATURES.—

(1) UPGRADING.—Each segment of State Route 17 described in subject (a) that does not substantially meet the Interstate System design standards under section 109(b) of title 23, United States Code, in effect on the date of enactment of this Act shall be upgraded in accordance with plans and schedules developed by the applicable State.

(2) DESIGNATION.—Each segment of State Route 17 that on the date of enactment of this Act is not at least 4 lanes wide, separated by a median, and grade-separated shall—

(A) be designated as a future part of the Interstate System; and

(B) become part of Interstate Route 86 at such time as the Secretary of Transportation determines that the segment substantially meets the Interstate System design standards described in paragraph (1).

(c) TREATMENT OF ROUTE.—

(1) MILEAGE LIMITATION.—The mileage of Interstate Route 86 designated under subsection (a) shall not be charged against the limitation established by the first sentence of section 103(e)(1) of title 23, United States Code.

(2) FEDERAL FINANCING RESPONSIBILITY—

(A) IN GENERAL.—Subject to subparagraph (B), the designation of Interstate Route 86 under subsection (a) shall not create increased Federal financial responsibility with respect to the designated Route.

(B) USE OF CERTAIN FUNDS.—A State may use funds available to the State under paragraphs (1) and (5)(B) of section 104(b) of title 23, United States Code, to eliminate substandard features, and to resurface, restore, rehabilitate, or reconstruct, any portion of the designated Route.

By Mr. LAUTENBERG:

S. 959. A bill to amend chapter 44 of title 18, United States Code, to prohibit the sale or transfer of a firearm to, or the possession if a firearm by, any person who is introxicated; to the Committee on the Judiciary.

THE NO GUNS FOR DRUNKS ACT OF 1997

Mr. LAUTENBERG. Mr. President, today I am introducing legislation to prohibit firearm sales to, and possession by, individuals who are obviously intoxicated.

Mr. President, a casual observer might think that this legislation is not necessary. Most Americans probably think that it is already illegal to sell a gun to a visibly intoxicated person. At the very least, the average citizen likely believes that it is only common sense that a gun dealer would never sell a gun to a drunk customer. Unfortunately, neither assumption is correct. Some gun dealers do sell guns and ammunition to visibly intoxicated persons. My bill will deter these sales, and punishes those who persist in making such dangerous sales.

Federal and state laws currently prohibit the sale of alcohol to obviously drunk individuals, to protect both the intoxicated individual and others. Likewise, it is against the law for intoxicated persons to operate a motor vehicle. Unbelievably, it is not against Federal law to sell a firearm to a visibly intoxicated individual, or for an intoxicated person to possess a firearm.

Worse still, Mr. President, some firearms dealers simply ignore common sense and sell guns and ammunition to any customers if they are clearly intoxicated. The absence of a legal prohibition on such sales allows these gun dealers to escape liability for the absolutely tragic, and foreseeable, consequences of such outrageous conduct.

For instance, Deborah Kitchen, a mother of five children, is now a quadriplegic after being shot by her ex-boyfriend with a rifle he had purchased from a Florida K mart. This man was so drunk when he purchased the rifle that the store clerk had to fill out the Federal firearm purchase form on his behalf. By his own admission, the ex-boyfriend had consumed a fifth of whisky and a case of beer the day he shot Ms. Kitchen. Nevertheless, the store sold him a .22 caliber bolt action rifle and a box of bullets. He then used these to paralyze Ms. Kitchen from the neck down.

Ms. Kitchen sued the K mart for it's outrageous conduct. A jury found the store liable of common law negligence, and returned a verdict in the amount of $12 million. A Florida appeals court overturned the jury's verdict, citing the lack of statutory prohibition on the sale of firearms to intoxicated persons.

Or, Mr. President, consider the case of Anthony Buczkowski, who suffered severe injury after being shot by a drunken ammunition purchaser. William McKay stumbled into a Michigan K mart store after a day-long drinking spree. Although obviously drunk and an admitted ''mess'', he was still sold a box of shotgun shells. He later used this ammunition to shoot Mr. Buczkowski. Although the trial court entered a judgment against K mart for the damages suffered by Mr. Buczkowski, the Michigan Supreme Court reversed, citing a lack of legal prohibition for such sales.

Unfortunately, common sense and a sense of civic obligation have not been sufficient enough to deter these sales. Perhaps the threat of criminal and civil liability will do the job. Mr. President, it is my fervent hope that this legislation, if enacted, will end any future sales of guns and ammunition to intoxicated persons.

Mr. President, I do not claim that most licensed gun dealers do or would sell guns or ammunition to intoxicated individuals. But the fact is that these sales do occur—and when they happen, the consequences can be devastating.

Mr. President, our country now understands that alcohol and automobiles are a deadly mix. Common sense, and heartbreaking experience, tells us that alcohol and guns also do not mix. It is time that our laws reflect this common sense notion.

I urge my colleagues to support this bill, and ask unanimous consent that a

copy of the legislation be printed in the RECORD.

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

S. 959

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FIREARMS PROHIBITIONS RELATING TO INTOXICATED PERSONS.

Section 922(d) of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (9), by striking the period at the end and inserting ''; or''; and

(B) by adding at the end the following:

''(10) is intoxicated from the use of alcohol or a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).''; and

(2) in subsection (s)(3)(B)—

(A) in clause (vi), by striking ''and'' at the end;

(B) in clause (vii), by adding ''and'' at the end;

(C) by adding at the end the following:

''(viii) is not intoxicated from the use of alcohol or a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));''.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 960. A bill to amend the Atomic Energy Act of 1954 to authorize the Nuclear Regulatory Commission to direct that a portion of any civil penalty assessed by used to assist local communities; to the Committee on Environment and Public Works.

THE DISTRESSED COMMUNITIES SUPPORT ACT

Mr. DODD. Mr. President, I rise today to introduce legislation to help communities that suffer when nuclear power plants operate in an unsafe manner.

As most of my colleagues know, when the NRC discovers safety violations at a nuclear power plant, it is authorized to fine that facility for its transgressions, and these fines have been as high as $1.25 million. Under current law these fines go directly into the federal treasury, with no allowances being made for the communities that are home to these deficient nuclear power plants. When a nuclear facility is poorly operated, it often creates severe safety, environmental, and economic concerns for surrounding communities. Therefore, it is only fair that those communities should receive a portion of any NRC fines to go toward addressing matters of local concern. That is why I have introduced the Distressed Communities Support Act.

This legislation is simple and straightforward—it would allow 50 percent of the fines levied by the NRC against nuclear facilities to be funneled back to communities adversely affected by the plant's mismanagement.

The Distressed Communities Support Act would be extremely helpful to towns adjacent to nuclear plants which may be trying to develop special health, safety, and environmental programs. More important, this bill would help communities where the safety violations of the nuclear plant require that the plant be permanently shut down and decommissioned.

It is a fact that nuclear plants around the country are aging, making it increasingly difficult for many of them to meet safety standards and remain operational. Therefore, it is important that communities throughout the country have increased access to resources to deal with problems caused by negligent nuclear plants. In my home state of Connecticut, the time to help local communities is now.

The Connecticut Yankee nuclear plant in Haddam, Connecticut is in the beginning stages of decommissioning. In light of numerous safety violations, the Nuclear Regulatory Commission ordered the plant closed until these safety concerns were addressed. Then, in December of 1996, the owners of Connecticut Yankee decided to permanently close the facility. This decision came despite the fact that the license for the facility was set to expire in 2007. While the owners of Connecticut Yankee had chosen to permanently close the plant, the NRC continued its review of the safety violations, and fined Connecticut Yankee $650,000.

This early decommissioning of this plant will have a dramatic impact on Haddam and other surrounding towns. Connecticut Yankee was the area's largest employer and represented almost half of the tax base in the town of Haddam—a town of just under 7,500 residents. It employed more than 300 individuals. The sudden loss of tax revenue and jobs will have a devastating impact on this area, and the town may well be forced to raise local taxes and make cuts in town services, including the public schools.

In addition to the economic impact is the serious health and environmental impact of the way in which this facility was run. The people of Haddam and surrounding towns are facing difficult days as they contend with radioactive waste and related problems.

While local officials and residents are looking at innovative ways to rebuild their town's tax base, Haddam needs and clearly deserves financial assistance to get on the road to economic recovery. As we look for ways to provide financial assistance for this community, it only seems logical that some portion of the $650,000 in fines should go toward helping these people.

It is even more fitting that a town like Haddam should receive some federal assistance, because the federal government is partly responsible for this town's problems. NRC Commissioner Shirley Jackson has stated that the NRC failed to adequately regulate this plant to ensure safety, and stricter monitoring could have prevented a number of the problems that this plant has experienced. A recent GAO report released by Senator LIEBERMAN details the failings of the NRC in overseeing CT Yankee and other plants.

In most every case where a nuclear power plant's negligence prompts a fine by the NRC, the communities surrounding the plant will feel some negative repercussions. Therefore, I believe that a portion of these fines should be available to the affected communities.

While the Distressed Communities Support Act will not solve all of the problems of towns like Haddam, Connecticut, it is a fair and simple initiative that will provide relief to thousands of Americans.

I hope my colleagues will join me in supporting this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 960

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF PORTION OF CIVIL PENALTY ASSESSED BY THE NUCLEAR REGULATORY COMMISSION TO ASSIST LOCAL COMMUNITIES.

Section 234 of the Atomic Energy Act of 1954 (42 U.S.C. 2282) is amended by adding at the end the following:

''d. USE OF PORTION OF CIVIL PENALTY TO ASSIST LOCAL COMMUNITIES.—In imposing a civil penalty on a person, the Commission may direct the person to pay 50 percent of the amount of the civil penalty to local communities to protect local communities from the adverse economic and other affects of a violation of this Act or of decommissioning of a facility under this Act.''.

By Mr. BOND:

S. 962. A bill to amend the Indian Gaming Regulatory Act with respect to certain gaming practices on tribal lands held in trust by the Secretary of the Interior, and for other purposes; to the Committee on Indian Affairs.

THE GAMBLING CLARIFICATION ACT OF 1997

Mr. BOND. Mr. President, I rise to introduce legislation to reform the Indian Gaming Regulatory Act. There is, as I speak, a tribe that is attempting to move into the State of Missouri to build a large gambling casino. I do not believe the tribe is entitled to build this casino under the Indian gaming law, but while Secretary Babbitt has indicated he would consider our views in making his decision, he may rule in favor of the tribe and those who favor gambling. The only way to reverse his decision would be for Congress to change the law and I plan to start that process now.

As my colleagues know, Mr. President, the Indian Gaming Regulatory Act became law in 1988 to address the rapid growth of gambling on Indian tribal lands. The Supreme Court affirmed the sovereignty of Indian tribes and upheld their right to conduct gambling on their tribal lands, holding that such a right could only be abrogated by an act of Congress. Recognizing that it is the policy of the majority of the States to prohibit or drastically regulate gambling and recognizing that many of the citizens of these States regard gambling as morally repugnant, Congress passed the Indian Gambling Regulatory Act.

The intent of the Indian Gaming Regulatory Act is to balance tribal sovereignty with a State's interest in regulating and controlling gambling. The bill attempted to accomplish this by bringing parties to a mutual table to work out an agreement for regulating gambling on reservations consistent with State policy. But the spirit of the legislation is one of containment, to limit gambling and control its growth. IGRA pursues the objective by narrowly restricting the circumstances by which gaming can be conducted on land acquired by tribes after the date of passage of the statute, October 17, 1988. However, like many pieces of regulation, unforeseen circumstances arise, loopholes open and language proves to be too vague or obtusely drafted. Such is the case with IGRA. My legislation does not attempt to reopen or rewrite the bill, but it does attempt to address some of the legislative voids that affect my State and others.

A first step for a tribe to conduct gaming on Indian land is to petition the Secretary of the Interior to have land taken into trust, this permits the tribe to benefit from the tax advantages afforded Indian tribes. While such trust petitions are under review by the Secretary, he is instructed to review the petition considering the best interests of both the tribe and the surrounding community. Furthermore, while such a petition is under review, elected officials have an opportunity to confront the Secretary with any concerns regarding gambling on that land or any objections that community members may hold regarding gambling. The statute, however, does not require the tribe to declare to the Secretary that land will be used for gambling. Furthermore, there is nothing in the statute that would prohibit a tribe from representing to the local community and the Secretary that land will be used for an unobjectionable purpose, only to begin using the land for gambling after it has been placed in trust.

My legislation will require a tribe that is planning to begin conducting gambling on newly acquired tribal land to inform the Secretary during the trust application process that the land in question will in fact be used for gambling. Tribes with land held in trust that have not made such a declaration to the Secretary will be prohibited from using that land for gambling until such time as the tribe applies with the Secretary to have that land held in trust for the specific purpose of gambling. I believe this language will encourage the tribes to be open and upfront regarding their gambling plans for the trust land and is in the best interests of communities to be affected by gambling and in the best interests of the tribal-community relations. Communities that have serious concerns with the introduction of gambling to their neighborhoods will be given the opportunity to register their concerns with their elected officials and with the Secretary of the Interior. Tribes will also be disinclined to misrepresent their intentions or engage in any deceptive tactics to acquire land to begin or expand their gambling operations, which will go a long way to abating any suspicion between the tribes and the surrounding communities.

This language also clarifies the language regarding tribes in the State of Oklahoma, a State where there is no tribal reservations, attempting to spread their gaming operations into a neighboring State. I believe such a practice was not foreseen by the original statute and is inconsistent with the spirit of that statute. Specifically, my legislation will permit an Oklahoma tribe to expand their gaming operations into a neighboring state, but only when the tribe is located in that State and the gaming will be conducted within the boundaries of a former reservation. My State is confronted with a situation where a tribe has purchased land reaching across the State border into Missouri and the tribe is attempting to use that recently purchased land to claim residency in Missouri for the purpose of the statute. To me, that is exploiting the loose drafting of a statutory language. I do not believe the tribe is located in Missouri as contemplated by the statute and, therefore, is not entitled to bring a casino into this Missouri community over the overwhelming objections of Missourians. My bill will make this section clear.

Finally, the Indian Gaming statute authorizes tribes to conduct gaming on their reservations and other trust lands to the extent that gaming is permitted in that State. Such language is consistent with other Federal law by which tribes are subject to the criminal laws of the State but they are not subject to the regulations of the State. The Missouri constitution prohibits land-based gaming, gaming of this class may only be conducted on floating facilities on the Missouri River or Mississippi River. This prohibition was a popular referendum passed by the people of the State and the State legislature endorsed the objection to land-based gaming in a resolution. My legislation clearly states the Missouri Constitution contains a prohibition on land-based casinos and may not be interpreted in any way to permit class III land-based gaming. I might add that where a State has spoken so clearly—and the State constitution is certainly a clear statement of intent—I find it absurd that outsiders can just come in and do what the local people have said they oppose.

Mr. President, my proposals are not an exhaustive list, but the statute has caused a situation in my State that this legislation will address. I understand that the chairman of the Committee on Indian Affairs will be pursuing a larger package of amendments to address the problems in the gaming laws. I encourage him to do so, I look forward to working with him and I encourage my colleagues to join us in this effort. I want to conclude by reiterating that Federal Indian gambling legislation is intended to control and contain Indian gambling. Unfortunately the legislation is riddled with loopholes that out-of-State gambling interests can exploit through tribes like the Eastern Shawnee to operate gambling parlors. The people of southwest Missouri do not want any kind of casino gambling and I am going to do everything I can do legislatively and through the regulatory process to stop it.

I ask unanimous consent to include a copy of the bill and a brief question and answer in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Gaming Clarification Act of 1997''.

SEC. 2. LAND BASED GAMING PROHIBITION OF THE CONSTITUTION OF THE STATE OF MISSOURI.

Section 20(b) of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)) is amended by adding at the end the following:

''(4) Section 39(e) of article III of the Constitution of the State of Missouri, which authorizes the legislature of the State to permit games of chance only upon the Missouri River or the Mississippi River, conducted on excursion gambling boats and floating facilities—

''(A) is a prohibitory measure; and

''(B) may not be construed to permit land-based class III gaming of any kind for any purpose.''.

SEC. 3. APPLICABILITY OF RESTRICTIONS.

Section 20(b) of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)), as amended by section 2, is further amended by adding at the end the following:

''(5) Notwithstanding any other provision of this subsection, subsection (a) shall apply to any lands acquired by the Secretary in trust for the benefit of an Indian tribe after the date specified in that subsection, if, at the time of the taking of those lands into trust, those lands are located outside of the State in which the Indian tribe is located.''.

SEC. 4. DECLARATION OF INTENT TO CONDUCT GAMING.

Section 20 of the Indian Gaming Regulatory Act (25 U.S.C. 4719) is amended by adding at the end the following:

''(e) DECLARATION OF INTENT TO CONDUCT GAMING.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, including any other provision of this Act, lands taken into trust for an Indian tribe after the date of enactment of the Gaming Clarification Act of 1997, shall not, for the purposes of this Act, be considered to be Indian lands upon which class II or class III gaming may be conducted in accordance with this Act.

''(2) EXCEPTION.—With respect to trust lands described in paragraph (1) of an Indian tribe, class II or class III gaming may be conducted on those lands in accordance with this Act if—

''(A) the Indian tribe submits an application to the Secretary of the Interior that contains an explicit declaration of the intent of the Indian tribe to conduct gaming on those lands; and

''(B) the Secretary of the Interior, in accordance with procedures established by the Secretary, including reviewing the applicability of subsection (b)(4), approves the declaration contained in the petition.''.

QUESTIONS AND ANSWERS ABOUT SENATOR BOND'S INDIAN GAMBLING LEGISLATION

Why is this legislation needed?

The people of Southwest Missouri and their elected representatives have valiantly fought against the Eastern Shawnee tribes proposed casino project in Seneca. In addition, Creative Gaming International, the gambling company that is working with the tribe to establish the casino, has also purchased land near Branson where they intend to open another casino. At this time the tribe's application to have the Seneca land taken into federal trust is pending with the Secretary of the Interior. While Senator Bond has repeatedly asked Interior Secretary Babbitt to deny the tribe's petition, the outcome is uncertain. Loopholes in the Indian Gaming Regulatory Act (IGRA), the federal legislation that regulates Indian gambling, need to be closed to prevent tribes from locating in states where local citizens oppose gambling.

Will this legislation interfere with the legal action that the State has taken?

Senator Bond did not want to pursue any angle that would interfere with any other efforts taken at the state level to keep the casino out. The Attorney General of Missouri filed suit on August 19, 1996, but filed a motion to dismiss the case on November 18, 1996, which was granted on November 27, 1996. The fact that the case has been dropped means Bond's legislation will not interfere with state efforts to stop the casino.

Is this a fix for Missouri or a change in the gaming statute affecting all tribes?

Both. As the situation in Missouri illustrates, the federal statute intended to control the growth of this sort of gambling is vague, poorly drafted and full of loopholes. The Eastern Shawnee tribe is depending on this vague statute and its loopholes to move into Missouri and open a casino, activities that are directly contrary to the intent of the statute. By focusing on several of the legal loopholes, I believe we can solve the problem facing the State of Missouri and other states whose citizens object to gambling facilities.

Can this legislation pass?

Absolutely. The Senate Committee on Indian Affairs is proceeding with legislation this session to correct many of the defects with the laws governing Indian gambling. Bond has met with the committee chairman, Sen. Ben Nighthorse Campbell, and he is aware of the situation in Missouri. Sen. Campbell has several concerns with the law that are similar to Missouri's and has pledged his cooperation to correct this problem.

Congress sometimes moves slowly; does Bond have an alternative plan?

Through his membership on the Senate Appropriations Committee, Bond is well-situated to add language to the annual Department of Interior Appropriations bill which would prevent the Secretary of the Interior from placing this land into trust.

Hasn't the Eastern Shawnee tribe tried to assure local citizens that they no longer intend to develop a casino site on the Seneca land?

Talk is cheap. The tribe has not amended their petition application with the Department of Interior to reflect the fact that they no longer intend to open a casino. Also, Creative Gaming International, the New Jersey company working with the tribe, noted in a press release just last Friday that they were continuing to pursue ''Native American gaming in southwest Missouri.''

By Mr. CHAFEE (for himself, Mr. GRAHAM, Mrs. BOXER, Mr. BENNETT, Mr. HATCH, and Mr. MOYNIHAN):

S. 963. A bill to establish a transportation credit assistance pilot program, and for other purposes; to the Committee on Environment and Public Works.

THE TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT OF 1997

Mr. CHAFEE. Mr. President, today I am introducing the Transportation Infrastructure Finance and Innovation Act of 1997,—or, TIFIA. The purpose of the bill is to bridge the gap between the Nation's substantial infrastructure needs and limited Federal funds. I am pleased to report that Senators GRAHAM of Florida, BOXER, HATCH, BENNETT, and MOYNIHAN have joined me in cosponsoring this important measure.

I think we can all agree that there is a clear shortfall of public funding to meet the Nation's transportation needs. Our effort to balance the Federal budget only makes the challenge of meeting these critical needs all the more difficult.

The goals of our bill are to offer the sponsors of major transportation projects a new tool to make the most of limited Federal resources, stimulate additional investment in our Nation's infrastructure, and encourage greater private sector participation in meeting our transportation needs.

TIFIA establishes a new Federal credit program for surface transportation. It will provide $800 million in credit assistance over six years to public and private entities, with the purpose of leveraging as much as $16 billion in Federal funds for major transportation projects. In turn, this Federal investment could help leverage total investment in infrastructure from other public and private entities of $40 to $50 billion. Eligible forms of credit assistance available through our proposal include loans, loan guarantees, and lines of credit.

WHAT KINDS OF PROJECTS WOULD QUALIFY FOR THIS ASSISTANCE?

National significance. Projects participating in this program must be determined by the Secretary of Transportation to be ''regionally or nationally'' significant. Projects must enhance the national transportation system, reduce traffic congestion, and protect the environment.

Large projects. This program is targeted at large projects that are difficult, if not impossible, to fund through traditional means such as using a State's annual allocation in the Federal highway program. Projects participating in the program must cost at least 100 million dollars, or 50 percent of a State's most recent annual apportionment of federal-aid highway funds, whichever is less.

Eligibility. The project must be a surface transportation facility eligible for federal assistance—i.e., a highway, transit, passenger rail, or intermodal facility.

State and local support. The project must be included in the State transportation plan and be in the approved State Transportation Improvement Program.

User charges. Projects must be self-financing through user fees or other non-federal revenue sources.

WHY IS THIS PROGRAM NEEDED IN ADDITION TO STATE INFRASTRUCTURE BANKS?

The new credit assistance program will supplement existing Federal programs, such as the State Infrastructure Banks or SIB's. Large projects of national importance are simply too big to be financed by SIB's. As start-up financial institutions, SIB's are limited in the amount of assistance they can provide in the near term. The credit assistance available through TIFIA will help fill this gap in the near term.

WILL THE FEDERAL GOVERNMENT SHOULDER ALL OF THE RISK FOR THESE PROJECTS?

No, under TIFIA, the Federal Government will participate in the new credit assistance program as a minor investor. Our bill limits Federal participation to 33 percent of total project costs.

I want to emphasize that the new credit assistance program established in TIFIA is a limited, six-year pilot program. The ultimate objective of the program is to phase out Federal participation in these large projects and allow private capital investment to take on this function. It is time to try a new approach and see how it works.

The benefits of private sector involvement in this area are enormous. Giving the private sector a larger role will reduce project costs and advance construction schedules. It also will attract much needed private capital, and more equitably distribute risks between public and private sectors.

Now more than ever, we must preserve the strengths of the transportation system we have in place. Yet, we also must anticipate the future, addressing new problems with innovative solutions. This new credit program is just the sort of creative mechanism we should be advancing.

It is my hope that the new credit assistance program in the bill I introduce today will be included as part of the reauthorization of the Intermodal Surface Transportation Efficiency Act. As I have said before, the ISTEA reauthorization process must reach out for ideas on creative ways, like this one, to finance our infrastructure needs. The combination of our nation's transportation infrastructure needs and the significant fiscal constraints at all levels of government make this effort imperative. This measure has the endorsement of the American Road and Transportation Builders Association; PSA, the Bond Market Trade Association; the Internationals Union of Operating Engineers; the Building and Construction Trades Department; and Project America. I urge my colleagues to give this sensible measure their support.

Mr. President, I ask unanimous consent that the text and description of the bill be included in the RECORD.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Transportation Infrastructure Finance and Innovation Act of 1997''.

SEC. 2. FINDINGS.

Congress finds that—

(1) a well-developed system of transportation infrastructure is critical to the economic well-being, health, and welfare of the people of the United States;

(2) traditional public funding techniques such as grant programs are unable to keep pace with the infrastructure investment needs of the United States because of budgetary constraints at the Federal, State, and local levels of government;

(3) major transportation infrastructure facilities that address critical national needs, such as intermodal facilities, border crossings, and multistate trade corridors, are of a scale that exceeds the capacity of Federal and State assistance programs in effect on the date of enactment of this Act;

(4) new investment capital can be attracted to infrastructure projects that are capable of generating their own revenue streams through user charges or other dedicated funding sources; and

(5) a Federal credit program for projects of national significance can complement existing funding resources by filling market gaps, thereby leveraging substantial private co-investment.

SEC. 3. DEFINITIONS.

In this Act:

(1) ELIGIBLE PROJECT COSTS.—The term ''eligible project costs'' means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

(C) interest during construction, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

(2) FEDERAL CREDIT INSTRUMENT.—The term ''Federal credit instrument'' means a secured loan, loan guarantee, or line of credit authorized to be made available under this Act with respect to a project.

(3) LENDER.—The term ''lender'' means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(4) LINE OF CREDIT.—The term ''line of credit'' means an agreement entered into by the Secretary with an obligor under section 6 to provide a direct loan at a future date upon the occurrence of certain events.

(5) LOAN GUARANTEE.—The term ''loan guarantee'' means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(6) LOCAL SERVICER.—The term ''local servicer'' means—

(A) a State infrastructure bank established under title 23, United States Code; or

(B) a State or local government or any agency of a State or local government that is responsible for servicing a Federal credit instrument on behalf of the Secretary.

(7) OBLIGOR.—The term ''obligor'' means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(8) PROJECT.—The term ''project'' means any surface transportation facility eligible for Federal assistance under title 23 or chapter 53 of title 49, United States Code.

(9) PROJECT OBLIGATION.—The term ''project obligation'' means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

(10) SECURED LOAN.—The term ''secured loan'' means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 5.

(11) STATE.—The term ''State'' has the meaning given the term in section 101(a) of title 23, United States Code.

(12) SUBSTANTIAL COMPLETION.—The term ''substantial completion'' means the opening of a project to vehicular or passenger traffic.

SEC. 4. DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.

(a) ELIGIBILITY.—To be eligible to receive financial assistance under this Act, a project shall meet the following criteria:

(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project—

(A) shall be included in the State transportation plan required under section 135 of title 23, United States Code; and

(B) at such time as an agreement to make available a Federal credit instrument is entered into under this Act, shall be included in the approved State transportation improvement program required under section 134 of that title.

(2) APPLICATION.—A State, a local servicer identified under section 7(a), or the entity undertaking the project shall submit a project application to the Secretary.

(3) ELIGIBLE PROJECT COSTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this Act, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(i) $100,000,000; or

(ii) 50 percent of the amount of Federal-aid highway funds apportioned for the most recently-completed fiscal year under title 23, United States Code, to the State in which the project is located.

(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed $30,000,000.

(4) DEDICATED REVENUE SOURCES.—Project financing shall be repayable in whole or in part by user charges or other dedicated revenue sources.

(5) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraphs (1) and (2).

(b) SELECTION AMONG ELIGIBLE PROJECTS.—

(1) ESTABLISHMENT.—The Secretary shall establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (a).

(2) INCLUDED CRITERIA.—The selection criteria shall include the following:

(A) The extent to which the project is nationally or regionally significant, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system. Specific factors determining national significance shall include the extent to which the project—

(i) is part of the National Highway System and related connectors as specified in section 103(b) of title 23, United States Code;

(ii) promotes regional, interstate, or international commerce;

(iii) enables United States manufacturers to deliver their goods to domestic and foreign markets in a more timely, cost-effective manner;

(iv) stimulates new economic activity and job creation;

(v) reduces traffic congestion, thereby increasing workforce productivity; and

(vi) protects and enhances the environment, including by enhancing air quality through the reduction of congestion and decreased fuel and oil consumption.

(B) The creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment. The Secretary shall require each project applicant to provide a preliminary rating opinion letter from a nationally recognized bond rating agency.

(C) The extent to which assistance under this Act would foster innovative public-private partnerships and attract private debt or equity investment.

(D) The likelihood that assistance under this Act would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

(E) The extent to which the project uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project.

(F) The amount of budget authority required to fund the Federal credit instrument made available under this Act.

(c) FEDERAL REQUIREMENTS.—The following provisions of law shall apply to funds made available under this Act and projects assisted with the funds:

(1) Section 113 of title 23, United States Code.

(2) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(3) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(4) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(5) Section 5333 of title 49, United States Code.

SEC. 5. SECURED LOANS.

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) and (3), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

(A) to finance eligible project costs; or

(B) to refinance interim construction financing of eligible project costs;

of any project selected under section 4.

(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under

paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

(3) AUTHORIZATION PERIOD.—The Secretary may enter into a loan agreement during any of fiscal years 1998 through 2003.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(3) PAYMENT.—The secured loan—

(A) shall be payable, in whole or in part, from revenues generated by any rate covenant, coverage requirement, or similar security feature supporting the project obligations or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(4) INTEREST RATE.—The interest rate on the secured loan shall be equal to the yield on marketable United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

(5) MATURITY DATE.—The final maturity date of the secured loan shall be not later than 35 years after the date of substantial completion of the project.

(6) NONSUBORDINATION.—The secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(7) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to the Federal Government of making a secured loan under this section.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

(4) DEFERRED PAYMENTS.—

(A) AUTHORIZATION.—If, at any time during the 10 years after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay scheduled principal and interest on the secured loan, the Secretary may, pursuant to established criteria for the project agreed to by the entity undertaking the project and the Secretary, allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the loan beginning not later than 10 years after the date of substantial completion of the project in accordance with paragraph (1).

(5) PREPAYMENT.—

(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(d) SALE OF SECURED LOANS.—As soon as practicable after substantial completion of a project, the Secretary shall sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

(e) LOAN GUARANTEES.—

(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

(2) TERMS.—The terms of a guaranteed loan shall be consistent with the terms set forth in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

SEC. 6. LINES OF CREDIT.

(a) IN GENERAL.—

(1) AGREEMENTS.—The Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 4.

(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNTS.—

(A) TOTAL AMOUNT.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(B) ONE-YEAR DRAWS.—The amount drawn in any 1 year shall not exceed 20 percent of the total amount of the line of credit.

(3) DRAWS.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest, any debt service reserve fund, and any other available reserve) are insufficient to pay debt service on project obligations.

(4) INTEREST RATE.—The interest rate on a direct loan resulting from a draw on the line of credit shall be equal to the yield on 30-year marketable United States Treasury securities as of the date on which the line of credit is obligated.

(5) SECURITY.—The line of credit—

(A) shall be made available only in connection with a project obligation secured, in whole or in part, by a rate covenant, coverage requirement, or similar security feature or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(6) PERIOD OF AVAILABILITY.—The line of credit shall be available during the period beginning on the date of substantial completion of the project and ending not later than 10 years after that date.

(7) RIGHTS OF THIRD PARTY CREDITORS.—

(A) AGAINST FEDERAL GOVERNMENT.—A third party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on the line of credit.

(B) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the lenders' behalf.

(8) NONSUBORDINATION.—A direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(9) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to the Federal Government of providing a line of credit under this section.

(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A line of credit under this section shall not be issued for a project with respect to which another Federal credit instrument under this Act is made available.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each direct loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) TIMING.—All scheduled repayments of principal or interest on a direct loan under this section shall commence not later than 5 years after substantial completion of the project and be fully repaid, with interest, by the date that is 20 years after the end of the period of availability specified in subsection (b)(6).

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

SEC. 7. PROJECT SERVICING.

(a) REQUIREMENT.—The State in which a project that receives financial assistance under this Act is located may identify a local servicer to assist the Secretary in servicing the Federal credit instrument made available under this Act.

(b) AGENCY; FEES.—If a State identifies a local servicer under subsection (a), the local servicer—

(1) shall act as the agent for the Secretary; and

(2) may receive a servicing fee, subject to approval by the Secretary.

(c) LIABILITY.—A local servicer identified under subsection (a) shall not be liable for the obligations of the obligor to the Secretary or any lender.

(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

SEC. 8. OFFICE OF INFRASTRUCTURE FINANCE.

(a) DUTIES OF THE SECRETARY.—Section 301 of title 49, United States Code, is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(9) develop and coordinate Federal policy on financing transportation infrastructure, including the provision of direct Federal credit assistance and other techniques used to leverage Federal transportation funds.''.

(b) OFFICE OF INFRASTRUCTURE FINANCE.—

(1) IN GENERAL.—Chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"§ 113. Office of Infrastructure Finance

''(a) ESTABLISHMENT.—The Secretary of Transportation shall establish within the Office of the Secretary an Office of Infrastructure Finance.

''(b) DIRECTOR.—The Office shall be headed by a Director who shall be appointed by the Secretary not later than 180 days after the date of enactment of this section.

''(c) FUNCTIONS.—The Director shall be responsible for—

''(1) carrying out the responsibilities of the Secretary described in section 301(9);

''(2) carrying out research on financing transportation infrastructure, including educational programs and other initiatives to support Federal, State, and local government efforts; and

''(3) providing technical assistance to Federal, State, and local government agencies and officials to facilitate the development and use of alternative techniques for financing transportation infrastructure.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 49, United States Code, is amended by adding at the end the following:

''113. Office of Infrastructure Finance.''.

SEC. 9. STATE AND LOCAL PERMITS.

The provision of financial assistance under this Act with respect to a project shall not—

(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

SEC. 10. REGULATIONS.

The Secretary may issue such regulations as the Secretary determines appropriate to carry out this Act and the amendments made by this Act.

SEC. 11. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this Act—

(A) $40,000,000 for fiscal year 1998;

(B) $60,000,000 for fiscal year 1999;

(C) $100,000,000 for fiscal year 2000;

(D) $150,000,000 for fiscal year 2001;

(E) $200,000,000 for fiscal year 2002; and

(F) $250,000,000 for fiscal year 2003.

(2) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

(b) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this Act shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit instrument.

(c) LIMITATIONS ON CREDIT AMOUNTS.—For each of fiscal years 1998 through 2003, principal amounts of Federal credit instruments made available under this Act shall be limited to the amounts specified in the following table:

Fiscal year:	Maximum amount of credit:
1998	$800,000,000
1999	$1,200,000,000
2000	$2,000,000,000
2001	$3,000,000,000
2002	$4,000,000,000
2003	$5,000,000,000.

SEC. 12. REPORT TO CONGRESS.

Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this Act, including a recommendation as to whether the objectives of this Act are best served—

(1) by continuing the program under the authority of the Secretary;

(2) by establishing a Government corporation or Government-sponsored enterprise to administer the program; or

(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this Act without Federal participation.

THE TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT OF 1997

SEC. 1. SHORT TITLE; TABLE OF CONTENTS

This section identifies a new Federal credit assistance program for surface transportation facilities as the Transportation Infrastructure Finance and Innovation Act of 1997.

SEC. 2. FINDINGS

This section recites Congressional findings that a comprehensive surface transportation infrastructure system is crucial to the economic health of the Nation. Traditional methods of funding transportation projects, including Federal grants, are insufficient to meet the Nation's infrastructure investment needs. The funding gap is particularly acute for large projects of National significance, due to their scale and complexity. A new Federal credit program for transportation will help address these projects' special needs by supplementing existing Federal programs and leveraging private debt and equity capital.

This bill is designed to provide an initial infusion of Federal credit assistance over the next six years to facilitate the development of large, capital-intensive infrastructure facilities through public-private partnerships, consisting of a State or local governmental project sponsor and one of more private sector firms involved in the design, construction or operation of the facility. The Federal credit program is oriented to those projects which have the potential to be self-supporting from user charges or other non-Federal dedicated funding sources. The program is structured to fill to specific market gaps through Federal participation as a minority investor. The ultimate objective is to phase out Federal participation and encourage private capital investment to fulfill this function.

The program should result in additional surface transportation facilities being developed more quickly and at a lower cost than would be the case under conventional public procurement, funding and ownership.

SEC. 3. DEFINITIONS

This section sets forth the definitions for terms used in this title. The key terms are listed below:

A ''Project'' is defined as any surface transportation facility eligible under the provisions of title 23 as well as chapter 53 of title 49, United States Code. Permitted projects would include free or tolled highways, bridges and tunnels; mass transportation facilities and vehicles; commuter and inter-city rail passenger facilities and vehicles; intermodal passenger terminals; and intermodal freight and port facilities (excluding privately-owned rail rolling stock).

The term ''Eligible Project Costs'' is defined to include those costs of a capital nature incurred by a sponsor in connection with developing an infrastructure project. These costs fall into three categories: (I) preconstruction costs relating to planning, design, and securing governmental permits and approvals; (ii) hard costs relating to the design and construction (or rehabilitation) of a project; and (iii) related soft costs associated with the financing of the project, such as interest during construction, reserve accounts, and issuance expenses. It would not include operation or maintenance costs.

An ''Obligor'' is defined as any entity (whether a State or local governmental unit or agency, a private entity authorized by such governmental unit to develop a project, or a public-private partnership) that is a borrower involving a secured loan, loan guarantee, or line of credit under this title.

A ''Local Servicer'' is defined as a state infrastructure bank or other designated State or local governmental agency which may service the credit program on behalf of the Department of Transportation within that State.

''Substantial Completion'' is defined as the date when a project opens to vehicular, passenger, or freight traffic.

Other definitions specify types of lenders, project obligations, and Federal credit instruments—including secured loans, loan guarantees, and lines of credit.

SEC. 4. DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION

This section defines the threshold eligibility criteria for a project to receive Federal credit assistance and outlines the basis upon which the Secretary will select among potential candidates. The Secretary's determination of a project's eligibility will be based on both quantitative and qualitative factors.

To ensure that the project enjoys both State and local support the project must be included in the State's plan and program and, if the project is in a metropolitan area, it must satisfy all metropolitan planning requirements of 23 U.S.C. 134. The State or State-designated entity will be responsible for forwarding the project application to the Secretary.

In terms of size, the project must be reasonably anticipated to cost at least $100 million or an amount equal to 50 percent of a State's annual Federal-aid highway apportionments, whichever is less. This two-fold test is designed to allow small and rural States to accommodate projects otherwise too large for their transportation programs. Based on FY 1997 apportionments, eighteen States could qualify projects costing less than $100 million, with the minimum allocation equaling approximately $40 million.

An exception to this size threshold would be projects involving the installation of intelligent transportation systems, which would need to cost at least $30 million.

In addition, a project must be supported at least in part by user charges, to encourage the development of new revenue streams and the participation by the private sector.

Project applicants meeting the threshold eligibility criteria then will be evaluated by the Secretary based on a number of factors. Of prime importance, the project must be deemed by the Secretary to be ''nationally or regionally significant'' in terms of facilitating the movement of people and goods in a more efficient and cost-effective manner, resulting in significant economic benefits. Among the other factors which the Secretary will take into account are: the likelihood that the Federal assistance will enable the project to proceed at an earlier date; the degree to which the project leverages non-Federal resources, including private sector capital; and its overall creditworthiness.

This section also provides that all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Uniform Relocation Assistance and

Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.), and section 5333 of title 49 and section 113 of title 23, United States Code (relating to wage protections), shall apply to funds made available under this title and projects assisted with such funds.

SEC. 5. SECURED LOANS

This section establishes a temporary lending program whereby the Secretary may make direct Federal loans in fiscal years 1998 through 2003 to demonstrate to the capital markets the viability of making transportation infrastructure investments where returns depend on excess project cash flows. It is intended to help the capital markets develop the capability to replace the role of the Federal government by the end of the authorization period in helping finance the costs of large projects of national significance. The loans are contemplated to be made up front as combined construction and permanent financing, although the title allows the Federal loan to be made up to a year after construction is completed for those projects that have arranged interim construction financing.

A secured loan could be in an amount up to 33 percent of the reasonably anticipated cost of a project, and could have a final maturity as long as 35 years after the date the project opens (substantial completion). The interest rate would be established at the time the loan agreement was executed, and would equal the prevailing yield on comparable term U.S. Treasury bonds. Loan repayments would be required to start within five years after the date of substantial completion and are payable from user fees or dedicated revenue streams.

The terms and conditions of each loan would be negotiated between the Secretary and the borrower, and would allow a lien on project revenue subject to a lien securing other project debt. In the event of default and bankruptcy, insolvency or liquidation of the obligor, the loan is not subordinated to the claims of any other lender. A key feature would allow the Secretary, for a period up to 10 years following project completion, to defer principal and interest payments should project revenues prove insufficient. Any deferred payments during this ''ramp-up'' period would accrue with interest, and this amount will be amortized over the remaining term of the loan. Such a flexible payment schedule (allowing for deferrals during the project's ramp-up phase) should assist the project in obtaining an ''investment grade'' bond rating (that is, BBB or higher) on its capital markets indebtedness. Excess revenues or proceeds of refinancing from non-Federal funding sources could be used to prepay the secured loans without penalty.

The Secretary is to determine whether a secured loan can be sold to another entity or reoffered into the capital markets on favorable terms as soon as possible after substantial completion.

In lien of funding secured loans directly, the Secretary may provide loan guarantees to lenders, provided the budgetary cost based on credit-worthiness is similar. This feature is designed to attract voluntary investment from pension funds and other institutional investors. Guaranteed loans would not be permitted to be issued on a tax-exempt basis.

SEC. 6. LINES OF CREDIT

This section authorizes the Secretary to enter into agreements to make direct loans to projects at future dates upon certain conditions occurring. Such agreement would be in the form of a standby line of credit.

In contrast to a secured loan provided under section 5, the line of credit would not be for the purpose of funding construction costs as part of the project's initial capitalization. Rather, the line of credit would be drawn upon if needed to pay debt service and other project expenses (such as extraordinary repair and replacement, or operation and maintenance) during the critical ''ramp-up'' period after the facility has opened. The line is designed to facilitate project sponsors' access private capital by assisting them in obtaining investment grade ratings on their debt.

It is intended that the financial institutions such as bond insurers will develop the capability to replace this temporary role of the Federal government in providing lines of credit for large transportation infrastructure projects by the end of the authorization period.

The secured loans and the line of credit are intended to address projects with different financial needs based on their pro-forma capital structures. The secured loans will be most attractive to those projects that must demonstrate to private lenders or capital markets debt investors that there is adequate coverage ''going in'' based on maximum annual debt service, and where the cost of the Federal loan compares favorably with the cost of other borrowing alternatives. A line of credit is more likely to be used by projects that are able to issue capital markets debt on favorable terms with an ascending debt service pattern, but need to demonstrate access to contingent sources of capital to support such debt service in the event revenues fail to grow as quickly as annual payments of principal and interest.

This section sets forth various limitations on the availability of draws on a line of credit. A draw on the line will represent a direct loan. A line of credit could only be drawn upon after the project had used up other available revenues and reserves, and it could only be accessed for a period of up to 10 years after a project had been substantially completed.

The total amount of draws could not exceed 33 percent of reasonably anticipated eligible project costs, as is the case with secured loans. The borrower could draw down up to 20 percent of the line of credit each year (i.e., the entire amount could be drawn down during the first five years of a ten year credit line, if needed.)

Any draws would need to be fully repaid, with interest, within 20 years of the end of the 10-year availability period following substantial completion of the project. The interest rate for any draw would be established at the time the line of credit agreement was entered into, at a rate equal to the then-prevailing yield on 30 year U.S. Treasury bonds. The repayment of the draw would be secured in a manner similar to the secured loan.

To avoid ''double-dipping,'' a borrower could not combine a line of credit with a secured loan for any given project.

SEC. 7. PROJECT SERVICING

The program will use State or local governmental agencies to assist the Secretary in servicing each credit instrument. The State may designate its State infrastructure bank or some other public agency to serve as the local servicing agent for the credit instrument.

The local servicing agent would function as a financing conduit, much like a mortgage company, and with the Secretary's approval it could charge a servicing fee. It would not be financially liable in any way for the credit provided; rather, it would assist in the disbursement and collection of funds. It is required that the local servicing agent set up a separate account from its other activities to receive the Federal credit proceeds for disbursal to the borrower, and to receive loan repayments for remittance to the Secretary.

SEC. 8. OFFICE OF INFRASTRUCTURE FINANCE

The Secretary will establish an Office of Infrastructure Finance to manage the credit program and provide related technical and educational assistance.

Program guidelines will be established by the Secretary in order to ensure the program operates prudently and efficiently, including requiring obligors to provide annual audits.

SEC. 9. STATE AND LOCAL PERMITS

This section states that this title in no way supersedes any existing State or local laws, regulations, or project approval requirements.

SEC. 10. FUNDING

This section provides contract authority to fund the budgetary or subsidy costs of the Federal credit instruments provided. (Subsidy costs, which are defined in and required to be funded by budget authority under the Federal Credit Reform Act of 1990, represent the present value of expected cash flows for each credit instrument, taking into account the default risk as well as any interest rate subsidy. Since this title requires all secured loans to be made at rate equal to the comparable term U.S. Treasury rate, there will be no interest subsidy element.) The contract authority would remain available until expended, and would be paid out of the highway account of the Highway Trust Fund.

The section also establishes a limit each year on the maximum amount of credit assistance that may be offered under this title.

Fiscal year	Budget (contract) authority	Nominal credit limit
1998	$40,000,000	$800,000,000
1999	$60,000,000	$1,200,000,000
2000	$100,000,000	$2,000,000,000
2001	$150,000,000	$3,000,000,000
2002	$200,000,000	$4,000,000,000
2003	$250,000,000	$5,000,000,000

SEC. 110. REPORT TO CONGRESS

This section requires the Secretary to summarize the activities and results of the assistance programs and mechanisms provided under this title, including whether they are succeeding in encourage the private capital markets to invest in large transportation infrastructure projects. The report shall be made within four years of enactment of the title and include recommendations on whether the programs should be continued or phased out by the end of the authorization period as planned.

Mrs. BOXER. Mr. President, I would like to ask the distinguished Senator from Rhode Island, Senator CHAFEE, who is the chairman of the Senate Committee on Environment and Public Works, on which I am pleased to serve,

a question about his proposed Transportation Finance and Innovation Act.

Mr. CHAFEE. I will be pleased to yield to a question from my California colleague.

Mrs. BOXER. I thank the Senator. I also want to thank the Chairman for his support for a number of critical transportation projects in California and in particular, the Alameda Transportation Corridor project. As the Chairman knows, he supported my efforts to designate the Corridor a High Priority Corridor in the National Highway System Designation Act of 1995. That in turn led President Clinton to include in his fiscal year 1997 budget request funding to support a $400 million direct Federal loan for the project, which was approved by Congress last year.

As Senator CHAFEE, knows, California has major need for transportation investment due in large part to the tremendous increase in international trade flowing through the state. While this trade has helped bring California out of the economic recession earlier this decade, it has also placed tremendous strain on our infrastructure. No where is this more apparent than at our border with Mexico. Unfortunately, after the implementation of the North American Free Trade Agreement, the Federal Government provided no special assistance to the border States to deal with the expected doubling of commercial truck traffic through these border trade corridors. As the Senator knows from his recent tour of the area, narrow rural highways or city streets are being expected to carry heavy, continuous commercial truck traffic.

In response to this need, I introduced the Border Infrastructure, Safety and Congestion Relief Act. A section of my bill would provide Federal funds to state infrastructure banks or authorities to finance border improvement projects. We know that some projects could be financed more efficiently under partnerships with the private sector. I understand Senator CHAFEE's bill on Transportation Finance and Innovation would provide an infusion of Federal credit assistance over the next six years to help construct large, high-cost infrastructure facilities. My question for the Chairman is this, would border crossing facilities and trade corridors be eligible for this type of Federal financing under your bill?

Mr. CHAFEE. The Senator is correct. Through the efforts of Senator BOXER, I have become aware of the need for border infrastructure investment and of her own legislation which has been referred to our committee. The Transportation Finance and Innovation Act embraces the innovative finance objectives of the Boxer bill. Border crossing facilities and multi-State trade corridors are clearly eligible and the selection criteria specifically includes those projects which promote international commerce. This bill will enable United States manufacturers to deliver their goods to domestic and foreign markets in a more timely, and cost-effective manner.

Mrs. BOXER. I thank the Chairman. I am proud to be an original cosponsor of the Transportation Finance and Innovation Act. Several projects in California could benefit potentially from this legislation, not only in the border region but with the Alameda Corridor project in Los Angeles and the Bay Area Rapid Transit extension to San Francisco International Airport. I appreciate Senator CHAFEE's hard work and vision to present new innovations and ideas on financing transportation investments needed to keep our economy competitive in the world.

Mr. GRAHAM. Mr. President, I am pleased to join my colleague from Rhode Island—the distinguished chairman of the Senate Environment and Public Works Committee—in the introduction of an initiative to help address our nation's infrastructure needs. Our initiative aims to harness the resources and energies of the public and the private sectors, and have them work in concert to ensure that a 21st century America has a modern system of roads, highways, and other critical public works assets. We are calling this new partnership the Transportation Infrastructure Finance and Innovation Act of 1997—TIFIA.

Mr. President, the numbers paint a stark and disturbing picture of the state of our nation's infrastructure. A survey of our nation's community water system estimated that a minimum of $138.4 billion are needed over a 20 year period for the purposes of installing, upgrading, or replacing water mains, pipes, and processing facilities. Houston Mayor Bob Lanier, Chairman of the Rebuild America Coalition, reports that ''57 percent of highway pavement in all but a handful of states is in poor or mediocre condition; in some of the most populous regions, the figure is as high as 70%.'' The U.S. Department of Transportation estimates that our nation must invest an additional $33 billion in surface transportation in order to stay ahead of future growth, congestion, and development. We are also faced with 187,000 structurally deficient and functionally obsolete bridges. According to the Federal Highway Administration, a minimum of $8.2 billion is required to improve and correct bridge conditions.

In addition to these needs, we are faced with the important and challenging task of balancing the federal budget in order to preserve the health and prosperity of future generations of Americans. In order to achieve this goal and still meet our nation's infrastructure needs, our actions must be a combination of traditional as well as new and innovative means of financing.

Specifically, I believe that we need to do the following: First, we need to provide for a more efficient use of resources going to improve and develop our nation's infrastructure. We need to better utilize cost-saving tools and techniques so that we can stretch our nation's public investment dollars as far as possible in this time of limited federal funds. Second, we need to raise the level of traditional resources so that states will have a larger pool of dollars, including federal dollars, available for infrastructure development. Third, we need to attract and facilitate new and innovative financing sources, such as private investment. By fostering greater private-public partnerships, we can provide additional funding resources for states and communities. Finally, we need to develop and support innovative construction and financing mechanisms, such as State Infrastructure Banks (SIBs) and the legislation we are introducing today, TIFIA.

In the face of declining federal investment in infrastructure amidst tight fiscal constraints, TIFIA enables communities and states to utilize creative methods for addressing our nation's infrastructure needs. TIFIA would provide $800 million in federal credit assistance for major transportation infrastructure projects costing in excess of $100 million. The legislation provides a model in which states could use federal loans to develop large projects that have the potential to be self-supporting.

Projects which would be candidates for receiving assistance under this program include: The Western Extension of the George Bush Freeway in Texas; the Broken Arrow Expressway in Oklahoma; the widening of US Highway 219 in New York; the Interstate 15 rebuilding project in Utah; the Border Infrastructure project in Southern California; and the Florida High Speed Rail.

In my state of Florida, the state's Department of Transportation is proposing the Florida High Speed Rail project, which would connect the major metropolitan areas of Miami, Orlando, and Tampa, and be the first true high speed rail line in our nation. Japan and nations in Europe have already made major progress in high speed rail transportation—but this progress has been contingent on support from their national governments. TIFIA could provide important credit support for such projects of national significance.

Creative financing for infrastructure development is crucial as we enter the 21st century and are confronted with the extensive needs which can only be addressed through new and visionary approaches. In this Congress, we are scheduled to reauthorize both the Clean Water Act and ISTEA, the Intermodal Surface Transportation Efficiency Act, which governs our nation's highway system—two major infrastructure bills which address pressing needs that affect the daily lives of citizens nationwide.

As we focus on these two major bills, it is my hope that we will take steps to improve the state of our nation's public works system in a substantial and effective manner. TIFIA should be used as one model for taking these steps using a creative private-public financing approach. In fact, it is my hope

that this legislation will be incorporated into ISTEA.

We should create new partnerships which will help us to meet current and future needs while acknowledging the limited resources available to us in this fiscal environment. If we are to rebuild our nation's infrastructure, and lay the groundwork for the next generation of transportation infrastructure, we will need to develop innovative financing programs such as TIFIA.

It is my hope that after we complete the Highway Program bill—with the inclusion of TIFIA as an innovative financing title—we will develop similar mechanisms for addressing the financing requirements of other major public works needs such as clean water systems and perhaps even school construction.

We should heed the wisdom found in the words of Daniel Burnham, a prominent architect who served as chairman of a commission charged with redeveloping the District of Columbia, ''Think no small ideas. Small ideas have no magic to stir men's minds.'' Let us use this bill as the starting point from which to make a serious and substantial dent in our national development needs.

Mr. President, I thank the Chairman for his leadership in this area and look forward to working closely with him as we work to pass this bill and reauthorize the Highway Program.

ADDITIONAL COSPONSORS

S. 364

At the request of Mr. LIEBERMAN, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 364, a bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices.

S. 387

At the request of Mr. HATCH, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 387, a bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software.

S. 492

At the request of Mr. SARBANES, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 492, a bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes.

S. 496

At the request of Mr. CHAFEE, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 496, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 507

At the request of Mr. HATCH, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 507, a bill to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes.

S. 551

At the request of Mr. GREGG, the names of the Senator from Ohio [Mr. DEWINE] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 551, a bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions.

S. 682

At the request of Mr. HARKIN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 682, a bill to amend title 32, United States Code, to make available not less than $200,000,000 each fiscal year for funding of activities under National Guard drug interdiction and counterdrug activities plans.

S. 755

At the request of Mr. CAMPBELL, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 755, a bill to amend title 10, United States Code, to restore the provisions of chapter 76 of that title (relating to missing persons] as in effect before the amendments made by the National Defense Authorization Act for Fiscal Year 1997 and to make other improvements to that chapter.

S. 872

At the request of Mr. ROBERTS, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 872, a bill to amend the Internal Revenue Code of 1986 to provide for the nonrecognition of gain for sale of stock to certain farmers' cooperatives, and for other purposes.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the names of the Senator from New Hampshire [Mr. GREGG], the Senator from Nebraska [Mr. HAGEL], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE RESOLUTION 94

At the request of Mr. WARNER, the names of the Senator from Montana [Mr. BURNS], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of Senate Resolution 94, a resolution commending the American Medical Association on its 150th anniversary, its 150 years of caring for the United States, and its continuing effort to uphold the principles upon which Nathan Davis, M.D. and his colleagues founded the American Medical Association to ''promote the science and art of medicine and the betterment of public health.''

AMENDMENT NO. 469

At the request of Mr. SPECTER the names of the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Maine [Ms. SNOWE], the Senator from Maine [Ms. COLLINS], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of amendment No. 469 proposed to S. 947, an original bill to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 471

At the request of Mr. SPECTER the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of amendment No. 471 proposed to S. 947, an original bill to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 492

At the request of Mr. KENNEDY the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of amendment No. 492 proposed to S. 947, an original bill to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 498

At the request of Mr. HARKIN the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Massachusetts [Mr. KERRY], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of amendment No. 498 proposed to S. 947, an original bill to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.

At the request of Mr. DOMENICI his name, and the name of the Senator from Missouri [Mr. BOND] were added as cosponsors of amendment No. 498 proposed to S. 947, supra.

SENATE RESOLUTION 103—TO CONGRATULATE THE CHICAGO BULLS

Ms. MOSELEY-BRAUN (for herself and Mr. DURBIN) submitted the following resolution; which was considered and agreed to:

S. RES. 103

Whereas the Chicago Bulls at 69–13, posted the second best regular season record in the history of the National Basketball Association;

Whereas the Bulls once again roared through the playoffs, sweeping the Washington Bullets and defeating the Atlanta Hawks in 5 games, before beating the Miami Heat in 5 games to return to the NBA Finals for the second straight year;

Whereas the Bulls displayed a potent offense and stifling defense throughout the playoffs before beating the Utah Jazz to win their second consecutive NBA championship, their fifth in the last 7 years;

Whereas head coach Phil Jackson and the entire coaching staff skillfully led the Bulls through a 69-win season and a 15–4 playoff run;

Whereas Michael Jordan and Scottie Pippen were again named to the NBA's ''All-

Defensive First Team'', the only 2 players from the same team to be so named, and were each voted to be among the 50 greatest players in NBA history;

Whereas Michael Jordan won his record ninth scoring title, is the sixth leading scorer in NBA history, and was named playoff most valuable player for the fifth time in 5 playoff appearances;

Whereas Scottie Pippen again exhibited his outstanding offensive and defensive versatility, providing himself to be one of the best all-round players in the NBA;

Whereas the quickness, tireless defensive effort, and athleticism of the colorful Dennis Rodman, who won his sixth straight rebounding title, keyed a strong Bulls front line;

Whereas veteran guard Ron Harper, in shutting down many of the league's top point guards throughout the playoffs, demonstrated the defensive skills that have made him a cornerstone of the league's best defense;

Whereas center Luc Longley frustrated many of the all-star caliber centers that he faced in this year's playoffs while at times providing a much needed scoring lift;

Whereas Toni Kukoc, despite injury, displayed his awesome variety of offensive skills in both assisting on, and hitting, several big short when the Bulls needed them most;

Whereas Steve Kerr, with his laser-like 3-point shooting, sparked many a Bulls rally and hit the championship winning shot in game 6 of the NBA finals;

Whereas the outstanding play of Brian Williams and Jason Caffey, and the tenacious defense of Randy Brown, each of whom came off the bench to provide valuable contributions, were an important part of each Bulls victory;

Whereas Jud Buechler and Robert Parish provided valuable contributions throughout the season and the playoffs, both on and off the court, at times giving the Bulls the emotional lift they needed; and

Whereas the regular season contributions of injured center Bill Wennington, forward Dickey Simpkins, and rookie Matt Steigenga, both on the court and in practice, again demonstrated the total devotion of Bulls personnel to the team concept that has made the Bulls one of the great sports dynasties of modern times: Now, therefore, be it *Resolved*, That the Senate congratulates the Chicago Bulls on winning the 1997 National Basketball Association championship.

AMENDMENTS SUBMITTED

THE TAX FAIRNESS ACT OF 1997

BOND (AND OTHERS) AMENDMENT NO. 514

(Ordered to lie on the table.)

Mr. BOND (for himself, Mr. ENZI, Mr. NICKLES, Mrs. HUTCHISON, and Mr. HAGEL) submitted an amendment intended to be proposed by them to the bill, S. 949, to provide revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998; as follows:

On page 212, between lines 11 and 12, insert the following:

SEC. . DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.

(a) IN GENERAL.—Section 162(1)(1) (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical are for the taxpayer, the taxpayer's spouse, and dependents.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

DORGAN AMENDMENTS NOS. 515–517

Mr. DORGAN proposed three amendments to the bill, S. 949, supra; as follows:

AMENDMENT NO. 515

On page 211, between lines 5 and 6, insert the following:

SEC. 724. ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by adding at the end the following:

''(h) ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—

''(1) IN GENERAL.—If the Secretary extends for any period of time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 (and waives any penalties relating to the failure to so file or so pay) for any taxpayer located in a Presidentially declared disaster area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax.

''(2) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of paragraph (1), the term 'Presidentially declared disaster area' means, with respect to any taxpayer, any area which the President has determined warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters declared after December 31, 1996.

AMENDMENT NO. 516

On page 211, between lines 5 and 6, insert the following:

SEC. 724. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS MAY BE USED WITHOUT PENALTY TO REPLACE OR REPAIR PROPERTY DAMAGED IN PRESIDENTIALLY DECLARED DISASTER AREA.

(a) IN GENERAL.—Section 72(t)(2) (relating to exceptions to 10-percent additional tax on early distributions), as amended by sections 203 and 303, is amended by adding at the end the following new subparagraph:

''(G) DISTRIBUTIONS FOR DISASTER-RELATED EXPENSES.—Distributions from an individual retirement plan which are qualified disaster-related distributions.''.

(b) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—Section 72(t), as amended by sections 203 and 303, is amended by adding at the end the following new paragraph:

''(9) QUALIFIED DISASTER-RELATED DISTRIBUTIONS.—For purposes of paragraph (2)(E)—

''(A) IN GENERAL.—The term 'qualified disaster-related distribution' means any payment or distribution received by an individual to the extent that the payment or distribution is used by such individual within 60 days of the payment or distribution to pay for the repair or replacement of tangible property which is disaster-damaged property. Such term shall only include any payment or distribution which is made during the 2-year period beginning on the date of the determination referred to in subparagraph (C).

''(B) DISASTER-DAMAGED PROPERTY.—The term 'disaster-damaged property' means property—

''(i) which was located in a disaster area on the date of the determination referred to in subparagraph (C), and

''(ii) which was destroyed or substantially damaged as a result of the disaster occurring in such area.

''(C) DISASTER AREA.—The term 'disaster area' means an area determined by the President to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.''.

''(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1996, with respect to disasters occurring after such date.

SEC. 725. ELIMINATION OF 10 PERCENT FLOOR FOR DISASTER LOSSES.

''(a) GENERAL RULE.—Section 165(h)(2)(A) (relating to net casualty loss allowed only to the extent it exceeds 10 percent of adjusted gross income) is amended by striking clauses (i) and (ii) and inserting the following new clauses:

''(i) the amount of the personal casualty gains for the taxable year,

''(ii) the amount of the federally declared disaster losses for the taxable year (or, if lesser, the net casualty loss), plus

''(iii) the portion of the net casualty loss which is not deductible under clause (ii) but only to the extent such portion exceeds 10 percent of the adjusted gross income of the individual.

For purposes of the preceding sentence, the term 'net casualty loss' means the excess of personal casualty losses for the taxable year over personal casualty gains.''.

(b) FEDERALLY DECLARED DISASTER LOSS DEFINED.—Section 165(h)(3) (relating to treatment of casualty gains and losses) is amended by adding at the end the following new subparagraph:

''(C) FEDERALLY DECLARED DISASTER LOSS.—The term 'federally declared disaster loss' means any personal casualty loss attributable to a disaster occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.''.

(c) CONFORMING AMENDMENT.—The heading for section 165(h)(2) is amended by striking ''NET CASUALTY LOSS'' and inserting ''NET NONDISASTER CASUALTY LOSS''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to losses attributable to disasters occurring after December 31, 1996, including for purposes of determining the portion of such losses allowable in taxable years ending before such date pursuant to an election under section 165(i) of the Internal Revenue Code of 1986.

Strike section 751 of the bill.

On page 239 strike lines 18 and 19.

On page 239, line 20, strike ''(5)'' and insert ''(4)''.

On page 240, line 1, strike ''(6)'' and insert ''(5)''.

AMENDMENT NO. 517

On page 96, strike lines 11 through 16, and insert:

''(3) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'adjusted net capital gain' means net capital gain determined without regard to—

''(i) collectibles gain, and

''(ii) unrecaptured section 1250 gain.

''(B) $1,000,000 LIFETIME LIMITATION.—

''(i) IN GENERAL.—The adjusted net capital gain for any taxable year shall not exceed $1,000,000, reduced by the aggregate adjusted net capital gain for all prior taxable years.

''(ii) SPECIAL RULE FOR JOINT RETURNS.—The amount of the adjusted net capital gain taken into account under this section on a joint return for any taxable year shall be allocated equally between the spouses for purposes of applying the limitation under clause (i) for any succeeding taxable year.

''(C) CAPITAL GAINS RATE REDUCTION NOT TO APPLY TO CERTAIN TAXPAYERS.—The adjusted net capital gain for any taxable year in the case of any of the following taxpayers shall be zero:

''(i) An individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

''(ii) A married individual (within the meaning of section 7703) filing a separate return for the taxable year.

''(iii) An estate or trust.

BUMPERS (AND OTHERS) AMENDMENT NO. 518

Mr. BUMPERS (for himself, Mr. GREGG, and Mr. ROBB) proposed an amendment to the bill, S. 949, supra; as follows:

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

SEC. . REPEAL OF DEPLETION ALLOWANCE FOR CERTAIN HARDROCK MINES.

(a) IN GENERAL.—The first sentence of section 611(a) of the Internal Revenue Code of 1986, 26 U.S.C. 611(a), is amended by inserting immediately after ''mines'' the following: ''(except for hardrock mines located on land subject to the general mining laws or on land patented under the general mining laws unless such patented land was acquired (subsequent to the date the patent was issued), pursuant to an arms-length transaction prior to June 25, 1997)''.

(b) DEFINITION.—Section 611 of the Internal Revenue Code of 1986 is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

''(c) DEFINITIONS.—For purposes of subsection (a), 'general mining laws' means those Acts which comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

DURBIN (AND OTHERS) AMENDMENT NO. 519

Mr. DURBIN (for himself, Mr. DORGAN, Mr. DASCHLE, and Mr. HARKIN) proposed an amendment to the bill, S. 949, supra; as follows:

On page 267, between lines 15 and 16, insert the following:

SEC. 780. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.

(a) IN GENERAL.—Section 162(l)(1) (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer's spouse, and dependents.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

On page 337, beginning with line 14, strike all through page 339, line 15, and insert the following:

(a) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking ''$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)'' in paragraph (1) and insert ''$27.50 per thousand'', and

(2) by striking ''$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)'' in paragraph (2) and insert ''$57.75 per thousand'',

(b) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking ''1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)'' in paragraph (1) and inserting ''$2.531 cents per thousand'', and

(2) by striking ''equal to'' and all that follows in paragraph (2) and inserting ''equal to 28.6875 percent of the price for which sold but not more than $67.50 per thousand.

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking ''0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)'' and inserting ''1.69 cents''.

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking ''1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)'' and inserting ''3.38 cents''.

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking ''36 cents (30 cents on snuff removed during 1991 or 1992)'' in paragraph (1) and inserting ''$1.9933 cents'', and

(2) by striking ''12 cents (10 cents on chewing tobacco removed during 1991 or 1992)'' in paragraph (2) and inserting ''75.33 cents''.

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking ''67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)'' and inserting ''$1.5188 cents''.

(g) IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5701 (relating to rate of tax) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of 81 cents per pound (and a proportionate tax at the like rate on all fractional parts of a pound).''

ROTH AMENDMENT NO. 520

Mr. ROTH proposed an amendment to the bill, S. 949, supra; as follows:

At the appropriate place, insert the following:

TITLE ___—CHILDREN'S HEALTH INSURANCE INITIATIVES

SEC. ___. ESTABLISHMENT OF CHILDREN'S HEALTH INSURANCE INITIATIVES.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following:

''TITLE XXI—CHILD HEALTH INSURANCE INITIATIVES

''SEC. 2101. PURPOSE.

The purpose of this title is to provide funds to States to enable such States to expand the provision of health insurance coverage for low-income children. Funds provided under this title shall be used to achieve this purpose through outreach activities described in section 2106(a) and, at the option of the State through—

''(1) a grant program conducted in accordance with section 2107 and the other requirements of this title; or

''(2) expansion of coverage of such children under the State medicaid program who are not required to be provided medical assistance under section 1902(l) (taking into account the process of individuals aging into eligibility under subsection (l)(1)(D)).

''SEC. 2102. DEFINITIONS.

In this title:

''(1) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—The term 'base-year covered low-income child population' means the total number of low-income children with respect to whom, as of fiscal year 1996, an eligible State provides or pays the cost of health benefits either through a State funded program or through eligibility under the State plan under title XIX (including under a waiver of such plan), as determined by the Secretary.

''(2) CHILD.—The term 'child' means an individual under 19 years of age.

''(3) ELIGIBLE STATE.—The term 'eligible State' means, with respect to a fiscal year, a State that—

''(A) provides, under section 1902(l)(1)(D) or under a waiver, for eligibility for medical assistance under a State plan under title XIX of individuals under 19 years of age, regardless of date of birth; and

''(B) has submitted to the Secretary under section 2104 a program outline that—

''(i) sets forth how the State intends to use the funds provided under this title to provide health insurance coverage for low-income children consistent with the provisions of this title; and

''(ii) is approved under section 2104; and

''(iii) otherwise satisfies the requirements of this title.

''(4) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means, with respect to a State, the meaning given that term under section 1905(b).

''(5) FEHBP-EQUIVALENT CHILDREN'S HEALTH INSURANCE COVERAGE.—The term 'FEHBP-equivalent children's health insurance coverage' means, with respect to a State, any plan or arrangement that provides, or pays the cost of, health benefits that the Secretary has certified are actuarially equivalent to the benefits required to be offered for a child under chapter 89 of title 5, United States Code, and that otherwise satisfies State insurance standards and requirements.

''(6) INDIANS.—The term 'Indians' has the meaning given that term in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

''(7) LOW-INCOME CHILD.—The term 'low-income child' means a child in a family whose income is below 200 percent of the poverty line for a family of the size involved.

''(8) POVERTY LINE.—The term 'poverty line' has the meaning given that term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

''(9) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''(10) STATE.—The term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

''(11) STATE CHILDREN'S HEALTH EXPENDITURES.—The term 'State children's health

expenditures' means the State share of expenditures by the State for providing children with health care items and services under—

''(A) the State plan for medical assistance under title XIX;

''(B) the maternal and child health services block grant program under title V;

''(C) the preventive health services block grant program under part A of title XIX of the Public Health Services Act (42 U.S.C. 300w et seq.);

''(D) State-funded programs that are designed to provide health care items and services to children;

''(E) school-based health services programs;

''(F) State programs that provide uncompensated or indigent health care;

''(G) county-indigent care programs for which the State requires a matching share by a county government or for which there are intergovernmental transfers from a county to State government; and

''(H) any other program under which the Secretary determines the State incurs uncompensated expenditures for providing children with health care items and services.

''(12) STATE MEDICAID PROGRAM.—The term 'State medicaid program' means the program of medical assistance provided under title XIX.

''SEC. 2103. APPROPRIATION.

''(a) APPROPRIATION.—

''(1) IN GENERAL.—Subject to subsection (b), out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated for the purpose of carrying out this title—

''(A) for each of fiscal years 1998 and 1999, $1,000,000,000;

''(B) for each of fiscal years 2000 through 2002, $2,000,000,000; and

''(C) for each of fiscal years 2003 through 2007, $0.

''(2) AVAILABILITY.—Funds appropriated under this section shall remain available without fiscal year limitation, as provided under section 2105(b)(4).

''(b) REDUCTION FOR INCREASED MEDICAID EXPENDITURES.—With respect to each of the fiscal years described in subsection (a)(1), the amount appropriated under subsection (a)(1) for each such fiscal year shall be reduced by an amount equal to the amount of the total Federal outlays under the medicaid program under title XIX resulting from—

''(1) the amendment made by section 5732 of the Balanced Budget Act of 1997 (regarding the State option to provide 12-month continuous eligibility for children);

''(2) increased enrollment under State plans approved under such program as a result of outreach activities under section 2106(a); and

''(3) the requirement under section 2102(3)A) to provide eligibility for medical assistance under the State plan under title XIX for all children under 19 years of age who have families with income that is at or below the poverty line.

''(c) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided in accordance with the provisions of this title.

''(d) EFFECTIVE DATE.—No State is eligible for payments under section 2105 for any calendar quarter beginning before October 1, 1997.

''SEC. 2104. PROGRAM OUTLINE.

''(a) GENERAL DESCRIPTION.—A State shall submit to the Secretary a program outline, consistent with the requirements of this title, that—

''(1) identifies which of the 2 options described in section 2101 the State intends to use to provide low-income children in the State with health insurance coverage;

''(2) describes the manner in which such coverage shall be provided; and

''(3) provides such other information as the Secretary may require.

''(b) OTHER REQUIREMENTS.—The program outline submitted under this section shall include the following:

''(1) ELIGIBILITY STANDARDS AND METHODOLOGIES.—A summary of the standards and methodologies used to determine the eligibility of low-income children for health insurance coverage under a State program funded under this title.

''(2) ELIGIBILITY SCREENING; COORDINATION WITH OTHER HEALTH COVERAGE.—A description of the procedures to be used to ensure—

''(A) through both intake and followup screening, that only low-income children are furnished health insurance coverage through funds provided under this title; and

''(B) that any health insurance coverage provided for children through funds under this title does not reduce the number of children who are provided such coverage through any other publicly or privately funded health plan.

''(3) INDIANS.—A description of how the State will ensure that Indians are served through a State program funded under this title.

''(c) DEADLINE FOR SUBMISSION.—A State program outline shall be submitted to the Secretary by not later than March 31 of any fiscal year (October 1, 1997, in the case of fiscal year 1998).

''SEC. 2105. DISTRIBUTION OF FUNDS.

''(a) ESTABLISHMENT OF FUNDING POOLS.—

''(1) IN GENERAL.—From the amount appropriated under section 2103(a)(1) for each fiscal year, determined after the reduction required under section 2103(b), the Secretary shall, for purposes of fiscal year 1998, reserve 85 percent of such amount for distribution to eligible States through the basic allotment pool under subsection (b) and 15 percent of such amount for distribution through the new coverage incentive pool under subsection (c)(2)(B)(ii).

''(2) ANNUAL ADJUSTMENT OF RESERVE PERCENTAGES.—The Secretary shall annually adjust the amount of the percentages described in paragraph (1) in order to provide sufficient basic allotments and sufficient new coverage incentives to achieve the purpose of this title.

''(b) DISTRIBUTION OF FUNDS UNDER THE BASIC ALLOTMENT POOL.—

''(1) STATES.—

''(A) IN GENERAL.—From the total amount reserved under subsection (a) for a fiscal year for distribution through the basic allotment pool, the Secretary shall first set aside 0.25 percent for distribution under paragraph (2) and shall allot from the amount remaining to each eligible State not described in such paragraph the State's allotment percentage for such fiscal year.

''(B) STATE'S ALLOTMENT PERCENTAGE.—

''(i) IN GENERAL.—For purposes of subparagraph (A), the allotment percentage for a fiscal year for each State is the percentage equal to the ratio of the number of low-income children in the base period in the State to the total number of low-income children in the base period in all States not described in paragraph (2).

''(ii) NUMBER OF LOW-INCOME CHILDREN IN THE BASE PERIOD.—In clause (i), the number of low-income children in the base period for a fiscal year in a State is equal to the average of the number of low-income children in the State for the period beginning on October 1, 1992, and ending on September 30, 1995, as reported in the March 1994, March 1995, and March 1996 supplements to the Current Population Survey of the Bureau of the Census.

''(2) OTHER STATES.—

''(A) IN GENERAL.—From the amount set aside under paragraph (1)(A) for each fiscal year, the Secretary shall make allotments for such fiscal year in accordance with the percentages specified in subparagraph (B) to Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, if such States are eligible States for such fiscal year.

''(B) PERCENTAGES SPECIFIED.—The percentages specified in this subparagraph are in the case of—

''(i) Puerto Rico, 91.6 percent;

''(ii) Guam, 3.5 percent;

''(iii) the Virgin Islands, 2.6 percent;

''(iv) American Samoa, 1.2 percent; and

''(v) the Northern Mariana Islands, 1.1 percent.

''(3) THREE-YEAR AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted to a State pursuant to this subsection for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year.

''(4) PROCEDURE FOR DISTRIBUTION OF UNUSED FUNDS.—The Secretary shall determine an appropriate procedure for distribution of funds to eligible States that remain unused under this subsection after the expiration of the availability of funds required under paragraph (3). Such procedure shall be developed and administered in a manner that is consistent with the purpose of this title.

''(c) PAYMENTS.—

''(1) IN GENERAL.—The Secretary shall—

''(A) before October 1 of any fiscal year, pay an eligible State an amount equal to 1 percent of the amount allotted to the State under subsection (b) for conducting the outreach activities required under section 2106(a); and

''(B) make quarterly fiscal year payments to an eligible State from the amount remaining of such allotment for such fiscal year in an amount equal to the Federal medical assistance percentage for the State, as determined under section 1905(b)(1), of the cost of providing health insurance coverage for a low-income child in the State plus the applicable bonus amount.

''(2) APPLICABLE BONUS.—

''(A) IN GENERAL.—For purposes of paragraph (1), the applicable bonus amount is—

''(i) 5 percent of the cost, with respect to a period, of providing health insurance coverage for the base-year covered low-income child population (measured in full year equivalency); and

''(ii) 10 percent of the cost, with respect to a period, of providing health insurance coverage for the number (as so measured) of low-income children that are in excess of such population.

''(B) SOURCE OF BONUSES.—

''(i) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—A bonus described in subparagraph (A)(i) shall be paid out of an eligible State's allotment for a fiscal year.

''(ii) FOR OTHER LOW-INCOME CHILD POPULATIONS.—A bonus described in subparagraph (A)(ii) shall be paid out of the new coverage incentive pool reserved under subsection (a)(1).

''(3) DEFINITION OF COST OF PROVIDING HEALTH INSURANCE COVERAGE.—For purposes of this subsection the cost of providing health insurance coverage for a low-income child in the State means—

''(A) in the case of an eligible State that opts to use funds provided under this title through the medicaid program, the cost of providing such child with medical assistance under the State plan under title XIX; and

''(B) in the case of an eligible State that opts to use funds provided under this title under section 2107, the cost of providing such child with health insurance coverage under such section.

''(4) LIMITATION ON TOTAL PAYMENTS.—With respect to a fiscal year, the total amount paid to an eligible State under this title (including any bonus payments) shall not exceed 85 percent of the total cost of a State program conducted under this title for such fiscal year.

''(5) MAINTENANCE OF EFFORT.—No funds shall be paid to a State under this title if—

''(A) in the case of fiscal year 1998, the State children's health expenditures are less than the amount of such expenditures for fiscal year 1996; and

''(B) in the case of any succeeding fiscal year, the State children's health expenditures described in section 2102(11)(A) are less than the amount of such expenditures for fiscal year 1996, increased by a medicaid child population growth factor determined by the Secretary.

''(6) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this subsection for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and shall reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

''SEC. 2106. USE OF FUNDS.

''(a) SET-ASIDE FOR OUTREACH ACTIVITIES.—

''(1) IN GENERAL.—From the amount allotted to a State under section 2105(b) for a fiscal year, each State shall conduct outreach activities described in paragraph (2).

''(2) OUTREACH ACTIVITIES DESCRIBED.—The outreach activities described in this paragraph include activities to—

''(A) identify and enroll children who are eligible for medical assistance under the State plan under title XIX; and

''(B) conduct public awareness campaigns to encourage employers to provide health insurance coverage for children.

''(b) STATE OPTIONS FOR REMAINDER.—A State may use the amount remaining of the allotment to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), in accordance with section 2107 or the State medicaid program (but not both).

''(c) PROHIBITION ON USE FOR ABORTIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no funds provided under this title may be used to pay for any abortion or to assist in the purchase, in whole or in part, of health benefit coverage that includes coverage of abortion.

''(2) EXCEPTION.—Paragraph (1) shall not apply to an abortion if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

''(d) USE LIMITED TO STATE PROGRAM EXPENDITURES.—Funds provided to an eligible State under this title shall only be used to carry out the purpose of this title.

''(e) ADMINISTRATIVE EXPENDITURES.—Not more than 10 percent of the amount allotted to a State under section 2105(b), determined after the payment required under section 2105(c)(1)(A), shall be used for administrative expenditures for the program funded under this title.

''(f) NONAPPLICATION OF FIVE-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS.—The provisions of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) shall not apply with respect to a State program funded under this title.

''SEC. 2107. STATE OPTION FOR THE PURCHASE OR PROVISION OF CHILDREN'S HEALTH INSURANCE.

''(a) STATE OPTION.—

''(1) IN GENERAL.—An eligible State that opts to use funds provided under this title under this section shall use such funds to—

''(A) subsidize payment of employee contributions for health insurance coverage for a dependent low-income child that is available through group health insurance coverage offered by an employer in the State; or

''(B) to provide FEHBP-equivalent children's health insurance coverage for low-income children who reside in the State.

''(2) PRIORITY FOR LOW-INCOME CHILDREN.—A State that uses funds provided under this title under this section shall not cover low-income children with higher family income without covering such children with a lower family income.

''(3) DETERMINATION OF ELIGIBILITY AND FORM OF ASSISTANCE.—An eligible State may establish any additional eligibility criteria for the provision of health insurance coverage for a low-income child through funds provided under this title, so long as such criteria and assistance are consistent with the purpose and provisions of this title.

''(4) COVERAGE OF CERTAIN BENEFITS.—Any eligible State that opts to use funds provided under this title under this section for the coverage described in paragraph (1)(B) is encouraged to include as part of such coverage, coverage for items and services needed for vision, hearing, and dental health.

''(b) NONENTITLEMENT.—Nothing in this section shall be construed as providing an entitlement for an individual or person to any health insurance coverage, assistance, or service provided through a State program funded under this title. If, with respect to a fiscal year, an eligible State determines that the funds provided under this title are not sufficient to provide health insurance coverage for all the low-income children that the State proposes to cover in the State program outline submitted under section 2104 for such fiscal year, the State may adjust the applicable eligibility criteria for such children appropriately or adjust the State program in another manner specified by the Secretary, so long as any such adjustments are consistent with the purpose of this title.

''SEC. 2108. PROGRAM INTEGRITY.

''The following provisions of the Social Security Act shall apply to eligible States under this title in the same manner as such provisions apply to a State under title XIX:

''(1) Section 1116 (relating to administrative and judicial review).

''(2) Section 1124 (relating to disclosure of ownership and related information).

''(3) Section 1126 (relating to disclosure of information about certain convicted individuals).

''(4) Section 1128A (relating to exclusion from individuals and entities from participation in State health care plans).

''(5) Section 1128B(d) (relating to criminal penalties for certain additional charges).

''(6) Section 1132 (relating to periods within which claims must be filed).

''(7) Section 1902(a)(4)(C) (relating to conflict of interest standards).

''(8) Section 1903(i) (relating to limitations on payment).

''(9) Section 1903(w) (relating to limitations on provider taxes and donations).

''(10) Section 1905(a)(B) (relating to the exclusion of care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases from the definition of medical assistance).

''(11) Section 1921 (relating to state licensure authorities).

''(12) Sections 1902(a)(25), 1912(a)(1)(A), and 1903(o) (insofar as such sections relate to third party liability).

''SEC. 2109. ANNUAL REPORTS.

''(a) ANNUAL STATE ASSESSMENT OF PROGRESS.—An eligible State shall—

''(1) assess the operation of the State program funded under this title in each fiscal year, including the progress made in providing health insurance coverage for low-income children; and

''(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

''(b) REPORT OF THE SECRETARY.—The Secretary shall submit to the appropriate committees of Congress an annual report and evaluation of the State programs funded under this title based on the State assessments and reports submitted under subsection (a). Such report shall include any conclusions and recommendations that the Secretary considers appropriate.''.

(b) CONFORMING AMENDMENT.—Section 1128(h) (42 U.S.C. 1320a–7(h)) is amended by—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period and inserting '', or''; and

(3) by adding at the end the following:

''(4) a program funded under title XXI.''.

SEC. ___. APPLICABILITY.

If, on the date of enactment of this Act, the Social Security Act contains a title XXI, the amendments made to the Social Security Act by this title shall not take effect, except that amounts appropriated under such title XXI for a fiscal year shall be increased by the amounts that would have been appropriated for such fiscal year under section 2103 of the Social Security Act, as added by this title.

ROTH AMENDMENT NO. 521

Mr. ROTH proposed an amendment to amendment No. 520 proposed by him to the bill, S. 949, supra; as follows:

On page 1, line 2 of the amendment strike all after the first word and insert the following:

___—CHILDREN'S HEALTH INSURANCE INITIATIVES

SEC. ___. ESTABLISHMENT OF CHILDREN'S HEALTH INSURANCE INITIATIVES.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following:

''TITLE XXI—CHILD HEALTH INSURANCE INITIATIVES

''SEC. 2101. PURPOSE.

''The purpose of this title is to provide funds to States to enable such States to expand the provision of health insurance coverage for low-income children. Funds provided under this title shall be used to achieve this purpose through outreach activities described in section 2106(a) and, at the option of the State through—

''(1) a grant program conducted in accordance with section 2107 and the other requirements of this title; or

''(2) expansion of coverage of such children under the State medicaid program who are not required to be provided medical assistance under section 1902(l) (taking into account the process of individuals aging into eligibility under subsection (l)(1)(D)).

''SEC. 2102. DEFINITIONS.

''In this title:

''(1) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—The term 'base-year covered low-income child population' means the total number of low-income children with respect to whom, as of fiscal year 1996, an eligible State provides or pays the cost of health benefits either through a State funded program or through expanded eligibility under the State plan under title XIX (including

under a waiver of such plan), as determined by the Secretary. Such term does not include any low-income child described in paragraph (3)(A) that a State must cover in order to be considered an eligible State under this title.

''(2) CHILD.—The term 'child' means an individual under 19 years of age.

''(3) ELIGIBLE STATE.—The term 'eligible State' means, with respect to a fiscal year, a State that—

''(A) provides, under section 1902(l)(1)(D) or under a waiver, for eligibility for medical assistance under a State plan under title XIX of individuals under 17 years of age in fiscal year 1998, and under 19 years of age in fiscal year 2000, regardless of date of birth;

''(B) has submitted to the Secretary under section 2104 a program outline that—

''(i) sets forth how the State intends to use the funds provided under this title to provide health insurance coverage for low-income children consistent with the provisions of this title; and

''(ii) is approved under section 2104; and

''(iii) otherwise satisfies the requirements of this title; and

''(C) satisfies the maintenance of effort requirement described in section 2105(c)(5).''.

''(4) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means, with respect to a State, the meaning given that term under section 1905(b). Any cost-sharing imposed under this title may not be included in determining Federal medical assistance percentage for reimbursement of expenditures under a State program funded under this title.

''(5) FEHBP-EQUIVALENT CHILDREN'S HEALTH INSURANCE COVERAGE.—The term 'FEHBP-equivalent children's health insurance coverage' means, with respect to a State, any plan or arrangement that provides, or pays the cost of, health benefits that the Secretary has certified are equivalent to or better than the services covered for a child, including hearing and vision services, under the standard Blue Cross/Blue Shield preferred provider option service benefit plan offered under chapter 89 of title 5, United States Code.

''(6) INDIANS.—The term 'Indians' has the meaning given that term in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

''(7) LOW-INCOME CHILD.—The term 'low-income child' means a child in a family whose income is below 200 percent of the poverty line for a family of the size involved.

''(8) POVERTY LINE.—The term 'poverty line' has the meaning given that term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

''(9) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''(10) STATE.—The term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

''(11) STATE CHILDREN'S HEALTH EXPENDITURES.—The term 'State children's health expenditures' means the State share of expenditures by the State for providing children with health care items and services under—

''(A) the State plan for medical assistance under title XIX;

''(B) the maternal and child health services block grant program under title V;

''(C) the preventive health services block grant program under part A of title XIX of the Public Health Services Act (42 U.S.C. 300w et seq.);

''(D) State-funded programs that are designed to provide health care items and services to children;

''(E) school-based health services programs;

''(F) State programs that provide uncompensated or indigent health care;

''(G) county-indigent care programs for which the State requires a matching share by a county government or for which there are intergovernmental transfers from a county to State government; and

''(H) any other program under which the Secretary determines the State incurs uncompensated expenditures for providing children with health care items and services.

''(12) STATE MEDICAID PROGRAM.—The term 'State medicaid program' means the program of medical assistance provided under title XIX.

''SEC. 2103. APPROPRIATION.

''(a) APPROPRIATION.—

''(1) IN GENERAL.—Subject to subsection (b), out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated for the purpose of carrying out this title—

''(A) for each of fiscal years 1998 and 1999, $1,000,000,000;

''(B) for each of fiscal years 2000 through 2002, $2,000,000,000; and

''(C) for each of fiscal years 2003 through 2007, $0.

''(2) AVAILABILITY.—Funds appropriated under this section shall remain available without fiscal year limitation, as provided under section 2105(b)(4).

''(b) REDUCTION FOR INCREASED MEDICAID EXPENDITURES.—With respect to each of the fiscal years described in subsection (a)(1), the amount appropriated under subsection (a)(1) for each such fiscal year shall be reduced by an amount equal to the amount of the total Federal outlays under the medicaid program under title XIX resulting from—

''(1) the amendment made by section 5732 of the Balanced Budget Act of 1997 (regarding the State option to provide 12-month continuous eligibility for children);

''(2) increased enrollment under State plans approved under such program as a result of outreach activities under section 2106(a); and

''(3) the requirement under section 2102(3)A) to provide eligibility for medical assistance under the State plan under title XIX for all children under 19 years of age who have families with income that is at or below the poverty line.

''(c) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided in accordance with the provisions of this title.

''(d) EFFECTIVE DATE.—No State is eligible for payments under section 2105 for any calendar quarter beginning before October 1, 1997.

''SEC. 2104. PROGRAM OUTLINE.

''(a) GENERAL DESCRIPTION.—A State shall submit to the Secretary for approval a program outline, consistent with the requirements of this title, that—

''(1) identifies, on or after the date of enactment of the Balanced Budget Act of 1997, which of the 2 options described in section 2101 the State intends to use to provide low-income children in the State with health insurance coverage;

''(2) describes the manner in which such coverage shall be provided; and

''(3) provides such other information as the Secretary may require.

''(b) OTHER REQUIREMENTS.—The program outline submitted under this section shall include the following:

''(1) ELIGIBILITY STANDARDS AND METHODOLOGIES.—A summary of the standards and methodologies used to determine the eligibility of low-income children for health insurance coverage under a State program funded under this title.

''(2) ELIGIBILITY SCREENING; COORDINATION WITH OTHER HEALTH COVERAGE.—A description of the procedures to be used to ensure—

''(A) through both intake and followup screening, that only low-income children are furnished health insurance coverage through funds provided under this title; and

''(B) that any health insurance coverage provided for children through funds under this title does not reduce the number of children who are provided such coverage through any other publicly or privately funded health plan.

''(3) INDIANS.—A description of how the State will ensure that Indians are served through a State program funded under this title.

''(c) DEADLINE FOR SUBMISSION.—A State program outline shall be submitted to the Secretary by not later than March 31 of any fiscal year (October 1, 1997, in the case of fiscal year 1998).

''SEC. 2105. DISTRIBUTION OF FUNDS.

''(a) ESTABLISHMENT OF FUNDING POOLS.—

''(1) IN GENERAL.—From the amount appropriated under section 2103(a)(1) for each fiscal year, determined after the reduction required under section 2103(b), the Secretary shall, for purposes of fiscal year 1998, reserve 85 percent of such amount for distribution to eligible States through the basic allotment pool under subsection (b) and 15 percent of such amount for distribution through the new coverage incentive pool under subsection (c)(2)(B)(ii).

''(2) ANNUAL ADJUSTMENT OF RESERVE PERCENTAGES.—The Secretary shall annually adjust the amount of the percentages described in paragraph (1) in order to provide sufficient basic allotments and sufficient new coverage incentives to achieve the purpose of this title.

''(b) DISTRIBUTION OF FUNDS UNDER THE BASIC ALLOTMENT POOL.—

''(1) STATES.—

''(A) IN GENERAL.—From the total amount reserved under subsection (a) for a fiscal year for distribution through the basic allotment pool, the Secretary shall first set aside 0.25 percent for distribution under paragraph (2) and shall allot from the amount remaining to each eligible State not described in such paragraph the State's allotment percentage for such fiscal year.

''(B) STATE'S ALLOTMENT PERCENTAGE.—

''(i) IN GENERAL.—For purposes of subparagraph (A), the allotment percentage for a fiscal year for each State is the percentage equal to the ratio of the number of low-income children in the base period in the State to the total number of low-income children in the base period in all States not described in paragraph (2).

''(ii) NUMBER OF LOW-INCOME CHILDREN IN THE BASE PERIOD.—In clause (i), the number of low-income children in the base period for a fiscal year in a State is equal to the average of the number of low-income children in the State for the period beginning on October 1, 1992, and ending on September 30, 1995, as reported in the March 1994, March 1995, and March 1996 supplements to the Current Population Survey of the Bureau of the Census.

''(2) OTHER STATES.—

''(A) IN GENERAL.—From the amount set aside under paragraph (1)(A) for each fiscal year, the Secretary shall make allotments for such fiscal year in accordance with the percentages specified in subparagraph (B) to Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, if such States are eligible States for such fiscal year.

''(B) PERCENTAGES SPECIFIED.—The percentages specified in this subparagraph are in the case of—

''(i) Puerto Rico, 91.6 percent;

''(ii) Guam, 3.5 percent;

''(iii) the Virgin Islands, 2.6 percent;

''(iv) American Samoa, 1.2 percent; and

''(v) the Northern Mariana Islands, 1.1 percent.

''(3) THREE-YEAR AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted to a State pursuant to this subsection for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year.

''(4) PROCEDURE FOR DISTRIBUTION OF UNUSED FUNDS.—The Secretary shall determine an appropriate procedure for distribution of funds to eligible States that remain unused under this subsection after the expiration of the availability of funds required under paragraph (3). Such procedure shall be developed and administered in a manner that is consistent with the purpose of this title.

''(c) PAYMENTS.—

''(1) IN GENERAL.—The Secretary shall—

''(A) before October 1 of any fiscal year, pay an eligible State an amount equal to 1 percent of the amount allotted to the State under subsection (b) for conducting the outreach activities required under section 2106(a); and

''(B) make quarterly fiscal year payments to an eligible State from the amount remaining of such allotment for such fiscal year in an amount equal to the Federal medical assistance percentage for the State (as defined under section 2102(4) and determined without regard to the amount of Federal funds received by the State under title XIX before the date of enactment of this title) of the Federal and State incurred cost of providing health insurance coverage for a low-income child in the State plus the applicable bonus amount.

''(2) APPLICABLE BONUS.—

''(A) IN GENERAL.—For purposes of paragraph (1), the applicable bonus amount is—

''(i) 5 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the base-year covered low-income child population (measured in full year equivalency) (including such children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title, but excluding any low-income child described in section 2102(3)(A) that a State must cover in order to be considered an eligible State under this title); and

''(ii) 10 percent of the Federal and State incurred cost, with respect to a period, of providing health insurance coverage for children covered at State option among the number (as so measured) of low-income children that are in excess of such population.

''(B) SOURCE OF BONUSES.—

''(i) BASE-YEAR COVERED LOW-INCOME CHILD POPULATION.—A bonus described in subparagraph (A)(i) shall be paid out of an eligible State's allotment for a fiscal year.

''(ii) FOR OTHER LOW-INCOME CHILD POPULATIONS.—A bonus described in subparagraph (A)(ii) shall be paid out of the new coverage incentive pool reserved under subsection (a)(1).

''(3) DEFINITION OF COST OF PROVIDING HEALTH INSURANCE COVERAGE.—For purposes of this subsection the cost of providing health insurance coverage for a low-income child in the State means—

''(A) in the case of an eligible State that opts to use funds provided under this title through the medicaid program, the cost of providing such child with medical assistance under the State plan under title XIX; and

''(B) in the case of an eligible State that opts to use funds provided under this title under section 2107, the cost of providing such child with health insurance coverage under such section.

''(4) LIMITATION ON TOTAL PAYMENTS.—With respect to a fiscal year, the total amount paid to an eligible State under this title (including any bonus payments) shall not exceed 85 percent of the total cost of a State program conducted under this title for such fiscal year.

''(5) MAINTENANCE OF EFFORT.—

''(A) DEEMED COMPLIANCE.—A State shall be deemed to be in compliance with this provision if—

''(i) it does not adopt income and resource standards and methodologies that are more restrictive than those applied as of June 1, 1997, for purposes of determining a child's eligibility for medical assistance under the State plan under title XIX; and

''(ii) in the case of fiscal year 1998 and each fiscal year thereafter, the State children's health expenditures defined in section 2102(11) are not less than the amount of such expenditures for fiscal year 1996.

''(B) FAILURE TO MAINTAIN MEDICAID STANDARDS AND METHODOLOGIES.—A State that fails to meet the conditions described in subparagraph (A) shall not receive—

''(i) funds under this title for any child that would be determined eligible for medical assistance under the State plan under title XIX using the income and resource standards and methodologies applied under such plan as of June 1, 1997; and

''(ii) any bonus amounts described in paragraph (2)(A)(ii).

''(C) FAILURE TO MAINTAIN SPENDING ON CHILD HEALTH PROGRAMS.—A State that fails to meet the condition described in subparagraph (A)(ii) shall not receive funding under this title.

''(6) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this subsection for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and shall reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

''SEC. 2106. USE OF FUNDS.

''(a) SET-ASIDE FOR OUTREACH ACTIVITIES.—

''(1) IN GENERAL.—From the amount allotted to a State under section 2105(b) for a fiscal year, each State shall conduct outreach activities described in paragraph (2).

''(2) OUTREACH ACTIVITIES DESCRIBED.—The outreach activities described in this paragraph include activities to—

''(A) identify and enroll children who are eligible for medical assistance under the State plan under title XIX; and

''(B) conduct public awareness campaigns to encourage employers to provide health insurance coverage for children.

''(b) STATE OPTIONS FOR REMAINDER.—A State may use the amount remaining of the allotment to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), in accordance with section 2107 or the State medicaid program (but not both). Nothing in the preceding sentence shall be construed as limiting a State's eligibility for receiving the 5 percent bonus described in section 2105(c)(2)(A)(i) for children covered by the State through expanded eligibility under the medicaid program under title XIX before the date of enactment of this title.

''(c) PROHIBITION ON USE OF FUNDS.—No funds provided under this title may be used to provide health insurance coverage for—

''(1) families of State public employees; or

''(2) children who are committed to a penal institution.

''(d) USE LIMITED TO STATE PROGRAM EXPENDITURES.—Funds provided to an eligible State under this title shall only be used to carry out the purpose of this title (as described in section 2101), and any health insurance coverage provided with such funds may include coverage of abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

''(e) ADMINISTRATIVE EXPENDITURES.—

''(1) IN GENERAL.—Not more than the applicable percentage of the amount allotted to a State under section 2105(b) for a fiscal year, determined after the payment required under section 2105(c)(1)(A), shall be used for administrative expenditures for the program funded under this title.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to a fiscal year is—

''(A) for the first 2 years of a State program funded under this title, 10 percent;

''(B) for the third year of a State program funded under this title, 7.5 percent; and

''(C) for the fourth year of a State program funded under this title and each year thereafter, 5 percent.

''(f) NONAPPLICATION OF FIVE-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS.—The provisions of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) shall not apply with respect to a State program funded under this title.

''(g) AUDITS.—The provisions of section 506(b) shall apply to funds expended under this title to the same extent as they apply to title V.

''(h) REQUIREMENT TO FOLLOW STATE PROGRAM OUTLINE.—The State shall conduct the program in accordance with the program outline approved by the Secretary under section 2104.

''SEC. 2107. STATE OPTION FOR THE PURCHASE OR PROVISION OF CHILDREN'S HEALTH INSURANCE.

''(a) STATE OPTION.—

''(1) IN GENERAL.—An eligible State that opts to use funds provided under this title under this section shall use such funds to provide FEHBP-equivalent children's health insurance coverage for low-income children who reside in the State.

''(2) PRIORITY FOR LOW-INCOME CHILDREN.—A State that uses funds provided under this title under this section shall not cover low-income children with higher family income without covering such children with a lower family income.

''(3) DETERMINATION OF ELIGIBILITY AND FORM OF ASSISTANCE.—An eligible State may establish any additional eligibility criteria for the provision of health insurance coverage for a low-income child through funds provided under this title, so long as such criteria and assistance are consistent with the purpose and provisions of this title.

''(4) AFFORDABILITY.—An eligible State may impose any family premium obligations or cost-sharing requirements otherwise permitted under this title on low-income children with family incomes that exceed 150 percent of the poverty line. In the case of a low-income child whose family income is at or below 150 percent of the poverty line, limits on beneficiary costs generally applicable under title XIX apply to coverage provided such children under this section.

''(b) NONENTITLEMENT.—Nothing in this section shall be construed as providing an entitlement for an individual or person to any health insurance coverage, assistance, or service provided through a State program funded under this title. If, with respect to a fiscal year, an eligible State determines that the funds provided under this title are not sufficient to provide health insurance coverage for all the low-income children that

the State proposes to cover in the State program outline submitted under section 2104 for such fiscal year, the State may adjust the applicable eligibility criteria for such children appropriately or adjust the State program in another manner specified by the Secretary, so long as any such adjustments are consistent with the purpose of this title.

"SEC. 2108. PROGRAM INTEGRITY.

''The following provisions of the Social Security Act shall apply to eligible States under this title in the same manner as such provisions apply to a State under title XIX:

''(1) Section 1116 (relating to administrative and judicial review).

''(2) Section 1124 (relating to disclosure of ownership and related information).

''(3) Section 1126 (relating to disclosure of information about certain convicted individuals).

''(4) Section 1128 (relating to exclusion from individuals and entities from participation in State health care plans).

''(5) Section 1128A (relating to civil monetary penalties).

''(6) Section 1128B (relating to criminal penalties).

''(7) Section 1132 (relating to periods within which claims must be filed).

''(8) Section 1902(a)(4)(C) (relating to conflict of interest standards).

''(9) Section 1903(i) (relating to limitations on payment).

''(10) Section 1903(m)(5) (as in effect on the day before the date of enactment of the Balanced Budget Act of 1997).

''(11) Section 1903(w) (relating to limitations on provider taxes and donations).

''(12) Section 1905(a)(B) (relating to the exclusion of care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases from the definition of medical assistance).

''(13) Section 1921 (relating to state licensure authorities).

''(14) Sections 1902(a)(25), 1912(a)(1)(A), and 1903(o) (insofar as such sections relate to third party liability).

''(15) Sections 1948 and 1949 (as added by section 5701(a)(2) of the Balanced Budget Act of 1997).

"SEC. 2109. ANNUAL REPORTS.

''(a) ANNUAL STATE ASSESSMENT OF PROGRESS.—An eligible State shall—

''(1) assess the operation of the State program funded under this title in each fiscal year, including the progress made in providing health insurance coverage for low-income children; and

''(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

''(b) REPORT OF THE SECRETARY.—The Secretary shall submit to the appropriate committees of Congress an annual report and evaluation of the State programs funded under this title based on the State assessments and reports submitted under subsection (a). Such report shall include any conclusions and recommendations that the Secretary considers appropriate.''.

(b) CONFORMING AMENDMENT.—Section 1128(h) (42 U.S.C. 1320a–7(h)) is amended by—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period and inserting '', or''; and

(3) by adding at the end the following:

''(4) a program funded under title XXI.''.

SEC. ___. APPLICABILITY.

If, on the date of enactment of this Act, the Social Security Act contains a title XXI, the amendments made to the Social Security Act by this title shall not take effect, except that amounts appropriated under such title XXI for a fiscal year shall be increased by the amounts that would have been appropriated for such fiscal year under section 2103 of the Social Security Act, as added by this title.

JEFFORDS AMENDMENT NO. 522

Mr. JEFFORDS proposed an amendment to the bill, S. 949, supra; as follows:

Beginning on page 168, line 8, strike all through page 174, line 19, and insert the following:

"SEC. 1400B. TRUST FUND FOR DC SCHOOLS.

''(a) CREATION OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for DC Schools', consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

''(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

''(1) IN GENERAL.—There are hereby appropriated to the Trust Fund for DC Schools amounts equivalent to the revenues received in the Treasury from the applicable percentage of the income taxes imposed by this chapter after December 31, 1997, and before January 1, 2003, on individual taxpayers during their residency in the District of Columbia.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage necessary, as determined by the Secretary, to result in revenues equal to the net losses in revenues to the Treasury that would have occurred during the period beginning after December 31, 1997, and before January 1, 2003, if the section identified as section 1400B of the Internal Revenue Code of 1986 as added by section 601 of S. 949, 105th Congress, as reported by the Committee on Finance of the Senate, had been enacted.

''(3) TRANSFER OF AMOUNTS.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund for DC Schools on the basis of estimates made by the Secretary of the amounts referred to in such paragraph. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

''(c) EXPENDITURES FROM FUND.—

''(1) IN GENERAL.—Amounts in the Trust Fund for DC Schools shall be available, without fiscal year limitation, in an amount not to exceed $70,000,000 for the period beginning after December 31, 1997, and ending before January 1, 2008, for qualified service expenses with respect to State or local bonds issued by the District of Columbia to finance the construction, rehabilitation, and repair of schools under the jurisdiction of the government of the District of Columbia.

''(2) QUALIFIED SERVICE EXPENSES.—The term 'qualified service expenses' means expenses incurred after December 31, 1997, and certified by the District of Columbia Control Board as meeting the requirements of paragraph (1) after giving 60-day notice of any proposed certification to the Subcommittees on the District of Columbia of the Committees on Appropriations of the House of Representatives and the Senate.

''(d) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund for DC Schools and to report to the Congress each year on the financial condition and the results of the operations of such Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

''(e) INVESTMENT.—

''(1) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund for DC Schools as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

''(A) on original issue at the issue price, or

''(B) by purchase of outstanding obligations at the market price.

''(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund for DC Schools may be sold by the Secretary at the market price.

''(3) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund for DC Schools shall be credited to and from a part of the Trust Fund for DC Schools.''

ALLARD AMENDMENT NO. 523

Mr. ALLARD proposed an amendment to the bill, S. 949, supra; as follows:

On page 397, strike section 881.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON INDIAN AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, June 25, 1997 at 2:00 p.m. in room 562 of the Dirksen Senate Building to conduct an Oversight Hearing on the Administration's proposal to restructure Indian gaming fee assessments.

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

COMMITTEE ON THE JUDICIARY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, June 25, 1997 at 2:00 p.m. to hold a hearing on: ''Judicial Nominations.''

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, June 25, 1997 beginning at 2:00 p.m. until business is completed, to receive testimony on Campaign Finance—Are Political Contributions Voluntary: Union Dues and Corporation Activity.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. DOMENICI. The Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing to take testimony from the General Accounting Office, the Department of Veterans Affairs, and the Department of Defense relative to the GAO reort ''Gulf War Illnesses: Improved Monitoring of Clinical Progress and Re-examination of Research Emphasis Needed''. The hearing will be held on June 25,

1997, at 9:30 a.m., in room 216 of the Hart Senate Office Building.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Committee on Commerce, Science and Transportation be authorized to meet on Wednesday, June 25, 1997 at 2:00 p.m. on U.S. Fire Administration and Office of the Associate Administrator for Commercial Space Transportation—FY 98 Budget.

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

COMMITTEE ON ARMED SERVICES

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in Executive Session today at 5:30 p.m. in order to vote to report out routine military nominations.

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

TRIBUTE TO COL. RANDALL INOUYE, COMMANDER, BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS

● Mr. SARBANES. Mr. President, I rise today to pay tribute to Col. Randall Inouye, Commander of the Baltimore District, U.S. Army Corps of Engineers. Col. Inouye is moving on to a new assignment in the Pentagon and I want to express my appreciation for the fine work that he has done.

In the 3 short years in which Col. Inouye has commanded the Baltimore District he has proved to be one of the best and most accomplished District Engineers. During his tenure in Baltimore, the colonel helped spearhead Maryland's flood mitigation task force—a Federal, State, and local partnership effort to help communities rebuild after the devastating floods of 1996. This task force is now being used as a model for similar efforts throughout the nation. Under his leadership, the Poplar Island restoration project—the largest habitat restoration project ever undertaken in the United States—was initiated. Poplar Island is the first large-scale project to make beneficial use of dredged material and will help protect and promote the recovery of the Chesapeake Bay while at the same time preserving the vitality of the Port of Baltimore. Similarly, Col. Inouye was responsible for many other important environmental restoration and water resource development activities in the region, including the successful restoration of 32 acres of emergent tidal wetlands at Kenilworth Marsh—the largest and last remaining freshwater tidal wetland on the Anacostia; the Maryland coastal bays initiative; and the Tolchester and Brewerton Channel improvement projects, to name only a few. As District Engineer, Col. Inouye also directed and oversaw the succeessful completion of numerous military construction projects in Maryland from the Army's Research Labs at Aberdeen Proving Ground and Adelphi to the Defense Information School at Fort Meade to the new Walter Reed Army Institute of Research at Forest Glen.

I came to know Col. Inouye shortly after he assumed command of the Baltimore District and have had the privilege of working closely with him over the past three years on many initiatives throughout Maryland, including those mentioned above. In every instance, the Colonel has distinguished himself for his responsiveness and commitment to getting the job done. He has set a new standard of excellence and accomplishment for other District Engineers to emulate.

In recognition of his outstanding service to the Baltimore District and other commands, Col. Inouye has received numerous awards and commendations including the Legion of Merit, the Meritorious Service Medal and the Army Commendation Medal. But perhaps more importantly, his efforts have earned him the respect and admiration of everyone with whom he has worked. I know that many Marylanders join me in expressing appreciation for his contributions toward improving the quality of life in our State and in wishing him the best in his new endeavors.●

HONORING DR. JAN KARSKI

● Mr. LAUTENBERG. Mr. President, I rise today to honor an individual who truly personifies courage and compassion. When the dark night of Nazi occupation descended across most of Europe, and the spark of humanity was crushed beneath Gestapo jack boots, Dr. Jan Karski knew that he couldn't just curse the darkness.

Dr. Karski was a wartime courier for the Polish underground, and he is often credited as being the first person to alert the Allies about the existence of the death camps and the extermination of the Jews.

Karski's secret work began in 1939. He was riding in a cattle car, with other Polish soldiers, heading for forced labor in Germany, when he jumped from the window and joined the underground movement. Between the winter of 1939 and the early summer of 1940, Karski was sent by the underground back and forth from Warsaw to France on successful missions as a courier. However, in 1940 he was arrested by the Nazis in Slovakia and brutally tortured. Eventually, he was rescued by the Polish underground and continued to fight for freedom.

Karski clandestinely surveyed conditions in the Warsaw Jewish Ghetto and even volunteered to be smuggled into the Belzic death camp to gather evidence of the Nazi's extermination policies. In 1943, he was sent by the Polish government-in-exile to inform American officials about the situation in his native country, among the prominent individuals he met with was President Roosevelt. In fact, shortly after meeting with Karski, Roosevelt ordered the creation of the American Refugee Board, an organization whose main task was to protect Jewish escapees and place them in the United States.

After the war, when Poland traded Nazi totalitarianism for Soviet totalitarianism, Karski moved to the United States. He earned his Ph.D. in Georgetown and has been teaching at the university since 1952. Among other honors, Karski has received the highest Polish military decoration, a special citation by the United Nations, and was declared a ''Righteous Gentile Among Nations'' by the state of Israel.

Mr. President, the great humanitarian Albert Schweitzer once noted, ''A great person helps others, but a good person touches the lives of others.'' If that's true, then Dr. Karski proves that good and great can exist in the same individual. He continually demonstrated that one person can make a difference, and at a time when many were content to curse the darkness, he kept the candles of hope and humanity burning. Undoubtedly, he is an example for our times and a hero for the ages.●

FAIR PLAY ACT

Ms. SNOWE. Mr. President, I am extremely pleased to note that this week we celebrate the 25th anniversary of title IX, landmark legislation that has played an enormous role in leveling the playing field—literally—for women in sports. I was also pleased last week to join my colleagues, Senator MOSELEY-BRAUN, KENNEDY, and MIKULSKI, to mark this anniversary by introducing the Fair Play Act, legislation which will take the next important step in increasing educational and athletic opportunities for young women.

There is no question that sports are just as important an activity for girls and women as they are for boys and men. Through sports, girls and women can get a feel for the positive competitive spirit which was, until recently, the almost exclusive property of boys and men. Women and girls who participate in sports develop self-confidence, dedication, a sense of team spirit, and an ability to work under pressure—traits which enhance all aspects of their lives. In fact, 80 percent of women identified as key leaders in Fortune 500 companies have sports backgrounds.

When I was a young girl growing up, girls and women did not have much opportunity to participate in competitive athletics. But the enactment of title IX of the Education Amendments of 1972 changed all that, by requiring that women be afforded equitable opportunities to participate in high school and college athletics. Since title IX's enactment, women and girls across the Nation have met the challenge of participating in competitive sports in record numbers. Since 1972, the number

of college women participating in competitive athletics has gone from fewer than 32,000 to over 110,000 in 1994–95. Before title IX, fewer than 300,000 high school girls played competitive sports. By 1996, that number had climbed to almost 2.4 million.

Today, women across America are taking bats, lacrosse sticks, and javelins to the glass ceiling—shattering the myth that there are ''men's'' sports and there are ''women's'' sports. But a quarter-century after title IX's enactment, there is still much more to be done. According to a recent NCAA study, only 23 percent of all current college athletic budgets are allocated to women, and women receive only 38 percent of athletic scholarship dollars. Only 27 percent of funding spent to recruit new athletes target women. In high-school athletic competitions, there are two boys to every one girl participating.

The Fair Play Act, which we introduced to mark the 25th anniversary of Title IX, is designed to strengthen this important legislation and therefore enhance women's athletic and educational opportunities. Under current law, colleges and universities are required to compile information about their men's and women's athletic programs, including participation rates, operating and recruitment budgets, the availability of scholarships, revenues generated from athletic programs, and coaches' salaries. They are required to update this information annually and make it available to prospective students and others upon request. Because there is no central repository for this information, however, it is difficult for students to obtain and evaluate it or put it into context.

The Fair Play Act is designed to correct this by directing colleges and universities to send information they already collect on their men's and women's athletic programs to the Department of Education, and directs the department to publish an annual report and make this information widely available by distributing the annual report to high schools, and establishing a toll free number and a web site. This bill will give students and families access to the kind of information they need to make informed decisions about where to go to school, and will help the Department of Education enforce title IX compliance in the area of athletics.

The first 25 years of title IX have been an enormous success. Now, it's time for us to help millions of other girls and women get off the bleachers, the sidelines, and the viewing stands and onto the fields, the pitchers' mounds, and the courts. I urge my colleagues to support this legislation, and look forward to seeing what the next 25 years hold for women's accomplishments in sports.●

MARVIN H. POPE

● Mr. MOYNIHAN. Mr. President, our age has lost a scholar of epic achievement and range with the passing of Marvin H. Pope of the Yale Divinity School. A Biblical scholar of unsurpassed originality and range, he died at age 80 in the First Church of Round Hill, Greenwich, CT, just after he and his wife Ingrid had read a passage from the Bible for the congregation. He was an effervescent member of the American Schools of Oriental Research, where he will be mourned as well as celebrated.

As was said about Job, it could be said of Marvin H. Pope: ''. . . thou hast blessed the work of his hands, and his substance is increased in the land.'' I ask that an an article on Marvin Pope, from the New York Times be printed in the RECORD.

The article follows:

[From the New York Times, June 1997]

MARVIN POPE, 80, PROFESOR AND AUTHORITY ON ANCIENT UGARIT

(By Holcomb B. Noble)

Marvin H. Pope, a retired Yale professor who was one of the world's leading authorities on Ugarit, the ancient city in Syria where excavations shed important light on the ancient Scriptures, died on Sunday at First Church of Round Hill in Greenwich, Conn. He was 80.

He and his wife had just finished reading passages from the Bible to the congregation and returned to their pew when he collapsed.

Mr. Pope was a professor of Near Eastern languages and civilizations from 1949 to 1986 and taught at the Yale Divinity School and in the religious studies department.

In addition, he helped prepare the first major revision of the King James Version of the Bible, the Revised Standard Version, in the 1940's. In the 1980's he worked with others advising the National Council of Churches on the New Revised Standard Version, which removed some traditional language regarded as sexist. These are the two versions used in most Protestant churches.

Many of Mr. Pope's contributions to the study of the Hebrew text of the Bible and to modern English translations stemmed from a day in 1928 when a farmer plowing a field in northern Syria struck what he thought was a stone. It emerged, instead, as part of the extensive remains, uncovered by archeologists over the next year, of a cosmopolitan city on the Mediterranean that had thrived in 2000 B.C. but had been ransacked and burned in about 1200 B.C.

Among the discoveries were Ugaritic art and clay tablets whose language was similar to biblical Hebrew, of which Mr. Pope, over the years, became a major translator. They added significant new meanings, nuances and detail to the early writings of the Old Testament and the culture of their time. The tablets were traced to a period from 1500 B.C to 1180 B.C.

Mr. Pope's work on the tablets resulted in his retranslations from the ancient Hebrew of the entire books of Job and the Song of Songs, and a lengthy commentary about them both, published in 1973 and 1977 by the Anchor Bible Series. Robert R. Wilson, a professor of religious studies at Yale, said those two translations were ''the brilliant works of a master scholar'' and added to the general understanding of an age and its poetry.

Scholars said that one of the difficulties in translating the early tablets was that the words had been crammed onto the surfaces with less regard for their legibility than whether they would fit. It was often difficult to determine, as a result, which line of poetry followed which. Mr. Pope was able to arrange the lines in proper sequence and poetic form.

Another difficulty was that the meanings of the first lines of the verses tended to be echoed in the second lines but with rarer language. Mr. Pope was one of the few able to capture the meaning of the rarer passages.

He visited the site of the 1929 excavations, near the modern town of Latakia, north of Damascus, though most of his studies took place in Paris, where the hundreds of tablets were put on display.

A man whose wit made him popular among generations of Yale students, he said that one of his findings was that Baal, chief god of the Ugarits, was not always chief, as scholars had thought, but had maneuvered to take over from the god El, whom he kicked further upstairs.

Marvin Hoyle Pope was born on June 23, 1916, in Durham, N.C., the son of Charles and Bessie Cleveland Sorrell Pope. He earned a bachelor's degree in 1938 at Duke University, where he was signed up by mistake for a course in Hebrew. He remained in the course, which led him to a master's degree in Semitic languages and literature in 1939. He received a doctorate from Yale in 1949.

His first wife, Helen Thompson Pope, died in 1979.

In addition to his wife, Ingrid Bloomquist Pope, he is survived by a son, Marvin Jr., and a daughter, Beverly, both of New Haven; three stepchildren, Dennis Bloomquist of Great Falls, VA, Diane B. Connelly of Shaker Heights, OH, and Laurel B. Shields of Austin, TX.; a sister, Mary Gladys Hodges of Durham, NC and eight grandchildren.●

BIOMATERIALS ACCESS ASSURANCE ACT

● Mr. ABRAHAM. Mr. President, I rise to speak today on Senate bill 364, the Biomaterials Access Assurance Act, which I am proud to cosponsor. I have long been a proponent for civil justice reform and other legislative measures relating to product liability. As an original cosponsor of product liability reform legislation (S. 648), I have long supported the biomaterials liability reform provisions contained in it. I am also pleased to cosponsor those provisions as a separate measure, although in my view we need both general product liability reforms and biomaterials liability reforms.

This Nation's tort system is in dire need of repair. To maintain the status quo is not only costing consumers millions of dollars each year but also many lives will be lost if change does not occur soon. The Biomaterials Access Assurance Act approaches the subject of tort reform from a different perspective—the perspective of millions of Americans who face life-threatening diseases. These are the people who have the most to gain and everything to lose if Congress refuses to listen to their pleas.

The purpose of this act is straightforward. S. 364 attempts to gain a foothold on our legal system's slippery slope by shielding companies who supply raw materials to manufacturers of life-saving medical devices. The Biomaterials Access Assurance Act will prevent the impending shortage of biomaterials suppliers by permitting these companies to be quickly dismissed from a lawsuit provided they had no part in the manufacture or selling of a

device and all contractual specifications had been met. Currently it is common practice for suppliers to be dragged into costly litigation even though these companies are not involved in the creation or marketing of a product. In fact, in almost every case thus far, biomaterials suppliers are not found liable in these type of lawsuits. S. 364 squashes illegitimate attempts for windfall profits and more importantly, ensures these life-saving medical devices will be in abundant supply.

Right now, the escalating expense suppliers unfairly incur defending their product continues to drive many out of the U.S. market. As a result, it is becoming increasingly more difficult for manufacturers of medical devices to find biomaterials suppliers with the raw materials necessary to produce their products. Replacement heart valves, pacemakers, and brain shunts are but a small selection of the devices which rely on raw material suppliers.

My colleague from Arizona, Senator MCCAIN, mentioned in an earlier statement that 13 biomaterial supply companies have been driven out of business due to concerns about the risk of unwarranted litigation. Sadly, the people whose lives depend on these raw materials for survival are the ones who will pay the ultimate price. Unfortunately a family living in my home State of Michigan illustrates my point.

Recently Mr. And Mrs. Traxler of Fremont, MI, told me of their family's desperate need to find help for their young daughter, Sarah. The parents explained to me when Sarah was 2 months old she experienced a traumatic brain injury. As a result of the injury, Sarah now requires a shunt that drains fluid away from her brain.

The shunt will need replacing soon and her parents are deeply worried that if medical manufacturers are forced into bankruptcy, the shunts keeping Sarah alive will no longer be available. In their letter, Sarah's parents explain, ''Because of the recent lawsuits involving breast implants and other medical devices, many biomaterials manufacturers have discontinued supplying the raw materials used to make medical devices. Because the sale of these raw materials represent such a small percentage of their total revenues, they do not feel it is worth the risk of having to defend themselves in court and they have discontinued supplying these materials to medical device manufacturers.''

This is a sad commentary on the state of this Nation's legal system. Clearly, reform is needed and must be implemented soon to help protect the life of Sarah Traxler and countless others like her. For this reason, I ask my colleagues many of whom are parents themselves, to support this critical legislation.●

TRIBUTE TO KARIN ELKIS WEINSTEIN

● Mr. LAUTENBERG. Mr. President, today I want to congratulate Karin Elkis, who is being honored on June 30, 1997 as the Sid Levy Memorial Volunteer of the Year by the Jewish Community Center of South Jersey. This annual award is presented to the volunteer who best captures the JCC's commitment to community service and self-giving. Karin is in charge of the Lautenberg Senate office in South Jersey and it is of no surprise to me that she is receiving this honor. Karin gets more done in one hour than most people accomplish in a single day. She is energetic, caring, selfless, and always thinking about others. She brings the same commitment and concern to her volunteer activities that she brings to her work to serve the people of New Jersey.

Despite a more than full time job, three young children, and other family responsibilities, Karin has found time to make a major contribution to the JCC by chairing its Festival of Arts, Books and Culture this year. Further, she's served as a liaison to the Early Childhood Department, a member of the Budget Committee, chaired the Camp Committee and been a member of the Executive Committee. If I listed all of her activities at the JCC over the past few years, this statement would be longer than a James Michener novel.

Through her work, Karin has touched the lives of many. She is truly an extraordinary person, with many talents, enormous energy and drive, and a compassionate heart. I am proud to have Karin on my staff and to include her as a friend. She makes an enormous contribution to the South Jersey community, through her work as a Senate employee and her work as a volunteer.

Mr. President, I again congratulate Karin on this well deserved recognition. I know that she will continue to serve the people of New Jersey in many ways for years to come and that our pride in her accomplishments will continue to be justified.●

CLEANING THE AIR

● Mr. LEAHY. Mr. President, for the past 5 months, we have been engaged in a troubling debate on how best to protect the health of our children, our elderly and our environment. Since the Environmental Protection Agency announced the proposed new standards for air quality, we have witnessed an unprecedented campaign by industry to block these new standards. Opponents instantly attacked the goals rather than sitting down to work with Congress and the administration on how to achieve these goals in a reasonable and cost-effective timeframe. I applaud EPA Administrator Carol Browner for standing up against the onslaught of industry backlash on the new standards. Today, President Clinton showed equal commitment by supporting the thrust of Administrator Browner's recommendation. This decision will reduce the smog and soot that drifts into Vermont from outside the State. I congratulate President Clinton for standing up for the health of our children and our environment. We can now begin the process of finding the most cost-effective means of implementing these standards.

In Vermont, we recognize the benefits of high environmental standards. Over the years, conservationists and the business community have worked together to protect the environment. Vermonters know that a healthy environment promotes a healthy economy. Yet despite our commitment, Vermont and other Northeastern States have become the dumping ground for pollution that seeps across our borders each night with the wind. The new ozone standard makes the biggest pollutors accountable and will reduce the burden on States in the Northeast in their battle to maintain our high standards for air quality. Acid rain taught us that tough State environmental standards were not enough to protect us. We saw some of our healthiest forests die off from pollution borne from outside our region. This situation demands tough national environmental standards to ensure a level playing field.

The new air standards will address two central issues: Where the smog and soot is landing and how to use new scientific evidence to continue improving efforts to protect public health. We learned from the acid rain debate that emissions from dirty coal-fired powerplants in the Midwest can be transported farther than 500 miles. More than 40 percent of the pollution in Vermont is from outside the state. We also know that utility restructuring will encourage increased generation at the powerplants in the Midwest. The new standards proposed by EPA will reduce the smog and soot that drifts into Vermont from these powerplants. Today's decision is a clear victory for the Northeast because we now have a standard that will reduce air pollution at its source.

Since the passage of the Clean Air Act we have made considerable strides in reducing some pollutants. The level of lead pollution we and our children breathe today is one-tenth what it was a decade ago. That figure by itself is a tribute to the success of the original Clean Air Act. If we learned one thing from the acrimonious debate in Congress last year on environmental issues, it is that the American people do not want to halt the progress we have made and merely rest on our environmental laurels. Americans want to keep moving forward on cleaning up our environment. Unfortunately, as I listen to the debate on the Clean Air Act this Congress, I fear that we are not heeding their call. Instead of looking at ways to strengthen the Clean Air Act, we are trying to undercut the existing regulations.

Today, the President recognized the 130 million Americans in 170 major cities who continue to breathe unhealthy air. Congress should listen as well and approve the standards. I will work with my colleagues in the

Senate to oppose efforts to block the implementation of these new standards. Members of the House of Representatives have already launched their attack on the standards by introducing legislation to block the President's decision and weaken these standards. It is important to Vermont and to the Nation that we set aside the acrimonious debate that occurred on these standards and work together to develop a cost-effective implementation plan.

The recommendations of the Ozone Transport Assessment Group that were approved by 32 States lay out several concrete steps to clean up our air in the Northeast. I challenge Administrator Browner and the administration to move quickly on these recommendations. In particular, I want Congress and the administration to look at what probably has become one of the largest loopholes in the Clean Air Act: Allowing the dirtiest power plants to continue to operate with vastly inadequate pollution controls. The need to go back and close this loophole now—in this session of Congress—assumes greater urgency because of the deregulation of the electric utility industry.

Tomorrow's United Nations conference on the environment reminds us that we share the air, the water and our planet. There can be no greater legacy that we leave behind for our children and grandchildren than a society secure in its commitment to a healthy and environmentally sound future.●

BLOOMINGTON-NORMAL'S ''NOT IN OUR TOWN'' PROGRAM

● Mr. DURBIN. Mr. President, I rise today to recognize the people of Bloomington-Normal, IL, for their efforts to stem the growth of hate crimes and racial intolerance. Their commitment to taking proactive measures to prevent division and promote understanding serves as a model for communities across the Nation.

Inspired by the film ''Not in Our Town,'' which tells the story of how Billings, MT, joined together in response to rampant hate crimes, the citizens of Bloomington-Normal created their own ''Not in Our Town'' program. They were not, however, responding to hate crimes or clear racial unrest. Instead, these Twin Cities chose to create a vehicle for awareness and prevention, to stop hate crimes before they started. This type of program is without a doubt ahead of its time.

Designed to increase public knowledge about the threat of racial violence, the program is carried out in a variety of ways. Adult and youth discussions and forums are regularly held. All city entrances are marked with ''no racism'' signs. Many city workers wear ''Not in Our Town'' buttons, and all city vehicles are marked with ''Not in Our Town'' bumper stickers. Clearly, it's difficult to be in Bloomington-Normal without knowing that prejudice and violence will not be accepted. In addition to these efforts, the city has also sponsored two anti-racism marches, which give citizens the opportunity to demonstrate their commitment to the program and its goals not only to each other, but to surrounding communities as well.

Perhaps most vital to the program's success are its youth discussion groups. As one teen noted, ''History is going to repeat itself if the youth aren't taught about the Holocaust and slavery * * * they won't know any better.'' ''Not in Our Town'' provides young people a way to learn how local events are part of national issues, and more importantly, how community action can really make a difference for people everywhere.

As President Clinton begins a new initiative to have a national conversation about race and diversity, Bloomington-Normal has truly taken the lead in providing a model that all Americans can follow when organizing their home towns to discuss and confront what is perhaps our most important issue.●

THE SLAUGHTER OF REFUGEES IN CONGO MUST CEASE

● Mr. BIDEN. Mr. President, the government of the Democratic Republic of Congo must bring to an immediate end the systematic search and slaughter of Rwandan refugees, or else face isolation from the international community. Recent media reports allege the methodical execution of Rwandan refugees still hiding in the former Zaire by the Congolese military. Unless these atrocities are halted, Mr. Kabila should not expect ready support in the United States for his efforts to rebuild his country.

News reports the last several weeks have alleged the existence of mass grave sites of Rwandan refugees. As of yet, we do not know for certain if these reports are accurate, and if so, by whose hands the refugees were slaughtered. A team of United Nations investigators arrived in Congo last week to initiate an investigation of these claims. Media reports of Congolese government directives to hinder this investigation, if accurate, are intolerable. The government of Congo must bring to an immediate end the persecution of the remaining Rwandan refugees, and actively assist the U.N. in its efforts to locate and repatriate these Rwandan nationals.

According to reports of the United Nations and various nongovernmental organizations, thousands of Rwandan refugees continue to hide in the Democratic Republic of Congo. The U.N. High Commissioner for Refugees estimates that between 200,000 and 250,000 refugees are still missing in Congo. While the actual number may be uncertain, what is clear is that a significant number of Rwandan refugees remain within Congolese borders.

These refugees consist mostly of Rwandan Hutus who fled their country after the 1994 genocide that took the lives of an estimated 800,000 Tutsis and moderate Hutus. Despite the large numbers of refugees who have already returned to their homes in Rwanda, a considerable number remain in Congo, many of them women and children. Many are exhausted and weak from almost three years of constant movement, malnutrition and illness.

Clearly there exists the very real likelihood that among the Rwandan refugees who remain in Congo are those responsible for the 1994 Rwandan genocide. If so, they should be returned to Rwanda and held accountable for their crimes before their own countrymen at the International War Crimes Tribunal. There is absolutely no justification for the execution of any Rwandan refugee in Congo.

Unfortunately, reports of persecution of Rwandan refugees in Kabila's Congo are not entirely new. Such claims have been associated with the Alliance of Democratic Forces for the Liberation of Congo since its early battlefield victories in eastern Zaire. However, Laurent Kabila earlier this month in a meeting with Ambassador Bill Richardson committed himself to assist international efforts to account for and repatriate Rwandan refugees in his country. The successful resolution of the refugee issue in Congo has serious consequences for the future of his country.

Failure to follow through on this commitment seriously calls into question the credibility of the Kabila government to deliver on its promises to the world and its own people. The U.N. team in Congo so far has not encountered any difficulties. If Mr. Kabila expects to receive the support of the international community, it is imperative that he fulfill his earlier pledge and secure the access the United Nations needs to locate and repatriate the refugees. If Mr. Kabila does not live up to his existing commitments on the issue of the Rwandan refugees, it's unclear what confidence there will be for his promises of democracy and peace for the Congolese people.●

SENIOR CITIZENS' MEDICARE FREEDOM TO CONTRACT ACT

● Mr. KYL. Mr. President, I rise as the sponsor of the Senior Citizens Medicare Freedom to Contract Act. The act would provide a technical correction in the Medicare Technical Corrections Act of 1994 (42 USCS section 1395, et. seq.), which was signed into law in November 1995.

The Medicare Technical Corrections Act of 1994 contained a subtle—and, based on the CONGRESSIONAL RECORD, clearly unintended—change in statutory language.

The Health Care Financing Administration [HCFA] interprets this change as expanding existing restrictions on private payments in Medicare cases in which claims are filed, to all cases involving Medicare enrolled individuals, regardless of whether a claim is filed.

If HCFA imposes this interpretation through regulations reportedly now being drafted, HCFA would have the authority to completely prohibit Medicare enrolled who do not submit reimbursement claims to HCFA, and who do not have claims submitted on their behalf, and who are willing to pay their own bills in full—from paying non-Medicare physicians out of pocket for needed Medicare-covered services.

Even without the regulations, the view of HCFA is clear.

HCFA Administrator Bruce Vladek states that the ''law requires that physicians submit claims on behalf of beneficiaries. Violations of these requirements are subject to sanctions such as civil monetary penalties and exclusion from Medicare.''

Tom Ault, HCFA Director of Policy Development, has said that ''for doctors to implement private contracts is illegal.''

HCFA's Director of the Bureau of Policy, Kathleen Buto, states that: A physician can choose not to treat Medicare beneficiaries. However, once a physician renders services to a Medicare beneficiary, he or she is subject to Medicare's requirements and regulations, regardless of the physician's participation as a Medicare provider. A physician's failure to comply with the claim filing requirement violates Medicare law and subjects him or her to possible monetary penalties.

Clearly, this change does not reflect the intent of the Congress.

If HCFA's interpretation is imposed by regulation, the result will be that seniors not have the right to choose treatments for which they can afford to pay in full to a non-Medicare participating physician.

This will occur due to the fact that many physicians and other providers are unwilling to participate in Medicare since Medicare reimbursement frequently covers only 70 to 75 percent of the actual cost of care.

Under HCFA's proposed regulations, physicians and other providers, who do not participate in Medicare, would be prohibited from accepting private payments for their services.

Congress clearly never intended this result.

Nor does this change reflect the will of the American people.

In a November 5, 1996, Wirthlin Worldwide Poll, 60 percent believe that Americans should be able to add their own money to Government payments in order to get unrationed health services.

Surely, a law that made it illegal to supplement with private funds the amount received from Social Security would be met with disbelief and derision.

But this is exactly what HCFA has threatened to do, thereby restricting health care choice for seniors.

HCFA's policy would also end the practice of cost shifting, whereby doctors have an incentive to treat more Medicare patients who can't afford to supplement Medicare's low-reimbursement rate with funds from those who choose to pay out of pocket.

To address this problem, senior citizens' medicare freedom to contract amendment simply states: ''[n]othing * * * shall prohibit a physician or other provider who does not provide items or services under the Medicare Program from entering into a private contract with a Medicare beneficiary for health services for which no claim for payment is submitted * * * section 1805(a)].''

Because the strategy for enactment has changed, the bill was not introduced in the 105th Congress.

However, in the 104th Congress, this legislation was cosponsored by Senators LOTT, CRAIG, GREGG, COCHRAN, NUNN, HELMS, FAIRCLOTH, BENNETT, KEMPTHORNE, MACK, MURKOWSKI, and INHOFE.

This legislation is strongly supported by the American Medical Association, the Seniors Coalition, the National Right to Life Committee, and several other national health care organizations.

Although this legislation has not yet been scored by the CBO, allowing seniors to pay for services rather than submitting claims to HCFA would plausibly be viewed by the CBO as a budgetary savings for purposes of the Byrd rule.

Furthermore, this legislation calls for HCFA to report to Congress in 2002 regarding the impact of this legislation on Medicare.

Mr. President, I urge my colleagues to support this technical clarification to the Medicare statute.●

THE NEW HAVEN LIGHT

● Mr. LIEBERMAN. Mr. President, I rise today to commemorate the 150th anniversary of New Haven Light, also known as the Five Mile Point Lighthouse in New Haven, CT. One of New England's most recognizable landmarks, New Haven Light has weathered countless storms yet still stands its silent watch over the waters of Long Island Sound and one of the region's busiest ports.

This year's annual SNET New Haven Harborfest is made all the more special by the anniversary of this beloved landmark and local treasure. I commend those who have worked so hard to preserve New Haven Light and maintain the vitality of New Haven's harbor and Long Wharf district.

This Nation's proud history is forever linked with the important waterways of New England. From the battles in the War for Independence to the economic prosperity of the late 20th century, ports like New Haven Harbor have always played a critical role in the development of the United States. I am proud to stand today and recognize the importance of New Haven Harbor as well as celebrate the milestone anniversary of New Haven Light.●

SOCIAL SECURITY PROPOSAL FROM FORMER SENATORS

● Mr. DURBIN. Mr. President, our friend and former colleague in this body, Paul Simon, has always been outspoken in his leadership on national issues. He continues to contribute to the national debate as the director of the Public Policy Institute at Southern Illinois University in Carbondale.

Paul recently gathered together a number of former Senators to consider the issue of Social Security. The group developed a Social Security proposal which they believe will provide a solvent Social Security system for the next 75 years.

I ask that the letter I received from this group be printed in the RECORD.

The letter follows:

PUBLIC POLICY INSTITUTE, SOUTHERN ILLINOIS UNIVERSITY AT CARBONDALE,

Carbondale, IL, May 28, 1997.

Hon. RICHARD J. DURBIN,
U.S. Senate,
Washington, DC.

DEAR FRIEND: Four of us—your former colleagues, two Republicans and two Democrats—who will not be seeking office again recently met to discuss an issue of great importance to the nation: the future of Social Security's retirement trust fund.

If this problem is not addressed immediately, the difficulties will mount and the long-run picture for both the fund and the confidence in our system of government is grim. The sooner you address this problem, the easier it will be to resolve. Postponing responsible action may be temporarily politically attractive, but history will be harsh on those who ducked when action was needed.

We believe that salvaging Social Security requires these two fundamental changes:

1. Congress should act to correct the Consumer Price Index to reflect reality.

2. Congress should remove the cap on the taxable amount of income covered by Social Security.

The fundamental decisions on the future of Social Security should not be in the hands of technicians, but in the hands of those who are elected by the people to reflect the values of this nation and to make fundamental decisions.

If you accept the recommendations we make, you will provide the nation with a solvent Social Security retirement system, along with a much healthier fiscal base.

If the sacrifices that we call upon people to make are accepted, the trust fund should be secure for the lifetime of our children and grandchildren. That is no small gift to the future of our nation. You are in a position to make that contribution.

This is a time that calls for your leadership. We respectfully ask you to meet this challenge.

JOHN DANFORTH.
PAUL SIMON.
DAVID PRYOR.
ALAN SIMPSON.●

TOM HARTMANN

● Mr. TORRICELLI. Mr. President, I rise today in recognition of Tom Hartmann as he celebrates seventy-five wonderful years. Tom has been a cornerstone of academic life at Rutgers University, and he has made equally significant contributions to political

and civic life in the State of New Jersey. It is a pleasure for me to be able to honor his past accomplishments.

Prior to his academic career, Tom served admirably in the United States Marine Corps, flying 89 combat missions in the Pacific as a dive bomber pilot, during World War II. As a result of his efforts, he received the Navy Cross for valor. Upon returning to the United States, Tom transferred his sense of duty to the community. As the Associate Director of the New Jersey Office of Economic Opportunity, and then as Deputy Director of the Governor's commission on the Newark riots, Tom has played an important role in promoting better community relations within the State of New Jersey.

As a Rutgers alumnus, I am proud to say that I have known Tom Hartmann personally. Tom's integrity and commitment to New Jersey's youth are two of the qualities I have admired most. He has worked to pass these same qualities along to the thousands of students who have sat in his classes or listened to him speak. There is no mistaking the sheer joy Tom has brought to his profession.

Without his guidance and counseling, few Rutgers students would be as successful as they are today. This impact has been felt most in the political arena as Rutgers students have sought to make a name for themselves. A number of state and national government officials, including myself, have been the direct recipients of his advice. It is fair to say that Tom has a gift for crystallizing a student's goals and talents in order to make some of the most difficult career decisions easy.

Tom's political astuteness is well-known at all levels of government. He worked closely with my predecessor, Senator Bradley, for many years on some of the most complex issues of our time. I have sought advice from Tom on more than one occasion, and his counsel has been welcome. Tom's ability to assess the political implications of any decision is truly invaluable, and I thank him for the years of support he has provided.

Tom's contributions have done much for the future of New Jersey, and our nation as a whole. I congratulate Tom on a job well done, and I wish him the best for seventy-five more years of happiness.●

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105–8

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on June 25, 1997, by the President of the United States.

Tax Convention with Swiss Confederation (Treaty Document No. 105–8.)

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention Between the United States of America and the Swiss Confederation for the Avoidance of Double Taxation with Respect to Taxes on Income, signed at Washington, October 2, 1996, together with a Protocol to the Convention. An enclosed exchange of notes with an attached Memorandum of Understanding, transmitted for the information of the Senate, provides clarification with respect to the application of the Convention in specified cases. Also transmitted is the report of the Department of State concerning the Convention.

This Convention, which is similar to tax treaties between the United States and other Organization for Economic Cooperation and Development (OECD) nations, provides maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention also provides for exchange of information and sets forth rules to limit the benefits of the Convention so that they are available only to residents that are not engaged in treaty shopping.

I recommend that the Senate give early and favorable consideration to this Convention and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 25, 1997.*

AMENDING THE PRESIDENT JOHN F. KENNEDY ASSASSINATION RECORDS COLLECTION ACT OF 1992

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1553, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1553) to amend the President John F. Kennedy Assassination Records Collection Act of 1992 to extend the authorization of the Assassination Records Review Board until September 30, 1998.

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

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 1553) was considered read the third time, and passed.

CONGRATULATING THE CHICAGO BULLS ON WINNING THE 1997 NATIONAL BASKETBALL ASSOCIATION CHAMPIONSHIP

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 103, submitted earlier today by Senators MOSELEY-BRAUN and DURBIN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 103) to congratulate the Chicago Bulls on winning the 1997 National Basketball Association Championship, and proving themselves to be one of the best teams in NBA history.

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

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

Ms. MOSELEY-BRAUN. Mr. President, on behalf of the City of Chicago, and the State of Illinois, I would like to offer this Senate Resolution with my friend and colleague from Illinois, Senator DICK DURBIN, congratulating the Chicago Bulls for winning the 1997 National Basketball Association Championship.

The Bulls have now repeated, once again, as champions—winning for the fifth time in seven years. This year's triumph expands the team's indisputable place in history.

I say to my colleagues from Utah, Senator HATCH and Senator BENNETT, that their great State of Utah was well represented in this championship series that ended Friday in Chicago. We should all applaud the Utah Jazz for a successful season, and an enormously exciting NBA Finals.

The Bulls have put together an exceptional season and a remarkable dynasty. There should be no doubt that the Bulls are the best team in the 50 year history of the NBA, and that Michael Jordan is the best player. Despite suffering from flu-like symptoms, Jordan scored a dramatic 38 points in game 5 to lift his team to a crucial victory. To say ''His Airness'' is the Most Valuable Player is truly an understatement.

And each and every Bulls player is a superb individual basketball player. What makes them all so very special is the way they have come together, under Coach Phil Jackson's guidance, to blend their talents as the team, playing in a way that makes each of them better. That is the real hallmark of champions.

The Bulls have become a national and international sensation. They have brought millions together as fans and as admirers. Bulls fever cuts across race and ethnic lines and knows no national boundary. You can go to the far reaches of the globe and see a Bulls hat, or a Michael Jordan jersey.

In recognition of the Bulls' historic accomplishment, it is my pleasure to offer this congratulatory resolution, and I urge my colleagues to swiftly approve its passage.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, that the motion to reconsider be laid upon the table, and that any statements relating thereto be placed in the RECORD as if read at the appropriate place.

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

The resolution (S. Res. 103) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 103

Whereas the Chicago Bulls at 69–13, posted the second best regular season record in the history of the National Basketball Association;

Whereas the Bulls once again roared through the playoffs, sweeping the Washington Bullets and defeating the Atlanta Hawks in 5 games, before beating the Miami Heat in 5 games to return to the NBA Finals for the second straight year;

Whereas the Bulls displayed a potent offense and stifling defense throughout the playoffs before beating the Utah Jazz to win their second consecutive NBA championship their fifth in the last 7 years;

Whereas head coach Phil Jackson and the entire coaching staff skillfully led the Bulls through a 69-win season and a 15–4 playoff run;

Whereas Michael Jordan and Scottie Pippen were again named to the NBA's ''All-Defensive First Team'', the only 2 players from the same team to be so named, and were each voted to be among the 50 greatest players in NBA history;

Whereas Michael Jordan won his record ninth scoring title, is the sixth leading scorer in NBA history, and was named playoff most valuable player for the fifth time in 5 playoff appearances;

Whereas Scottie Pippen again exhibited his outstanding offensive and defensive versatility, proving himself to be one of the best all-around players in the NBA;

Whereas the quickness, tireless defensive effort, and athleticism of the colorful Dennis Rodman, who won his sixth straight rebounding title, keyed a strong Bulls front line;

Whereas veteran guard Ron Harper, in shutting down many of the league's top point guards throughout the playoffs, demonstrated the defensive skills that have made him a cornerstone of the league's best defense;

Whereas center Luc Longley frustrated many of the all-star caliber centers that he faced in this year's playoffs while at times providing a much needed scoring lift;

Whereas Toni Kukoc, despite injury, displayed his awesome variety of offensive skills in both assisting on, and hitting, several big shots when the Bulls needed them most;

Whereas Steve Kerr, with his laser-like 3-point shooting, sparked many a Bulls rally and hit the championship winning shot in game 6 of the NBA finals;

Whereas the outstanding play of Brian Williams and Jason Caffey, and the tenacious defense of Randy Brown, each of whom came off the bench to provide valuable contributions, were an important part of each Bulls victory;

Whereas Jud Buechler and Robert Parish provided valuable contributions throughout the season and the playoffs, both on and off the court, at times giving the Bulls the emotional lift they needed; and

Whereas the regular season contributions of injured center Bill Wennington, forward Dickey Simpkins, and rookie Matt Steigenga, both on the court and in practice, again demonstrated the total devotion of Bulls personnel to the team concept that has made the Bulls one of the great sports dynasties of modern times: Now, therefore, be it

Resolved, That the Senate congratulates the Chicago Bulls on winning the 1997 National Basketball Association championship.

UNANIMOUS-CONSENT AGREEMENT—H. CON. RES. 216

Mr. GRASSLEY. Mr. President, I ask unanimous consent to confirm the language in H. Con. Res. 216 (104th Congress) providing for a ceremony commemorating the placement of the Portrait Monument in the Capitol rotunda during the 105th Congress.

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

APPOINTMENT BY THE DEMOCRATIC LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Democratic leader, pursuant to Public Law 104–293, appoints James J. Exon, of Nebraska, as a member of the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the provisions of Public Law 99–93, as amended by Public Law 99–151, appoints the Senator from Alabama [Mr. SESSIONS] as a member of the United States Senate Caucus on International Narcotics Control.

The Chair, on behalf of the Vice President, pursuant to the provisions of Public Law 99–93, as amended by Public Law 99–151, appoints the Senator from California [Mrs. FEINSTEIN] as a member of the United States Senate Caucus on International Narcotics Control.

ORDERS FOR THURSDAY, JUNE 26, 1997

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Thursday, June 26; I further ask unanimous consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately resume consideration of S. 949, the Tax Fairness Relief Act.

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

UNANIMOUS-CONSENT AGREEMENT—S. 949

Mr. GRASSLEY. Mr. President, I yield back 2 hours and 39 minutes of the time on the bill for the majority side, and on behalf of the ranking minority member, I yield back 3 hours and 54 minutes on the bill for the Democratic side. I do that as a member of the Finance Committee, speaking for the majority.

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent that with respect to three votes ordered tomorrow morning, that no amendments be in order prior to the previously ordered votes.

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

Mr. GRASSLEY. I also ask unanimous consent that following the ordered votes on Thursday, the Democratic leader be recognized to offer the Democratic alternative, and there be 4 hours of debate to be equally divided in the usual form.

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

MEASURE INDEFINITELY POSTPONED—S. 947

Mr. GRASSLEY. I further ask consent that S. 947 be indefinitely postponed.

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

PROGRAM

Mr. GRASSLEY. Mr. President, for the information of all Senators, tomorrow at 9:30 a.m., the Senate will resume consideration of S. 949, the Tax Relief Act of 1997. By previous consent, at 9:30 a.m. there will be 20 minutes for debate, equally divided between Senator MURKOWSKI and Senator BUMPERS, with a vote occurring in relation to the Bumpers amendment at the expiration of that time.

Following the vote on the Bumpers amendment, there will be 20 minutes of debate equally divided in the usual form, with a vote on or in relation to the Dorgan amendment, No. 517, occurring at the expiration of time, to be followed by 10 minutes of debate, equally divided in the usual form, on the Dorgan motion to refer. The Senate then will proceed to a vote in relation to the Dorgan motion.

In addition, all other amendments offered this evening, and amendments offered during Thursday's session, will be subject to rollcall votes throughout the day as we make progress on the Taxpayer Relief Act. Therefore, Senators can anticipate numerous rollcall votes on Thursday.

As a reminder to all Members, beginning at approximately 9:50 a.m., Thursday morning, the Senate will begin voting on the Bumpers amendment and the two aforementioned Dorgan amendments.

ORDER FOR ADJOURNMENT

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order, following remarks that I will make.

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

CALLING FOR FURTHER INVESTIGATION OF THE FBI CRIME LAB

Mr. GRASSLEY. Mr. President, I have spoken before this body several times about the serious problems in the FBI crime lab. The Justice Department's Inspector General has done the country a great service by uncovering the sloppiness and wrongdoing of certain lab examiners.

A dozen such examiners are criticized in the IG's April 15 report for testifying beyond their expertise, and for changing lab reports. The IG found no criminal violations. Yet the wrongful testimony and the altering of reports by these examiners almost all redounded to the benefit of the prosecution, rather than to the defendant.

This is a curious phenomenon, in my mind. Why weren't the changes more randomly distributed? How come they all benefitted the prosecution? Those are rather obvious questions.

And so I thought a lot about what was done by the IG to determine motive or intent on the part of the examiners whose actions he criticized. And I have come to the conclusion that the IG's methodology was insufficient for determining motive or intent. And so, further investigation is warranted.

The reasons for why further investigation is warranted were laid out in a letter I sent to the Attorney General on June 11. For starters, there was the April 16 Wall Street Journal front-page story on lab examiner Michael Malone. In that article, Agent Malone is cited for improper testimony in several cases, by judges and others.

The Wall Street Journal broke new ground in uncovering problems in the FBI lab. First, it showed that wrongdoing by lab examiners has not been relegated to the three units investigated by the IG. Malone was assigned to a fourth unit—hairs and fibers. And second, it underscored the fundamental flaw in the IG's investigative methodology; namely, that it failed to review, for patterns of wrongdoing, all the cases of each examiner who was severely criticized in his report.

To illustrate the point, it is interesting to note that in the IG's report, Agent Malone is criticized for wrongdoing in only one case—that of ALCEE L. HASTINGS. Yet, the Journal reporter researched open-source case data and found numerous instances of apparent wrongdoing by Malone in other cases. If an enterprising reporter could do such a review, why couldn't the IG?

And so I asked the Attorney General to conduct further investigation of those examiners, including Malone, who were severely criticized in the IG report. All cases worked on by each one of these examiners should be reviewed independently to determine if there is a pattern similar to what the Journal found in the case of Malone. Only then would we see the full scope of each agent's actions. If any patterns exist, those cases should be reviewed for administrative action, for undisclosed Brady material, for civil liability, or for misconduct involving obstruction of justice or perjury.

There's some importance and urgency attached to my request. I understand that the IG has referred the findings of his report to the Pubic Integrity Section for possible criminal prosecution. In my view, they have been referred without sufficient follow-up investigation, thereby increasing the likelihood of declinations. I do not intend to stand by and watch declinations being handed out when some very obvious stones have been left unturned.

My request was that the following agents' cases be reviewed by DOJ prior to any decision by Pubic Integrity:

For possible involvement in altering reports: J. Thomas Thurman; J. Christopher Ronay; Wallace Higgins; David Williams; Alan Jordan.

For possible false testimony: David Williams, Roger Martz; Charles Calfee; Terry Rudolph; Michael Malone; John Hicks; Richard Hahn.

For possible undisclosed Brady material: Robert Webb.

On April 16, I met with the IG, Michael Bromwich, and raised with him the subject of the Wall Street Journal article on Malone. I discussed my belief that his methodology was flawed, and that I would request in writing, after studying his report, that all cases involving lab examiners whose work he severely criticized in his report be investigated further. Thus, the IG has been aware for some time that my request would be forthcoming.

In my discussions with the IG on April 16, one notable issue came up. I asked the IG if he had found possible criminal wrongdoing on the part of any of the lab personnel. He said ''no.'' I then asked him if he had detected a patter of wrongdoing by any agent, as the Journal seemed to find with Malone. He said ''no.'' I asked him if he even reviewed all the cases of any of the criticized agents. He said ''no.''

These responses are troubling to me because the IG has gone out of his way to say he found no possible criminal activity by lab personnel. It sounds to me like he didn't even look for it. In fact, he told me in my office way back in February—well after his investigation was finished—that it wasn't in his charter to look for possible criminal activity. Therefore, due diligence requires further investigation such as I have requested. Otherwise, the public's full confidence cannot be restored.

In a specific instance, for example, the IG had critized Agent Williams for ''backwards science''; i.e., tailoring evidence at the crime scene to evidence found elsewhere, such as at a suspect's home. I asked the IG if his finding of backwards science conducted by Williams didn't warrant further investigation for possible criminal intent.

The IG responded that Williams gave a plausible explanation in his defense; namely, that Williams actually believed that was the proper way to conduct an investigation—in other words, ''backwards.'' The IG said the five blue ribbon scientists who investigated the lab believed Williams' explanation.

Mr. President, I could not believe my ears. First of all, the scientists are not prosecutors. Second, whether Williams' explanation was believed or not, the IG should have reviewed the rest of Williams' cases.

Such a review would have shown one of two things: Either he did do all of his investigations backwards, in which case his explanation would hold up but all of his cases should be considered suspect; or, he did some investigations correctly and some backwards, in which case his explanation would be undermined, and intent would be an issue. At the moment, because of the IG's flawed methodology, we don't know which is correct.

The IG did not even review the second World Trade Center case to see if Williams gave similarly false testimony in court, as he had in the first World Trade Center case. I understand Williams' testimony in the second case was the same as in the first case. If so, this might have established a pattern in the IG's investigation.

Meanwhile, at a May 13 hearing before the House Subcommittee on Crime, the IG admitted, under questioning from Congressman ROBERT WEXLER, that alterations to lab reports appeared to be biased in favor of the prosecution's position. This is a serious matter because it could go to the issue of motive.

It is also not clear to me whether the IG was aware of an FBI internal review in 1994 and 1995 of alterations and changes of lab reports after allegations were made by two lab scientists. James Corby, chief of the Materials Analysis Unit, conducted the review. Dr. Corby verified numerous instances of alterations, many of which were material changes. He concluded that they were clearly intentional. In a memo to his section chief, J.J. Kearney, dated January 13, 1995, Dr. Corby stated the following, with respect to the intentional changes:

> A[n] FBI Laboratory report is evidence. Often times the report itself is entered into evidence during the trial proceedings. The fact that SSA [redacted name] did make unauthorized changes in these reports could have resulted in serious consequences during legal proceedings and embarrassment to the Laboratory as well as the entire FBI.

The FBI's Office of the General Counsel [OGC] apparently concurred. A memorandum from General Counsel Howard Shapiro to the Lab's director, M.E. Ahlerich, dated June 12, 1995, reiterated the lab's policy of not altering

reports, and warned that, ''* * * failure to follow this policy could subject the FBI and/or individual employees to civil or criminal liability.''

Mr. President, I previously placed these documents in the RECORD on March 20, 1997.

The documents and arguments I have advanced on this issue present a compelling case for further investigation. We have yet to hear an equally compelling counter-argument from either the Attorney General, or the IG. The issue of my request came up at the Attorney General's weekly press conference of June 12. A wire story later that evening by the Associated Press, quoted Ms. Reno as simply saying the following:

> We have not seen any basis for criminal inquiry.

Mr. President, I don't know whether or not the Attorney General had read my letter before giving that quote. But I assure you, that if the AG had read it, she would see there is plenty of basis for criminal inquiry.

I also asked Ms. Reno for a response by last week. I have yet to hear a peep out of her office. In my view, the Attorney General needs to act quickly and provide a compelling rebuttal to the facts I laid out in my June 11 letter to her. To simply say ''We have not seen any basis for criminal inquiry'' is simply not credible. I, for one, have seen sufficient basis.

In the same June 12 AP story, the IG took issue with my statement that he did not do a criminal investigation. The IG said he did a hybrid, criminal/administrative inquiry. The IG may not recall the conversation we had in my office in February. He was asked to respond to a comment in a letter I had received dated February 21, 1997 from then-Deputy FBI Director Weldon Kennedy. The comment was the following:

> * * * [T]he Department of Justice Office of the Inspector General found no instances of perjury, evidence tampering, evidence fabrication, or failure to report exculpatory evidence.

In my office, the IG was asked if he even looked for that. He responded no, because that wasn't in his charter.

Regardless of what is or isn't in his charter, the fact is the IG did nothing to establish intent. If he wants to cite the questioning of David Williams and the backwards science as a probing of intent, well I'll simply rest my case.

It is not my intention to criticize the IG's work. To the contrary, I consider it a landmark effort and an important service for the American people. I have nothing but praise for Mr. Bromwich, his team of investigators, and the five blue ribbon scientists.

But it cannot stop there. There are too many stones left unturned. There is a culture that needs reforming. There's still a cowboy element running loose in that lab.

It seems to me that the IG investigation is merely a point of departure. It identified individuals whose work should be more thoroughly scrutinized. Failure to conduct follow-up investigation can only further erode the public's dwindling confidence in Federal law enforcement.

Meanwhile, Mr. President, I await the Attorney General's overdue response to my letter.

IGNORING THE FACTS AND TWISTING THE TRUTH

Mr. GRASSLEY. Mr. President, today I would like to talk about two letters from the Department of Defense, DOD.

The first letter is dated June 11, 1997.

The second one is dated June 13, 1997—just 2 days later.

Both letters are addressed to the editor of The Hill newspaper, Mr. Albert Eisele.

Both are signed by the Assistant Secretary of Defense for Public Affairs, Mr. Kenneth H. Bacon.

Both were written in response to an article I wrote about Mr. John Hamre in the June 4 issue of the Hill.

Mr. Hamre is the Chief Financial Officer at the Pentagon.

He has been selected by Secretary Cohen to become the next Deputy Secretary of Defense.

I oppose this nomination for the reason I gave in the Hill article.

Mr. Hamre is aggressively pursuing a progess payment policy that the inspector general has declared illegal.

Mr. Bacon charges that my article ignores the facts and twists the truth.

Ironically, Mr. Bacon's letters prove he is the one who ignores the facts and twists the truth.

He sent the second letter to correct misinformation in the first one.

Mr. President, I ask unanimous consent to have his letters and my article printed in the RECORD.

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

ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, June 11, 1997.

ALBERT EISELE,
Editor, The Hill, Washington, DC.

LETTER TO THE EDITOR: Last week Senator Charles Grassley authored an article condemning John Hamre, currently the Comptroller at DoD and the nominee to be Deputy Secretary of Defense (''Sen. Grassley looks for missing $50 billion at DoD,'' June 4, 1997). It is a serious distortion of Mr. Hamre's record. The facts actually prove the opposite of Senator Grassley's contentions. It is imperative that The Hill publish a correction.

First, Senator Grassley stated ''the books at DoD are in such shambles that as much as $50 billion cannot be traced.'' DoD's books were in very bad shape when Mr. Hamre signed on back in 1993, and they are still troubled, but the facts show that the situation is dramatically improved. Back in 1993, DoD's so-called ''problem disbursements'' exceeded $34 billion. Last month the total was under $8 billion, a 74% reduction in three years.

Second, Senator Grassley stated that Mr. Hamre has left DoD's funds vulnerable to theft and abuse. The facts are quite different. Mr. Hamre created a dedicated organization—Operation Mongoose—to undertake fraud detection and prevention. He and the DoD Inspector General have hosted governmentwide conferences on fraud prevention. Mr. Hamre is the first, and to my understanding the only, Comptroller that ever initiated an anti-deficiency investigation on himself, asking the DoD Inspector General to review accounts under his jurisdiction.

Third, Senator Grassley claimed Hamre ''presided over a scheme'' to make illegal process payments. Again, the facts are quite different. Mr. Hamre, working with the DoD Inspector General, has carried out the IG's recommendations on progress payments. Senator Grassley claimed Hamre ''tried to legalize the crime'' by proposing legislative changes concerning progress payments. That legislation was first proposed by the Inspector General.

Fourth, Sen. Grassley claims Hamre understated his problems through ''a clever bureaucratic trick to make the problem look a lot smaller than it really is.'' The facts are rather different. Rather than report three categories of problem disbursements together, he reported all three categories in two separate tables. None of the data has been dropped and all of it is made available every month to the General Accounting Office.

Reading Sen. Grassley's article is like looking at a distortion mirror in an amusement park. The image he paints is wildly distorted and in most cases is totally reversed from the truth. Facts do matter, even in Washington, and Senator Grassley has not presented the facts.

KENNETH H. BACON,
Assistant Secretary of Defense for Public Affairs.

ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, June 13, 1997.

ALBERT EISELE,
Editor, The Hill, Washington, DC.

DEAR MR. EISELE, I am sorry we have not been able to establish phone contact. In the interim, I thought it would be useful to send you the attached clarification to the letter Ken Bacon sent to The Hill on Wednesday, June 11.

In reviewing the letter we felt that some points were not clear and we want to ensure that our response is as accurate as possible. We hope you will publish this revised letter.

I can be reached at 703–697–0713. Thank you for your assistance in this matter.

Sincerely,

CLIFFORD H. BERNHATH,
Principal Deputy Assistant Secretary of Defense for Public Affairs.

ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, June 13, 1997.

ALBERT EISELE,
Editor, The Hill, Washington, DC.

LETTER TO THE EDITOR: Last week Senator Charles Grassley authored an article condemning John Hamre, currently the Comptroller at DoD and the nominee to be Deputy Secretary of Defense (''Sen. Grassley looks for missing $50 billion at DoD,'' June 4, 1997). It is a serious distortion of Mr. Hamre's record. The facts actually prove the opposite of Senator Grassley's contentions. It is imperative that The Hill publish a correction.

First, Senator Grassley stated ''the books at DoD are in such shambles that as much as $50 billion cannot be traced.'' DoD's books were in very bad shape when Mr. Hamre signed on back in 1993, and they are still troubled, but the facts show that the situation is dramatically improved. Back in 1993, DoD's so-called ''problem disbursements'' exceeded $34 billion. Last month the total was under $8 billion, a 74% reduction in three years.

Second, Senator Grassley stated that Mr. Hamre has left DoD's funds vulnerable to

theft and abuse. The facts are quite different. Mr. Hamre created a dedicated organization—Operation Mongoose—to undertake fraud detection and prevention. He and the DoD Inspector General have hosted government-wide conferences on fraud prevention. Mr. Hamre is the first, and to my understanding the only, Comptroller that ever initiated an anti-deficiency investigation on himself, asking the DoD Inspector General to review accounts under his jurisdiction.

Third, Senator Grassley claimed Hamre ''presided over a scheme'' to make illegal process payments. Again, the facts are quite different. Mr. Hamre, working with the DoD Inspector General, is working to carry out the IG's recommendations on progress payments. Senator Grassley claimed Hamre ''tried to legalize the crime'' by proposing legislative changes concerning progress payments. Prior to proposing legislation, Mr. Hamre had discussed with the DoD Inspector General the possibility of seeking legislative relief if it was too difficult for the Department to comply with the current statute.

Fourth, Senator Grassley claims Hamre understated his problems through ''a clever bureaucratic trick to make the problem look a lot smaller than it really is.'' The facts are rather different. Rather than report three categories of problem disbursements together, he reported all three categories in two separate tables. None of the data has been dropped and all of it is made available every month to the General Accounting Office.

Reading Senator Grassley's article is like looking at a distortion mirror in an amusement park. The image he paints is wildly distorted and in most cases is totally reversed from the truth. Facts do matter, even in Washington, and Senator Grassley has not presented the facts.

KENNETH H. BACON,
Assistant Secretary of Defense for Public Affairs.

[From the Hill, June 4, 1997]

SEN. GRASSLEY LOOKS FOR MISSING $50 BILLION AT DOD

AGE-OLD PRACTICE OF COOKING THE BOOKS AT THE PENTAGON IS ALIVE AND WELL

(By Sen. Charles E. Grassley)

Between 1989 and 1993, a man named James Edward McGill was paid $3,025,677.99 by the United States Navy for phony claims. With nothing more than a mailbox, a couple of rubber stamps and blank government forms, McGill set up a business to cheat the taxpayers. He delivered no goods. He did no work. But he had no trouble doing business with the Navy. Pure chance, rather than internal controls at the Defense Department (DoD), put an end to this scam. Unfortunately for the taxpayers, the McGill case does not stand alone.

The sad truth is, the books at the DoD are in such shambles that as much as $50 billion cannot be traced. The department flunks every single audit by its chief financial officer (CFO). And the inspector general (IG) expects the DoD to continue falling short ''well into the next century.'' When you can't audit the books, you don't know how money is being spent. The result is a multi-million dollar money pipe left vulnerable to theft and abuse.

The problem described here is exacerbated by an illegal operation used by the Pentagon to make progress payments on contracts. Under this policy, payments are deliberately charged to the wrong accounts. Once payments are made, the DoD attempts to ''adjust'' the accounting ledgers to make it look as though the checks were charged to the right accounts when the money was, in fact, charged to some other account. The entire process leads to over-, under-and erroneous payments.

Presiding over this scheme since October 1993 has been the comptroller and CFO for the DoD, John J. Hamre. In his official position, Hamre is responsible under the Chief Financial Officer Act of 1990 ''to strengthen internal controls and improve financial accounting.'' However, instead of meeting a pledge to reform the process, Hamre tried to legalize the crime. Earlier this year, he circulated for comment draft legislation to sanction the payment procedures declared illegal by the IG and authorized by Hamre at CFO.

A fundamental issue is at stake. In 1992, the IG stated that the DoD's progress payment procedures ''result in the rendering of false accounts and violations'' of Title 31,Section 1301 of the U.S. Code. This law embodies a sacred constitutional principle. Only Congress decides how public money may be spent. Section 1301 requires that public money be spent as proscribed in the appropriations acts. Congressional committees spend considerable effort each year segregating public money in different accounts. For example, the DoD appropriations bill might require procurement money be used for production work and not for R&D purposes. Hamre's payment policy shatters the integrity of the appropriations accounts. It spends money according to an arbitrary scheme dreamed up by DoD bureaucrats.

While this payment scheme was in place before Hamre's time, he had a golden opportunity to fix this problem. But every time the issue has popped up on his radar screen he's protected the scheme. Under his leadership, the DoD's progress payment operation has flourished and achieved a new level of sophistication.

When Hamre became CFO he, in fact, did declare war on financial mismanagement. Today, he cites ''steep drops in contract overpayments.'' But his claims are not supported by the facts. Three reports of the General Accounting Office (GAO) issued during the last three years contradict Hamre's success stories. The most recent analysis of the GAO concludes that the DoD's progress payment scheme is the biggest single driver behind overpayments. And each of these reports shows that the DoD has no check in place to detect overpayments. Virtually every overpayment ever examined by the GAO was detected by recipients of checks, not by the government. In most cases, contractors voluntarily refunded the overpayments.

If Hamre was serious about eliminating overpayments, why didn't he shut down the progress payments operation? If he has no capability whatsoever to detect overpayments, where does he get the data that shows a steep drop in such payments? How does he know they are going down if he doesn't know how many there are? Perhaps this means the contractors are no longer making voluntary refunds.

Hamre also has claimed his financial reforms have produced sharp drops in unmatched disbursements. Again, the claims don't stand up to scrutiny. In fact, Hamre has used a clever bureaucratic trick to make the problem look a lot smaller than it really is. In December 1996, he issued a decree that arbitrarily redefined the entire universe of problem disbursements. He simply made the universe smaller by excluding huge numbers of unreconciled disbursements from the totals appearing in official reports. This was not missed by the GAO. In yet another report, the independent analysts challenged Hamre's approach. The GAO concluded that the DoD is understating the size of problem disbursements by at least $25 billion. So, instead of the $18 billion claimed by Hamre, at least $50 billion of tax dollars are unaccounted for.

Because of these facts, I stand opposed to the nomination of Hamre for deputy secretary of defense. My personal feelings have absolutely nothing to do with my position, as charged by some. Rather, I have reached my conclusion based on the facts. If government does not hold accountable the official who is responsible by law, then who?

While Hamre inherited a major problem caused by years of neglect, he took aggressive action to perpetuate the mess. True, Hamre has made a lot of promises and statements about reforming the process. But good intentions never get the job done at the Pentagon. The bottom line is, these kinds of problems cannot be corrected unless those in charge are held accountable. Awarding promotions to leadership that drops the ball is a green light for con artists like James Edward McGill.

Mr. GRASSLEY. Mr. President, I think it would be very helpful to make a side-by-side comparison of these two letters.

It would help bring my main point about Mr. Hamre into sharper focus.

Mr. Bacon's two letters are identical in every respect but one.

A major discrepancy exists between the last paragraph on the first page of the first letter and the same paragraph in the second letter.

I would like to quote from that portion of the first letter.

This is Mr. Bacon talking:

> Senator GRASSLEY claimed Hamre presided over a scheme to make illegal progress payments. Again, the facts are quite different. Mr. Hamre, working with the DOD IG, has carried out the IG's recommendations on progress payments. Senator GRASSLEY claimed Hamre tried to legalize the crime by proposing legislative changes concerning progress payments.
>
> That legislation was first proposed by the IG.

Mr. Bacon's statements do not square with the facts. They are inaccurate.

Mr. President, I pride myself on always doing my homework and always sticking to the facts.

My article on Mr. Hamre's illegal progress payment policy is no exception.

I have documents to back up every point I have made.

From day one, I have never strayed from the facts and conclusions presented by the DOD IG.

From day one, the IG and legal counsel have maintained that the department's progress payment policy ''results in the rendering of false accounts and violation of the law.''

Nothing has changed since the IG issued its report in March 1992.

The illegal progress payment policy remains in effect at this very moment.

The IG has consistently maintained that the ''status quo is unacceptable'' and that the policy must be brought into compliance with the law.

After 5 years of unproductive meetings, the IG recommended that the department seek ''legislative relief.''

The IG proposed a temporary exemption from the law, while the progress payment operation was being overhauled.

But when the draft language hit the street late 1996, it was not at all what the IG had in mind.

This language was drafted by the Defense Finance and Accounting Service but was Mr. Hamre's brain child.

It was far reaching, comprehensive and permanent.

The IG and legal counsel came unglued when they saw it and killed it in the end.

Mr. President, those are the facts—according to the IG—not according to the Senator from Iowa.

Mr. Bacon's first letter is out of sync with the facts.

When the IG, Ms. Eleanor Hill, saw Mr. Bacon's first letter, I am told, she blew her top.

She picked up the phone and called Mr. Bacon. He was on travel, but his principal deputy, Mr. Bernath, was in his office over at the Pentagon.

She confronted him with the truth.

He agreed right then and there to retract the false and misleading statements in Mr. Bacon's first letter.

Mr. President, that's how we ended up with Mr. Bacon's second letter.

I would now like to quote from the revised portion of his second letter:

> Mr. Hamre, working with the DOD IG, is working to carry out the IG's recommendations on progress payments. Senator Grassley claimed Hamre tried to legalize the crime by proposing legislative changes concerning progress payments. Prior to proposing legislation, Mr. Hamre had discussed with the DOD IG the possibility of seeking legislative relief if it was too difficult for the department to comply with the current statute.

These revisions give Mr. Bacon's letter an entirely new meaning.

''Is working to carry out'' is a far cry from ''has carried out.''

''Discussed with the DOD IG'' is a far cry from ''first proposed by the DOD IG.''

The revisions—demanded by the IG—strengthen my main point, Mr. President. They showcase Mr. Hamre's shortcomings.

I need to thank Mr. Bacon.

His letters make my case:

Mr. Hamre has failed to carry out the IG's recommendations and bring his policy into compliance with the law.

Mr. Hamre's policy continues to operate outside the law at this very moment, and that's exactly why he felt like he needed legislation.

He needed to cover his back side.

He needed legal cover for his illegal policy.

Now, I would like to commend Mr. Bacon for being more truthful and accurate.

But there's one little problem.

His first letter still stands as a matter of record.

Where did the misinformation come from in the first place?

Did Mr. Bacon dream it up by himself? Or did someone set him up? If so, who? Did Mr. Hamre have any knowledge of this letter?

Mr. President, I have written Mr. Bacon. He needs to answer my questions.

Mr. President, I ask unanimous consent to have this letter printed in the RECORD.

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

U.S. SENATE,
Washington, DC, June 18, 1997.

Hon. KENNETH H. BACON,
Assistant Secretary of Defense for Public Affairs, Washington, DC.

DEAR MR. BACON: I am writing in response to your letters of June 11, 1997 and June 13, 1997, to Mr. Albert Eisele, Editor of The Hill.

Your letters attempt to address some of the points I raised in an editorial piece, which appeared in the June 4, 1997 issue of The Hill.

Mr. Bacon, you suggest that I have distorted the truth and ignored the facts. On the contrary, I pride myself on doing my homework and always sticking to the facts, and my article on Mr. Hamre's illegal progress payments policy is no exception. Ironically, it is clear from the revisions you were forced to make in your second letter—to correct errors you made in your first letter—that it is you who has ignored the facts and distorted the truth.

From day one, I have never strayed from the facts and the conclusions presented by the Department of Defense (DOD) Inspector General (IG). From day one, the IG and legal counsel have maintained that the department's progress payment policy ''results in the rendering of false accounts and violation of the law.'' Nothing has changed since the IG issued its report in March 1992. The illegal progress payment policy remains in effect at this moment. From day one, the IG has maintained that ''the status quo is unacceptable'' and the policy must be brought into compliance with the law. After five years of endless meetings and ''seeing no light at the end of the tunnel,'' the IG recommended that the department consider seeking ''legislative relief.'' The idea was to obtain a temporary exemption from the law—while the progress payment operation was overhauled. The language itself was drafted at Mr. Hamre's direction—not by the IG but by the Defense Finance and Accounting Service. When that language hit the street, it was not at all what the IG had envisioned. It was far reaching and comprehensive and permanent. The IG and legal counsel expressed strong objections to it and killed it in the end.

Those are the facts, Mr. Bacon. If you have any questions about the facts, I suggest you contact the IG. You need to talk with Mr. Bob Lieberman. He is the Assistant IG for Auditing. His number is 703–604–8901. He will set you straight. He knows the progress payments issue from top to bottom and beginning to end. He's the expert.

When you speak to Mr. Lieberman, you will quickly discover that you are the one who departed from the facts. You will quickly discover that your first letter contains inaccurate, misleading, and even false information. This is the most offensive portion of your letter:

''Mr. Hamre, working with the DOD Inspector General, has carried out the IG's recommendations on progress payments. Senator Grassley claimed Hamre ''tried to legalize the crime'' by proposing legislative changes concerning progress payments. That legislation was first proposed by the Inspector General.''

After you signed and mailed this letter to the Hill, I was given a copy. I immediately realized that your primary assertion was false. The suggestion that Mr. Hamre had brought his progress payments policy into compliance with the law was totally and completely wrong. It did not square with the facts—as I know them. So I sent your letter to the IG for comment to make sure I wasn't off base. I have been told that the IG, Ms. Eleanor Hill, was enraged when she saw that statement. She called your office to complain. You were on travel, but she spoke with your deputy. He agreed to retract your false and misleading statements. As a result of the IG's complaint, you sent a second, revised letter to The Hill. This one is dated June 13, 1997. The false statements have been removed from this letter. They have been replaced by statements that constitute a fairly accurate reflection of the facts. The revised statement is as follows:

''Mr. Hamre, working with the DOD Inspector General, is working to carry out the IG's recommendations on progress payments. Senator Grassley claimed Hamre ''tried to legalize the crime'' by proposing legislative changes concerning progress payments. Prior to proposing legislation, Mr. Hamre had discussed with the DOD Inspector General the possibility of seeking legislative relief if it was too difficult for the Department to comply with the current statute.''

Mr. Bacon, your second letter takes a big step in the right direction. ''Is working to carry out'' is a far cry from ''has carried out,'' and ''discussed with the DOD IG'' is a far cry from ''first proposed by the DOD IG.'' Those corrections conform with the facts as I understand them.

Mr. Bacon, the corrections you made in your second letter strengthen my main point and showcase Mr. Hamre's shortcomings. In fact, they make my case: Mr. Hamre has failed to carry out the IG's recommendations and bring his progress payment policy into compliance with the law. His progress payment policy continues to operate outside of the law at this very moment, and he knows it. That's exactly why he proposed legislation. He wanted legal cover for an illegal operation. He wanted to sanction a policy that the IG had declared illegal and that he had personally authorized. As I said, he wanted to legalize the crime. And finally, this legislation was not dreamed up by the IG. It was the brain child of Mr. Hamre and the Defense Finance and Accounting Service.

I commend you for trying to be more accurate and truthful, but your original letter still stands as a matter of record. You signed and mailed it. How did that happen? Was the misinformation of your own making, or did someone else set you up? I would like some answers.

Mr. Bacon, I would like to understand the true origins of the false information contained in your first letter. Is this something you dreamed up on your own? If not, where did you get the information? What organization within the department provided this information? Please provide the name and title of the person who supplied this information. And did you discuss this particular piece of information with Mr. Hamre? Did Mr. Hamre have any knowledge of this information? Was Mr. Hamre aware of your letter before it was mailed to The Hill?

I request a response to my questions by June 24, 1997.

Your cooperation in this matter would be appreciated.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senator.

Mr. GRASSLEY. Mr. President, I hope my colleagues will take the time to make a side-by-side comparison of Mr. Bacon's first and second letter.

A side-by-side comparison of the two letters will help them to understand who is sticking to the facts and telling the truth, and who isn't.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 tomorrow morning.

Thereupon, the Senate, at 10:11 p.m., adjourned until Thursday, June 26, 1997, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 25, 1997:

THE JUDICIARY

SONIA SOTOMAYOR, OF NEW YORK, TO BE U.S. CIRCUIT JUDGE FOR THE SECOND CIRCUIT, VICE J. DANIEL MAHONEY, DECEASED.

DEPARTMENT OF DEFENSE

RUDY DELEON, OF CALIFORNIA, TO BE UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS. VICE EDWIN DORN, RESIGNED.