they were promised in the terms of the policy that they purchased. Those judges were helpless because they didn't write the laws that limit the ability of working families to appeal the decisions by HMOs.

In Boston, we have a U.S. district judge, William Young, a Reagan appointee to the bench, who ruled on an HMO case not very long ago.

Judge Young knew the law and he knew that insurers could, in our current structure, put paperwork and profit ahead of patients. He knew he could send a message to those of us who write the laws in this country. That is why he wrote in his highly publicized decision in Clarke v. Baldplate Hospital that ''while the insurer's conduct is extraordinarily troubling, even more disturbing to the court is the failure of Congress to amend the laws.'' Judge Young was challenging us to act on behalf of hundreds of thousands of families left unprotected today. He had never met Ellen O'Malley, but he challenged the Congress of the United States to stand up for her.

Mr. President, we have the Patients' Bill of Rights, S. 1890, which would prevent senseless tragedies in the health care system from happening. Under our plan, Ellen O'Malley would have been able to immediately appeal her insurer's rejection of her doctor's prescribed treatment. Under our plan, the decision of Ellen O'Malley's doctors would have come first in the insurer's decisions. There is little, obviously, we can do for the O'Malley family, except to perhaps in her memory pass a bill that will change the way in which all of these choices are made in the future. We could pass a Patients' Bill of Rights. The clock is ticking. I hope this Congress will do so in the next days.

I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Missouri is recognized.

Under the previous order, there are 22 minutes remaining on the time that was equally divided by a previous order.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that we be able to speak until 10 o'clock on the issue of the marriage penalty.

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

ELIMINATION OF THE MARRIAGE PENALTY

Mr. ASHCROFT. Mr. President, we are here this morning—myself and several other Senators—because the American people should experience a tax cut before Congress gets its funding for the year.

We are here this morning to oppose cloture on the legislative branch appropriations bill. On Friday, Senator BROWNBACK of Kansas, and I attempted to enter into an agreement to offer the marriage penalty elimination amendment to the legislative appropriations measure.

Marriage penalty elimination means that we simply want to stop penalizing people, tax-wise, because they are married. A cloture motion was filed because the Democrats would not allow us to offer that amendment to this bill. Therefore, a vote against cloture is a vote for eliminating the marriage penalty tax. If we are not going to be able to offer this amendment to the bill, we will be back on other pieces of legislation, because this issue of providing equity to people who are married, and returning the hard-earned money of American taxpayers is too important to ignore.

In 1948, President Harry Truman called the Republicans in Washington a ''do-nothing Congress.'' Now the President and Senate Democrats are resurrecting Truman's phrase. I don't worry about being called a ''do-nothing Congress.'' We have done plenty of things. But if we tried to do nothing about taxes, that label just might stick.

Last April, a group of like-minded Senators and I stated our intentions to oppose the Senate budget resolution unless meaningful tax cuts were included. We were promised that eliminating the marriage penalty would be the Senate's top tax priority for 1998. Mr. President, today, the 21st day of July, there are less than 40 legislative days left in this session of the Congress; yet, we are no closer to giving the American people the tax cuts than we were 3 months ago.

We stand here in mid- to late-July with the real possibility that Congress will not pass a budget reconciliation and will not deliver on the tax cut promise that was made to the American people. I think we ought to put this into context. This isn't a situation where cutting taxes would be a strain or be difficult. To add insult to injury, last week the Congressional Budget Office indicated that there would be $520 billion of surplus over the next 5 years. Now, the $520 billion of surplus over the next 5 years would be $63 billion of surplus in this year alone.

We have not asked for the Moon. We have asked for a modest opportunity to cut and eliminate the marriage penalty. It would not take $520 billion. It would not take $420 billion. It would not take $320 billion. It would not take $220 billion. It would take about $1 out of every $5 that is to be provided in surplus, according to the Congressional Budget Office. So we are just asking that the American people have the opportunity to have, in return, $1 out of every $5 of surplus. This isn't asking that we have massive, Draconian cuts, or that we displace some Government program—although there are plenty of Government programs I would be happy to seek to displace. We are merely saying that, over the course of the next 5 years, some fraction—a minority fraction, as a matter of fact, not the major portion of it—of this rather substantial surplus be devoted to providing equity on the part of our taxation program, which is an insult to the values of America. I don't know of anyplace in the country you could go, or any group of individuals you could talk to that would not tell you that the families of America are simply fundamental, that if we have strong families in the next century, we are very likely to have a strong country. If we don't have strong families, it is going to be very difficult for our country to survive.

I believe that when moms and dads, as families, do their job, governing America is easy. If moms and dads can't do their jobs, if we pull the rug out from under families and make it tough for them, governing America could well be impossible. The truth of the matter is that families mean more to America than Government means to America, because the fundamental restraints of a culture, the values and precepts, are taught in families.

Government can try to do all those things. We have tried to replace families with Government before. The tremendous failure of the social experiment called the ''Great Society'' of the 1960s and 1970s told us that checks and Government programs weren't substitutes for moms and dads. They didn't work. What we need to do is make it possible for the culture to survive and to thrive, for the culture to prevail and to stop penalizing the most important institution in the culture—the family. Durable marriages and strong families are absolutely necessary if we are to succeed in the 21st century.

Starting in the sixties is when the marriage penalty became prevalent. For about 30 years, we have systematically penalized millions of people. The truth of the matter is that there are 21 million couples—about 42 million taxpayers—who collectively have paid $29 billion. It is so easy to forget how much money a billion dollars is. A billion dollars is a thousand millions. Now, these 42 million taxpayers have collectively paid ''29-thousand-million-dollars'' more than they would have paid had they been single. That is an average marriage penalty of about $1,400 per family. Think of that. We go into a family and, simply because the mom and dad happen to be married instead of single, we take $1,400 off their table; we take $1,400 out of that family's budget. These are not pretax dollars, these are aftertax dollars. It would go right to the bottom line.

Think of what a family could do with an extra $130 or $125 a month. Think of what it means to the family, the capacity of that family to fend for itself and to be able to survive as a family. We are attacking that family. The policy of America is attacking the principles of the American people. And it's easy. We can do it. CBO has told us that we are going to have five times as much money, or four times as much—a lot more money—well, $520 billion extra. We said we have to have a minimum

$101 billion to begin this relief. That is five times as much as we have asked for. Yet, we are so focused on providing for the Congress, so focused on providing for the legislative branch, and we are ignoring the people of America. The families of America are more important than the legislative branch of Government.

As much as I think our country needs the House and Senate, why we should provide all the funding the House and Senate need and not provide any of the relief that we have promised to the American family, why we should continue to attack the American family, is beyond me. Discriminating against Americans who wish to engage in marriage is—well, it is just against everything we stand for.

The penalizing of income at the median- and lower-income levels is greatest for married households with dependent children. The obligation to file a combined income means that the one spouse working to earn the second half of the income is working largely to feed Government coffers. Often the couple would pay a lower percentage of their income to the Government if one of its spouses was not employed outside the home. The marriage penalty is a grossly unfair assault on the bedrock of our civilization—married couples.

Does the Tax Code really influence people's moral decisions to prevent couples from getting married? Unfortunately, there are individuals who simply have gotten divorced, set aside their marriages, in order to avoid the penalty that we impose for being married. Some couples even divorce and remarry to avoid paying the penalty.

The Senator from Kansas brought up an example last week of two economists who divorce and remarry every year to avoid paying the higher taxes. The facts point to tragic instances of where couples simply cannot afford to get married because the Government is going to charge them $1,400 for the privilege of being married. Sharon Mallory and Darryl Pierce of Connorsville, IN, were ready to get married when they learned from their accountant that it would cost them $3,700 more a year. The amount results from the forfeiting of a tax refund check of $900 and an additional $2,700 to be owed to the IRS as a married couple. A growing number of married couples are in a similar position according to a recent study by the nonpartisan Congressional Budget Office.

(Mr. SMITH of Oregon assumed the Chair.)

Mr. ASHCROFT. Now, the incentive effects of the current Tax Code were not intentional. I have to say this. I do not believe that the Congress ever set out——

Mr. BROWNBACK. Mr. President, will my colleague from Missouri yield for a question?

Mr. ASHCROFT. I would be most pleased to yield for a question from my colleague from Kansas.

Mr. BROWNBACK. Last week when we put forward this notion of doing away with the marriage penalty, one of my Democrat colleagues said, ''I would be willing to do that if you offset it by doing away with the marriage bonus.'' He raised the question of the marriage bonus in the Tax Code. I told him I am not about raising taxes. But I wonder if the Senator has thought about this issue. Is there a marriage bonus that is in the Tax Code? Is that something that should be addressed?

Mr. ASHCROFT. Our Tax Code has and still operates in some instances to allow combining, by having a joint return, combined return, to have a lower tax for married people, and that really results from the conscious decision we make to recognize the value to our culture of a stay-at-home spouse. It focuses attention on the children and says we ought to give some benefit taxwise for doing that. And you do that by allowing the spouse who works to attribute some income to the stay-at-home spouse.

I don't think there are very many of us who are married who, when one or the other has had to stay at home, doesn't realize that the one who focuses on the homeplace and undertakes that responsibility is really responsible for income and is responsible for the benefit of the family.

I believe that the ability to split the income so that you get to the lowest tax bracket is something that should be provided to everybody in marriage. I wouldn't call it a bonus as if it were giving something out. It is a recognition of the value of the spouse who stays at home and the contribution that spouse makes, not only to the marriage and to the family but the contribution they make to the country.

Most of the data we are seeing now about children—and I am sure my friend from Kansas agrees with this data and has witnessed the articles and all the expounding—indicate that when one of the spouses can stay at home and spend a lot of time with the children, it is a big investment in the children and it results in children having lower incidences of bad health and lower incidences of school failure, dropout, lower incidences of juvenile delinquency and all. So that kind of attention from the family really is a social benefit to the entire culture, because if there are fewer dropouts, it means that your education system works better; if there is better health, it means the cost of the benefits of the health providers are lower; and if there is lower juvenile delinquency, it certainly means we benefit.

Mr. BROWNBACK. If my colleague will yield for another question, it seems the bonus is to America; it is not necessarily to the married couple that we are talking about in this.

The other thing I would ask my colleague about is, the marriage penalty that we are talking about affects nearly 21 million American families, most of them young, starting families. These are all families that make between $20,000 and $70,000 a year. They are two-wage-earner families. So you are really talking about that group of young Americans just getting started, both working, both struggling, both trying to make this family go, and we actually penalize them on an average of $1,400 per year. My colleague is familiar with that. Also, this is a relatively new tax. We have only put it on since 1969. That was the year of Woodstock. I don't know if there is a significance to any of that, but perhaps this is now the time that we should get away from that sort of penalty.

I just was curious; I know my colleague knows of those statistics and the importance of trying to help those struggling young families that are just now getting a foundation started for their families.

Mr. ASHCROFT. I am aware of that. I thank the Senator from Kansas for the question. I am desperately aware of it. This is the time when the stress on families is the hardest. If you look at the things that break up families, if you go to data that tells us whether or not a family is going to make it past the threshold and be able to persist as a strong family with the kind of durability that has the capacity to really help our culture with the lasting relationships of support that families bring, one of the biggest items is financial problems.

So here we have tender families at the very beginning, when they are struggling, they have kids, they are torn between responsibilities at the homeplace and the workplace, and what do we do? Instead of easing that financial burden, we zero in. It is almost like these families are staggering under the load they are bearing, because children are expensive, we know that—it costs a lot of money to clothe them, feed them, provide for them—and as they are struggling under that load, we come in and take another $1,400 a year off their table, out of their budgets, out of their capacity to provide for their children.

It is an anomaly. It certainly wasn't something that I think the Congress ever intended. I have absolutely every faith the Congress of the United States did not intend to hurt families with the Tax Code. But it has kind of grown this way, and here is where we are. The question is not what we intended. The question is what we are going to do about this. Are we going to, at a time of $520 billion of surplus, decide we would rather feed the bureaucracy than relieve the families of America of this burden? That is plain and simple. Are we going to have new programs and more Government or are we going to have stronger families with less tax burden?

Mr. BROWNBACK. If my colleague will yield, I would also note the individuals who have contacted various offices around here signing on to this very issue. This is a lady from Indiana who said this:

I can't tell you how disgusted we both are over this tax issue. If we get married, not

only would I forfeit my $900 refund check, we would be writing a check to the IRS for $2,800. Darryl and I would very much like to be married, and I must say it broke our hearts when we found out we can't afford to get married.

This is from Indiana.

This gentleman from Ohio said:

I have been engaged to be married. My fiancee and I have discussed the fact we will be penalized financially. We have postponed the date of our marriage in order to save up and have a running start in part because of this nasty unfair tax structure.

Those are just two. And I have a number of other letters of people saying: ''What is this? You guys are talking about family values and you penalize us for getting married.'' And particularly the youngest couples just getting started.

All we are asking for today is to let us vote on this issue, and we are being blocked. I am asking people not to vote for this cloture motion, in order that we can vote to do away with this extraordinarily bad tax that is taxing those fundamental family-building units, the marriage institution that we need so much to be so much stronger.

Mr. ASHCROFT. I have to answer the question of the Senator from Kansas in the affirmative. I understand that. I am aware of it, and I really think that we have a chance to say to the American people: Look, we want to give you a wedding present. We would like to say to you that we are no longer going to make it tough on you if you do the most important thing to sustain this culture in the time to come.

I am a little distressed that this body does not want to let us confront that issue—I mean, there are Members of the body who do not—and that cloture would keep us from being able to make a priority the well-being of America's families, so we do not take care of ourselves in the legislative appropriations bill and ignore the families of America with the elimination of the marriage penalty tax. I hope Members of this body will vote against cloture. Let us vote so we have the possibility of addressing the needs of American families.

I, for one, commend the Senator from Kansas for his outstanding effort in this respect. At some point we simply have to stop business as usual, continuing to tax these families, taking an average of $1,400 a year off their tables, out of their budgets. When they sit down to figure out, ''What can we spend this year,'' $1,400 is more than a vacation. Lots of families can take a little time off. But it may be school books, it may be school clothing, it may have to do with whether they can—well, I am sure there are many things that individuals look at, for $1,400 a year.

It is time for us simply to say: Before we continue to balloon Government, before we consume this $520 billion surplus, before we rush to governmentalize that, we should say at least some portion of this, a modest portion, far less than half, far less than a third, could sustain total relief for America's families by eliminating the marriage penalty—and it ought to be done. It should provide individuals the opportunity to say, ''We will be married, we will have durable families,'' and it should stop taking from families who are staggering under the tax load, it should stop those families from being further injured when the Government comes and says, ''We simply think we are more important than you are,'' especially as it relates to the surplus money that is supposed to be here—as a result of the hard work of the American people. I started to say this money is coming as a result of the Congressional Budget Office's estimation. What arrogance that would be. We do not bring money to Washington. Money comes to Washington because people work hard, because they are entrepreneurs, because they get up early and stay up late—take care of their kids.

I thank the Senator from Kansas. I know there are others here wishing to speak. I just say eliminating the marriage penalty is important to the future of the United States of America. We should vote against cloture because we need to have the opportunity to provide this relief to America's families.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I rise this morning to support, in a small way, the efforts of my colleagues from Kansas and from Missouri, talking about how to abolish the marriage penalty and help instill American values into the U.S. Tax Code. I applaud them for their continual efforts to bring this issue to the floor, to continue to talk about the need for us to take a very hard look at this and hopefully create the means of eliminating this very unfair tax on American families.

Since the founding days of this Nation, the family has always been considered to be the bedrock of American society, the first unit of Government. Strong families make strong communities, and strong communities are what has made a strong America. For generations, our ancestors built this country on that very foundation, and the Government respected that tradition by ensuring that its laws did not usurp the family role.

Then how do we explain the existence of the marriage penalty, a piece of Government tax trickery that actually penalizes couples who choose to commit to a family through marriage? Let me read to you, this morning, from a study of the marriage penalty prepared by the National Center for Policy Analysis.

Prior to 1948, the Tax Code made no distinction between married couples and individuals. In that year, Congress changed the law to allow income splitting. In effect, couples were taxed like two single taxpayers even if only one had earned income. The result was to sharply lower taxes for married couples. In short, a de facto subsidy for marriage was created.

By 1969, the magnitude of this subsidy had grown to such an extent that it was possible for a single person to pay 40 percent more in taxes than a married couple with the same income.

This led Congress to create, for married and unmarried people, separate tax schedules [that were] designed to reduce the subsidy to no more than 20 percent.

An unintended consequence of the 1969 law change was to create a marriage penalty for the first time.

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

Mr. GRAMS. Go ahead.

Mr. DURBIN. It is my understanding that there are more couples who benefit from the Tax Code when they get married than those who are penalized, is that correct?

Mr. GRAMS. I am not sure, but when you look at couples across the country who are unfairly paying $29 billion or 21 million couples across the country who are unfairly paying about $29 billion a year in taxes—if there are some discrepancies, we should look at all of it. But what we should not do is penalize those families who are paying an average of $1,400 a year more, just because of the way the codes are set up.

Mr. DURBIN. So, let me ask the Senator a question. If the code, in fact, benefits more families who get married—in other words, their taxes go down—than those who are penalized by getting married, the Senator from Minnesota is not suggesting that we want to change the code and make it so that it will be the opposite, is he?

Mr. GRAMS. No, I am not. What I want to do is reduce the tax burden on families all across the board, but to start right away with what is the most unfair tax.

Mr. DURBIN. I say to the Senator, I certainly support that. I think we did vote—did we not vote on this when it came to the tobacco legislation? Didn't Senator GRAMM, from Texas, offer an amendment on this marriage penalty?

Mr. GRAMS. Yes, it did pass.

Mr. DURBIN. It did pass. And we have already had a vote on this question. And that became one of the burdens carried by the tobacco bill, if I am not mistaken, was it not?

Mr. GRAMS. That was part of that legislation.

Mr. DURBIN. I would just say to the Senator as well, that I have listened carefully to the speeches and I marvel at the suggestion that there are people who are so much in love and ready to get married, and next check that with accountants and decide not to. I haven't run into those folks, but I am sure there are some out there like them. But I thank the Senator.

Mr. GRAMS. When my colleague says he hasn't run into those folks, I have, and I concur with what the other Senators said, that they have. I have had a number of couples come up to me, whether at airports or at meetings or at other times, and tell me exactly the same thing the other Senators have said. They have actually planned around this, whether they have delayed

the marriage for a year—I even had one elderly gentleman tell me he called his wife from the accountant, he was 79 years old, and he said to his wife, ''I think we need to get a divorce.'' She was kind of shocked by it and she said, ''Why?'' And he said, ''Because we would be much better off if we were filing single.'' And then he went through the explanation.

So this is not something that has gone by Americans, and especially families, and especially dual-income families. So I think there are many out there who are aware of this. When it comes to a difference of $3,500 a year, for those first years I think a lot of families are thinking very strongly about it.

But just briefly, I want to wrap this up and give a couple of minutes to my other colleagues here. But I just think, when we look at the numbers, Washington created this ''unintended consequence'' within the Tax Code, that, as I mentioned, penalized some 21 million American couples to a tune of about $29 billion a year. I remember President Clinton saying at a news conference not too long ago that he agreed this was an unfair tax, but he also had to put in a qualifier, ''But Washington cannot do without money. This $29 billion is too important for Washington to give up.'' In other words, we are willing, bottom line, to impose an unfair tax on many of our American families just so Washington can have a few additional dollars—if you count $29 billion as a few additional dollars—to have that at the end of the year.

According to the CBO, couples at the bottom end of the income scale who incur penalties paid in, on an average, nearly $800. When we talk about low income and we want go give them a tax break—they paid an additional $800 in taxes. That represented about 8 percent of their income. Repeal the penalty and those low-income families will immediately receive an 8-percent increase in their income.

So my constituents have been very clear on this issue. As I mentioned, many have come and talked to me. Many have written letters. One wrote:

> This tax clearly penalizes those who marry and are trying to possibly raise a family by working two jobs just to make ends meet. Our tax laws need to give the proper incentives encouraging marriage and upholding its sacred institutions.

Mr. President, I couldn't agree more.

Also, we began to add some real reform last year with the passage of a $500-per-child tax credit. It is a small step, but in the right direction. This Congress should do everything in its power to promote family life, to return the family to its rightful place as the center of American society. Whether lawmakers intended it or not, Congress created the marriage penalty and it rests on Congress to take it back.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas?

Mr. BROWNBACK. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Kansas has 57 seconds.

Mr. BROWNBACK. I want to explain to Members what is taking place here. Yesterday I filed an amendment to the legislative appropriations bill that would eliminate the marriage penalty we have been talking about this morning. My amendment, which is being cosponsored by several Senators, would reinstate income splitting and provide married couples who currently labor under this Tax Code with some relief. I tried to offer my amendment last Friday with spending legislation that was originally supposed to be debated. However, because of objections from the Democrat side of the aisle to the unanimous consent request that would have guaranteed a vote on eliminating the marriage penalty, we have not been able to get a vote on the elimination of the marriage penalty.

Later in the day, another UC was propounded that would have allowed the Senate to move forward with the legislative branch appropriations bill but without my amendment, and to that UC I objected. Subsequently, the cloture motion was filed to bring debate about tax relief to a close and move forward with this legislation.

I am asking my colleagues today to vote against this cloture motion so we can consider the marriage penalty that is being objected to by my colleagues on the other side of the aisle. Thank you, Mr. President.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. The Senate will now resume consideration of the Legislative Branch Appropriations bill, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4112) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

McCain amendment No. 3225, to make available on the Internet, for purposes of access and retrieval by the public, certain information available through the Congressional Research Service web site.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provision of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the legislative appropriations bill:

Trent Lott, Robert F. Bennett, Ted Stevens, Don Nickles, Bill Frist, Jesse Helms, Pete Domenici, Richard Shelby, Rod Grams, Kit Bond, Thomas A. Daschle, Orrin G. Hatch, Larry Craig, Strom Thurmond, Paul Coverdell, and Chuck Hagel.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on H.R. 4112, the legislative branch appropriations bill, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Oklahoma (Mr. INHOFE) is necessarily absent.

The yeas and nays resulted—yeas 83, nays 16, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—83

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

NAYS—16

Allard	Faircloth	Sessions
Ashcroft	Helms	Smith (NH)
Brownback	Hutchinson	Thompson
Campbell	Kempthorne	Wellstone
Coats	Kyl	
DeWine	McCain	

NOT VOTING—1

Inhofe

The PRESIDING OFFICER. On this vote the yeas are 83, the nays are 16.

Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

AMENDMENT NO. 3225

The PRESIDING OFFICER. The pending business is amendment No. 3225 by the Senator from Arizona, Senator McCain.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

POINT OF ORDER

Mr. BENNETT. Mr. President, I raise a point of order that the pending McCain amendment is not germane post-cloture.