

critical appropriations work that still remains. But I do hope that this report will not be lost in Olympic and election hoopla. I intend to revisit this issue next year, and I hope that other Members will join me in a sincere and bipartisan effort to find a way to protect our children and our society.

It is the same old story, Mr. President, the same old story. We talk about it. We wring our hands. We wail and gnash our teeth and moan and groan about the entertainment industry. But we welcome those contributions from the entertainment industry. They are great. They are great. But we are paying for it with the denigration of our children.

When will America awaken? When will the candidates be asked piercing questions about their stands on matters such as this? I would like to hear their answers. Tonight, in that town-hall meeting, would be a good place for those, wouldn't it?

What are you going to do, Mr. Candidate, about the entertainment industry? How much money have you already accepted? Are you going to accept money from the entertainment industry? If you do, then how can you turn around and do something in the interests of our children? A good question.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. GREGG). The distinguished Senator from Pennsylvania is recognized.

#### A CONSTITUTIONAL CRISIS IN THE APPROPRIATIONS PROCESS

Mr. SPECTER. Mr. President, I have sought recognition to comment on the pending legislation, which will fund three major Departments in the United States: The Department of Labor, the Department of Health and Human Services, and the Department of Education.

I chair the subcommittee in the Senate Appropriations Committee which has the responsibility for this legislation. I am very concerned about what is happening to our constitutional process. I think it not an overstatement to say that we have a constitutional crisis in what is happening with the appropriations process in the relationship between the Congress and the President of the United States.

Since the Government was closed in late 1995 and early 1996, there has been created a very significant imbalance between the Congress and the President with what is realistically viewed as practically a dictatorial system of the President saying what is acceptable and the Congress being held hostage, in effect, concerned about being blamed for shutting down the Government. That is not the way the Constitution was written.

The Congress is supposed to present the bills to the President. If the President vetoes, then there are negotiations and discussions as to what will happen. But the status of events today

is that the President calls the tune and the Congress simply complies.

There is also a significant deviation because, contrary to constitutional provision, the President and the President's men and women participate in the legislative process. The Constitution says that each House shall pass a bill; there will be a conference committee; they will agree; and each House will then vote on the conference report; and, if approved, the bill is submitted to the President.

The constitutional process does not call for the executive branch to participate in deciding what will be in the bills. But for many years now, representatives from the Office of Management and Budget, OMB, sit in on the conferences, are a party to the process, and seek to determine in advance what will be acceptable to the executive branch, contrary to the constitutional setup where Congress is supposed to pass the bills and submit them to the President.

We have had a very difficult time in the last 3 years with what has happened with the appropriations bill covering Labor, Health and Human Services, and Education. I spoke at some length about this problem on October 14, 1998, as we worked for the appropriations bill which turned out to be an omnibus bill. I was so concerned about the process that I voted against that bill. That was a tough vote to make since there were so many items on financing education which were very important and with which I agreed, and on financing Health and Human Services, again, which were important and with which I agreed, and on financing the Department of Labor, again, which were important and with which I agreed; but I felt so strongly that I voted against the bill and spoke at some length, as the CONGRESSIONAL RECORD will reflect on page S12536, on October 14th of 1998.

Then on November 9, 1999, I again expressed my concerns about what the appropriations process comprehended as set forth in some detail on S14340 of the CONGRESSIONAL RECORD.

This year, again, I am very concerned about where we are headed. The President submitted requests for these Departments for \$106.2 billion. The Senate bill has provided the total amount which the President requested, but we have established some different priorities. That, under the Constitution, is the congressional prerogative. The Constitution calls for the Congress to control the purse strings and to establish the priorities. Of course, the President has to approve. But here again, the Constitution does not make the President the dominant player in this process; the Congress is supposed to traditionally control the purse strings.

Working collaboratively with my distinguished colleague from Iowa, Senator TOM HARKIN, we produced a bipartisan bill. I learned a long time ago that if you want to get something done in Washington, you have to be willing

to cross party lines. Senator HARKIN and I have done that. When the Democrats controlled the Senate, he chaired and I was ranking member; and with Republican control, I have the privilege, honor, to chair, and he is the ranking member. We have taken a very strong stand on appropriations for the National Institutes of Health, which I believe are the crown jewel of the Federal Government, maybe the only jewel of the Federal Government. This year we have increased funding for NIH by \$2.7 billion, which is \$1.7 billion more than the President's priority. Last year we appropriated \$2.3 billion on an increase which, with an across-the-board cut, was reduced to \$2.2 billion. The year before, it was a billion, and the year before that, almost a billion. So that we have added some—it is \$2.7 billion this year, 2.2 last year, 2.0 the year before, a billion the year before that, and almost a billion the year before that. So that we have added \$8 billion. I think it adds up to \$8 billion; when you deal with all these zeros, sometimes they are not too easy to add up in your head.

The Senate approved that, and the House approved that. We think with the enormous progress made on Alzheimer's and Parkinson's and cancer and heart disease, and so many others, that is where the priorities should be. We also put in \$1 billion more on special education than the President had in his budget, a matter of some concern to many in the Senate. With the leadership of the distinguished Senator from New Hampshire, who is now presiding, we put extra funding there because we think that is where the priorities ought to be. Then the President made a request for \$2.7 billion for school construction and new teachers. There is a lot of controversy in the Republican-controlled Senate about whether these are appropriate Federal functions, but we ended up, in a carefully crafted bill, giving the President his priorities, with an addendum that if the local school district decided they did not need the money for construction, that the local school districts could allocate it to local needs. And if the local school districts decided they did not need the money for teachers, they would give it to local needs.

The President has resisted this. This is a very fundamental difference in governmental philosophy, a Washington, DC, bureaucratic straitjacket versus local control—according to the President, the first call for his own programs on construction of schools and on more teachers.

We worked very hard this year and the Senate returned a bill which was passed on June 30, which tied a record going back to June 30, 1976, when the fiscal year 1977 appropriations bill was passed. Then we completed the conference with the House, where we had it all set on July 27, which I think may have established a new record. I am not sure about that. And we did not add the final signature to the conference report

because we didn't want to be in a position where the bill was sent to the President in August and held up there, but we finished all of our work.

Regrettably, this bill has not been presented to the President because of the efforts on negotiations with the White House to try to get a bill which the President could sign. I repeat, I think it is a mistake, constitutionally and procedurally, to do that. We ought to send the President the bill.

There have been, candidly, concerns within the Republican leadership where we have had bicameral meetings between the House and the Senate, the leadership, on precisely what should be done. It is my urging to my colleagues in the Senate and the House that we should stand by our bill of \$106.2 billion, which is as much as the President asked for, and we should stand by our priorities, which give \$600 million more to education. There is no higher priority in America than education. And we should stand by our priority of according \$1.7 billion more to the National Institutes of Health. We should stand by our approach of giving the President what he asked for on teachers and school construction, subject to local determination if the local boards decide they do not want it for those purposes. But we ought not to buy our way out of town and to knuckle to the President and cave to the President. We ought to assert our legislative institutional standing.

This bill could have been presented to the White House in early September. This Senator has pressed consistently in leadership meetings to present the bill to the President. It is my hope we will do that.

I am not unaware of the fact that this is October 17 and that the Presidential election will be held 3 weeks from today. But I think we are dealing with values and principles here, constitutional principles which are paramount, and we ought to assert our legislative prerogatives and submit the bill to the President. There might be an opportunity for a national debate on this subject. Certainly it is worth an effort.

There is no doubt that the President has the so-called bully pulpit, but there is a lot of concern in America on what the funding is going to be for the Departments involved here, not only the Department of Labor but certainly the Department of Education and certainly the Department of Health and Human Services. We ought to lay down a marker. We ought to lay down the gauntlet, and we ought to ask America to join in a debate to see where America's priorities lie.

My own instinct is that we have the high ground here and we have the better case. So I hope the Congress will submit this bill to the President, will engage in that debate, and will assert our constitutional prerogatives to legislate. I think we have a good chance to have this bill finally enacted into law, or if it is vetoed, with some na-

tional debate, something very close to it.

In the absence of any other Senator seeking recognition, I suggest the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### UNANIMOUS CONSENT AGREEMENT—H.R. 4461

Mr. COCHRAN. Mr. President, I am pleased to announce to the Senate that agreement has been reached and I am able at the request of the majority leader to make an announcement on the scheduling of votes and other business before the Senate.

I ask unanimous consent the vote on the Agriculture appropriations conference report now occur at 5:30 on Wednesday, October 18, and further, the allotted debate times prior to the vote now occur beginning at 3:30 on Wednesday.

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

#### MORNING BUSINESS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate now be in a period of morning business with Senators speaking for up to 10 minutes each.

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

#### THE TREAD ACT

Mr. FITZGERALD. Mr. President, I rise today to clarify the history and intent of section 14 of the Transportation Recall Enhancement, Accountability, and Documentation Act, which passed the Senate on Wednesday. This section of the legislation is based on the Child Passenger Protection Act of 2000, which I introduced on February 10, 2000 with my colleague from Arkansas, BLANCHE LINCOLN, and my colleague from Pennsylvania, RICK SANTORUM.

The purpose of the Child Passenger Protection Act of 2000 is to enhance children's safety in motor vehicles. It calls for the adoption of improved child restraint safety performance standards and testing requirements, and it requires the Secretary of Transportation to provide parents with better consumer information about child restraints.

Child deaths in motor vehicle crashes in the United States have declined some since 1975, but significant work remains to be done in the area of child passenger safety. Motor vehicle crashes are the single leading cause of death and serious injury for young children in the United States.

Each year, up to 600 children under the age of five die in car crashes, and

up to 70,000 are injured as occupants in motor vehicle crashes. Motor vehicle crashes cause about one of every three injury deaths among children 12 and younger in this country.

A child restraint that is installed and used correctly can prevent many injuries and deaths. The failure of some consumers to use age- and weight-appropriate child restraints has been well documented. Many consumers who purchase and use child restraints have little guidance or information with which to distinguish among the broad array of models, sizes, shapes and features of child restraints that are being sold in retail stores.

A child restraint that is well designed can prevent still more child injuries and deaths. The former top safety official at the National Highway Transportation Safety Administration (NHTSA), Dr. Ricardo Martinez, stated, in a letter dated September 14, 1999 to all manufacturers of child restraints sold in the United States: "[m]any restraints have been engineered to barely comply with some of the most safety-critical requirements of the [Federal] standard." NHTSA also has questioned the efforts of some child restraint manufacturers to have child restraint defects characterized as "inconsequential" to avoid recall campaigns, and the agency recently suggested that child restraints be assigned safety ratings.

NHTSA is the agency within the United States Department of Transportation that monitors the safety of child restraints. NHTSA's primary method for verifying that a child restraint is designed to meet Federal safety standards is its compliance testing program. In compliance tests, Federal regulators subject the child restraint to a sled test that simulates a frontal collision with a stationary object.

The sled test used by NHTSA to verify a child restraint's performance does not consider how that restraint will perform in rear-impact, rollover, or side-impact crashes; and the sleds used in government compliance tests bear limited resemblance to the interiors of today's passenger vehicles. These sleds feature flat bench seats with lap belts that were common in automobiles of the mid-1970s, but which do not apply to many of the passenger vehicles that are on our roads these days.

Child restraints are too often marketed for children who are heavier than the anthropomorphic test dummies used by NHTSA in these sled tests. One private group's testing has shown that child restraints tested with a child at the highest weight recommended by the manufacturer have failed. NHTSA should allow child restraints to be marketed for children at specific weights only if the restraint has been tested at those weights.

The current Federal standard for child restraints, known as Federal Motor Vehicle Safety Standard 213, is overdue to be upgraded to better reflect new developments in technology.