



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149

WASHINGTON, WEDNESDAY, SEPTEMBER 10, 2003

No. 124

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Lord of the storm and the calm, the troubled sea and the quiet brook, may we not only state our prayers with our lips, but may we pray to You with our hearts. Keep us from being so preoccupied with difficulties that we fail to see all the opportunities around us. Guide our Senators today. May they listen to the quiet direction of Your spirit. Consecrate their speech to Your service. Give them a deep faith and a firm trust in You. Bless today those in our Senate family who are feeling the pains of grief. Remind us that You will take care of our tomorrows. We pray this in Your strong name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning at 9:45 the Senate will begin a sequence of stacked votes in relation to six pending amendments to the Labor-HHS appropriations bill. Following these votes this morning, the two managers will continue to work through the remaining amendments to the bill.

As we stated yesterday, it is our intention to complete this bill prior to

the close of business today. And given our progress last night—and I do thank everyone for participating and working together as we got on a track that will allow us to complete this bill today, but given that progress, I am hopeful we will be able to finish the bill at a reasonable time today.

With the understanding we do complete that bill, we will not have votes on Thursday or on Friday. We, of course, will be in session both of those days. Tomorrow, September 11, there will be a number of events throughout the day that Members will be participating in, and we will try to adjust the schedule accordingly.

We will have business Thursday and Friday. I plan on bringing up one of the appropriations bills after discussion with the President pro tempore, the chairman of the Appropriations Committee, about what is the most appropriate bill. We will be making that announcement a little bit later today.

I will have more to say on events for tomorrow as well as Friday's schedule following completion of the Labor-HHS bill.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2660, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2660) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

Pending:

Specter amendment No. 1542, in the nature of a substitute.

Akaka amendment No. 1544 (to amendment No. 1542), to provide funding for the Excellence in Economic Education Act of 2001.

Mikulski amendment No. 1552 (to amendment No. 1542), to increase funding for programs under the Nurse Reinvestment Act and other nursing workforce development programs.

Kohl amendment No. 1558 (to amendment No. 1542), to provide additional funding for the ombudsman program for the protection of vulnerable older Americans.

Dodd amendment No. 1572 (to amendment No. 1542), to provide additional funding for grants to States under part B of the Individuals with Disabilities Education Act.

DeWine amendment No. 1561 (to amendment No. 1542), to provide funds to support graduate medical education programs in children's hospitals.

DeWine amendment No. 1560 (to amendment No. 1542), to provide funds to support poison control centers.

DeWine amendment No. 1578 (to amendment No. 1542), to provide funding for the Underground Railroad Education and Cultural Program.

Harkin amendment No. 1580 (to amendment No. 1542), to protect the rights of employees to receive overtime compensation.

Schumer amendment No. 1598 (to amendment No. 1542), to provide additional funding for programs under the Ryan White Care Act.

Reed amendment No. 1595 (to amendment No. 1542), to provide funding for home energy assistance needs under the Low-Income Home Energy Assistance Act of 1981.

Reed amendment No. 1592 (to amendment No. 1542), to increase funding for immunization services.

Reed amendment No. 1596 (to amendment No. 1542), to increase funding for certain literacy, library, and museum programs.

Corzine amendment No. 1602 (to amendment No. 1542), to restore cuts in student aid.

Reid amendment No. 1603 (to amendment No. 1542), to increase funding for certain education and related programs.

The PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, we are set to proceed with a series of stacked votes at 9:45 a.m. There are a fair number of amendments which have yet to

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



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be offered. The distinguished ranking member and I are prepared to work through those amendments expeditiously. It may be possible to accommodate some of the Members in their requests.

The majority leader has again announced that upon completion of this bill there will be no votes on Thursday or Friday, although the Senate will be in session. When that word travels throughout the membership, there is more incentive to complete this bill at an early time. Yesterday we did have a productive day, starting at 5:15 p.m. We had four rollcall votes. We debated six amendments on into the evening.

As I survey the sheet, if we have cooperation on all sides, it is possible to move through this bill in an expeditious way and perhaps finish this bill today sooner rather than later.

I thank the Chair, and I yield the floor.

The PRESIDENT pro tempore. The Senator from Iowa.

Mr. HARKIN. Mr. President, I understand we are going to start the vote at 9:45 a.m.

The PRESIDENT pro tempore. The Senator is correct.

Mr. HARKIN. Mr. President, first, I thank the leadership on the other side. I thank my colleague and the chairman of the appropriations subcommittee, Senator SPECTER, for working out this arrangement. It is one that reasonable minds and reasonable cool heads have agreed now we are going to proceed ahead on a series of votes this morning.

I know there are some other amendments today. I see no reason why we can't wrap up this bill this evening sometime, hopefully at a decent hour anyway. I know there are a lot of other important amendments. I wish to take a little bit of time to speak about the first amendment that we will be voting on at 9:45.

Mr. GREGG. Mr. President, will the Senator yield for a question?

Mr. HARKIN. Without losing my right to the floor.

Mr. GREGG. Are we going to divide the time between proponents and opponents of the amendment between now and 9:45? I understand there is no time agreement. I would like to have 2 minutes in opposition to the amendment.

Mr. HARKIN. I inquire of the Chair. The PRESIDENT pro tempore. There is no previous order concerning division of time. The time set for the vote is 9:45.

Mr. HARKIN. But there is no time set for dividing the time.

The PRESIDENT pro tempore. There is no agreement on dividing the time.

Mr. SPECTER. Mr. President, I ask unanimous consent that the intervening time be equally divided between both sides—whatever time there is—to make a presentation.

The PRESIDENT pro tempore. There are 6 minutes remaining.

Mr. HARKIN. That sounds fair.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Iowa.

AMENDMENT 1580

Mr. HARKIN. Thank you, Mr. President. The first vote will be on overtime. I think it has been thoroughly debated. I think Senators know what we are voting on in this amendment. I wish to make a few comments to bring us up to the point of voting on this amendment.

Again, I do not see this in any way as any kind of a partisan vote. It should not be. This affects workers no matter whether they are Republicans, Democrats, Independents, or whatever. It does not make any difference. This crosses all party lines.

What has happened, through the Department of Labor, is they came out with these proposed changes in overtime rules and regulations. No hearings were held, and now they say they do not have to have hearings. The law does not mandate that they have to have hearings, but one would think on a major issue such as this they would have gone out to the public and they would have worked with Congress to reach some reasonable agreement on modifying and updating Fair Labor Standards Act regulations. But, no, they came out with these changes in a very heavyhanded manner.

If one reads the proposed rules and regulations, they really do wipe away the overtime pay protections for I don't know—the figures are all over—8 million, 10 million, 6 million. I don't know what the proper number is, but I can tell you it wipes out overtime pay protection for millions of Americans who have it right now.

My amendment basically says no money can be expended to further promulgate, publish, or enact these rules and regulations.

That does not mean the Department of Labor cannot come back at some point and say we need to modify these. Maybe we need to throw out some old terms.

As I pointed out, the Fair Labor Standards Act has been modified a dozen times since 1938, but it has always been done sort of in consultation with Congress, in an open fashion. That is the way it ought to be done again, especially with something so sensitive as overtime pay.

So this is our vote in which we can basically say no, we are not going to move ahead with these; we are going to go back to the drawing board. If they want to come up to the Congress, to the appropriate authorizing committees in the House and the Senate, and try to work something out, that is fine and we can do that.

In closing, last week the Senate unanimously passed this resolution by Senator HATCH, expressing the sense of the Senate that October would be National Work and Family Month. The resolution expressed the sense of the Senate that reducing the conflict between work and family life should be a national priority. We passed this last Friday unanimously. Are we today going to vote to say we do not care

about what we said; what we are going to do is allow these rules and regulations to go into effect which will take away the overtime pay protection for millions of Americans?

Let's back up what we said last Friday with our votes this morning.

I yield the floor and reserve the remainder of my time.

The PRESIDENT pro tempore. The Senator has consumed his time.

Mr. LEVIN. Mr. President, I come to the floor today to speak in support of the Harkin amendment regarding the Bush administration's proposal to make regulatory changes to the Fair Labor Standards Act, FLSA, of 1938. The Bush administration's assault on middle-income white- and blue-collar workers continues with this latest proposal by the Department of Labor, DOL. Under current law, the FLSA requires employers to pay time and a half for overtime work except for some narrow exemptions. Introduced this Spring with little public notice, the DOL has proposed regulations that would disqualify potentially millions of workers from the overtime protections afforded them under the FLSA. Regulations proposed by the DOL on March 31 of this year would make it easier for employers to reclassify their workers as "executive," "administrative" or "professional" employees who are not entitled to the overtime protections of the FLSA. According to the Economic Policy Institute, more than 8 million workers could be negatively affected by the Bush administration regulatory changes. This is a frontal assault on the 40-hour work week.

The Harkin amendment would prevent the DOL from issuing any regulation that disqualifies currently covered workers from the overtime protections of the FLSA. The amendment would not prevent DOL from making changes to overtime regulations that would benefit low-income workers. There is simply no justification for stripping any workers of their overtime rights and thus their statutory right to time and a half. And the workers who would still be protected by the FLSA would also receive a pay cut because employers would naturally shift overtime assignments to the millions of workers no longer entitled to overtime pay. In 2000, overtime pay accounted for about 25 percent of the income of workers who worked overtime or about \$161 a week. The President's much-touted tax cut would give workers earning less than \$62,500 a tax cut of a \$1.68 per week. This administration's overtime proposal is just not worker or family friendly. It will result in workers working more hours without overtime pay, undermining the 40-hour work week. The DOL proposed regulations would deny overtime protections not only to white-collar office workers, but also to many manual and other union workers. Union workers would be forced to negotiate for overtime protections that are now guaranteed by the FLSA. The overtime exceptions would affect all

workers earning more than \$65,000 as well as workers with certain specialized training such as policemen, firefighters, paramedics, EMTs, as well as other white-collar professionals such as secretaries, bookkeepers, and paralegals.

Every facet of American industry will be affected by the proposed DOL regulations. For example, assembly line and production workers at auto manufacturing plants could lose overtime protection if they "employ a high-level of skill or training." Furthermore, factory workers making up to \$65,000 could lose overtime protection if they perform some nonmanual office work and have at least one job duty that can be characterized as "executive," "administrative" or "professional." Nonmanual office work seems to be a broad term that could encompass many fairly routine workplace activities. Even a worker who at the end of the day is required to document his or her workplace activities might be swept in to the administrative exemption. Surely this was not the intent of the FLSA.

At a time when we are asking more and more of our Nation's first responders, the administration wants to eliminate their overtime pay. A good example are the police officers responsible for the security of the Capitol Complex. Many of these officers have consistently worked in excess of 40 hours ever since September 11, 2001. Many of these officers have spent long periods of time away from their family and friends with their only consolation being overtime pay. How can President Bush and Secretary Chao possibly tell law enforcement officers across this Nation that they no longer deserve to be paid overtime for their work?

Mr. President, we must do what is equitable for American workers. Millions of workers depend on overtime pay to make ends meet. If the administration really wants to help low-income workers, they will support an increase in the Federal minimum wage to \$6.65 an hour which would benefit far more than the 1.3 million low-income workers which DOL estimates will benefit from proposed changes. A vote for the Harkin amendment is a vote for working families across America. I hope it will receive a resounding "yes" vote.

Mr. LAUTENBERG. Mr. President, I rise in support of the Harkin amendment to the Labor, Health and Human Services, and Education appropriations bill for fiscal year 2004.

I proudly support this amendment because it would prevent the administration from implementing any regulation that would take away the overtime pay rights of American workers.

The Bush administration's hostility to this Nation's hard-working men and women is shocking and frankly disappointing.

We all know this administration's performance on job growth: since President Bush assumed office, he has pushed for three separate tax cuts for

the wealthy, yet he has not created a single net job.

Rather, the policies of President Bush have produced a loss of 3.1 million private sector jobs. The number of unemployed Americans has risen from 6 million to over 9 million. Just last month, the Nation's payroll lost 93,000 jobs.

Instead of working to put Americans back to work, the administration has decided to "modernize" workplace regulations by eliminating overtime pay for million of workers.

The Economic Policy Institute concludes that more than 8 million workers would lose overtime protection. Even the conservative Employment Policy Foundation estimates that 1.16 million workers would lose their overtime pay.

The administration, however, claims that only 644,000 workers would be negatively affected by its proposal.

Regardless of the losses estimated, the proposed regulation would disqualify more workers from overtime protection, and there is simply no justification for stripping any workers of their overtime rights.

Just yesterday, nursing home workers from my home state came to my office and told me that they get paid between \$7 and \$10 per hour and that they rely on overtime pay as an essential supplemental to their low hourly pay.

The administration opposes an increase in the minimum wage which would help millions of American workers, but it supports a proposal that would decrease the take-home pay of millions of American workers.

Once again this administration has misguided priorities. We should be doing all we can to improve the working conditions and the quality of life of the American worker, not make it worse.

The 40-hour workweek was created in the Fair Labor Standard Act in 1938. We enacted this legislation because workers were being abused and not properly compensated.

The FLSA became the bedrock of worker- and family-friendly legislation because we recognized that after 40-hours of work, 8-hours a day for 5 days, an employee should be paid time and a half for work performed beyond 40 hours.

Today, the workers protected by the 40-hour workweek requirement are the Nation's first responders and first-preventers like police officer, nurses, and firefighters. Other protected workers include the millions of administrative, technical, manufacturing, and restaurant workers who are struggling to make ends meet.

We should protect the American workers. And, I urge my colleagues to support the Harkin amendment.

Mr. SARBANES. Mr. President, I strongly support the Harkin amendment to preserve overtime pay protections for millions of hard-working Americans. The American work ethic, along with great skill and ingenuity,

has made the United States an economic world power. Americans already log more hours on the job than workers in most other developed countries around the world and I believe that those who have long driven the American economy should be fairly compensated for their work. However, the Bush administration has proposed new regulations that would amend the Fair Labor Standards Act of 1938 and undermine current law governing overtime pay.

The proposed Department of Labor regulations would raise the salary level under which workers are eligible for overtime pay from \$8,060 per year to \$22,100 per year. Raising this income threshold is an inadequate adjustment, but it is a step in the right direction. Due to the rising expenses facing working families, I recognize the need to make more low-income workers eligible for overtime pay. The pending amendment does not preclude the Department of Labor from issuing rules that make such changes. Instead, it simply prohibits the Department of Labor from taking away overtime protections for those who are currently eligible under the Fair Labor Standards Act.

Under the Department of Labor's proposal virtually all employees who earn \$65,000 or more per year would be denied overtime pay protection currently afforded under the Fair Labor Standards Act. Additionally, it would allow employers to reassign middle-income workers, earning between \$22,100 and \$65,000, to managerial roles, thereby depriving them of overtime pay rights. The Harkin amendment would block this reclassification.

Our economy is facing serious difficulties. What we need is responsible economic policy that puts our economy back on track. Instead, this administration has proposed massive tax cuts to benefit the wealthiest among us, presided over the largest job loss in our Nation's history, erased a large Federal surplus that it inherited, and created a large and growing Federal deficit. Now the administration proposes to amend a law that has protected American workers for over 60 years by taking away the overtime pay that many working families depend upon to make ends meet.

The Department of Labor claims its proposal is necessary to "clarify" and "update" overtime rules for the 21st century economy. However, consider some examples of the occupations currently eligible for overtime pay that may be in jeopardy should the Department of Labor go forward with this proposal: firefighters, law enforcement officers, social caseworkers, medical assistants, and nurses. These workers are performing vital functions in our society and should be compensated for the long hours they put in to do their jobs.

The American people have spoken on this issue. The Department of Labor has been flooded by public comments

that run overwhelmingly against the implementation of its proposal. The American people are right. The number of individuals eligible for overtime should be increased, not decreased. A responsible economic plan would put more disposable income into the hands of working Americans, not take it away.

I find the Department of Labor's proposal unwise and unfair, but very much in keeping with this administration's failed economic policies that seek to leave no millionaire behind while increasing the financial burden on average Americans. Therefore, I urge my colleagues to support the Harkin amendment.

Mr. BINGAMAN. Mr. President, I rise today in support of the Harkin amendment related to proposed administration changes to overtime regulations, and I am pleased to be a co-sponsor.

The Fair Labor Standards Act of 1938 established that—with only a few specific exceptions—American workers were entitled to overtime pay, meaning time and a half wages, for every hour worked beyond the accepted 40-hour work week. The Fair Labor Standards Act was not passed out of context. The legislation derived from the labor abuses that occurred in the early 1900s. Furthermore, it was signed into law because political and labor leaders at that time agreed that workers should not be pushed beyond their breaking point. By making every hour beyond 40 more expensive, the legislation discouraged employers from assigning longer hours and rewarded employees for sacrificing their personal or family time for their company. Workers could still work longer hours if they chose to do so, or if they needed additional income—many do so today—but they could not be required to do so by their employers, and they could not be required to do so at the same wage level they earned during their 40-hour work week.

I think this was a perfectly reasonable bargain to have made then, and I think it is a perfectly reasonable bargain now. It is a form of social contract—one of many made at the time that have extended to the present because they make good rational sense. And I am strongly of the view that it should not be broken at this time.

The Bush administration has recently proposed substantial regulatory changes that dramatically alter this social contract, and the underlying principles that form its foundation. Under the guise of "flexibility" for employees, it has decided to change the categories that will classify a worker as eligible for overtime, and in doing so, will vastly increase the number of employees that are exempt from overtime pay. The Department of Labor has estimated that the proposed changes will affect only 644,000 workers. But the Economic Policy Institute has concluded that the numbers are significantly miscalculated and the correct figure is closer to 8 million. This in-

cludes everyone from police officers, no firefighters, to registered nurses, to medical technicians, to floor supervisors in service industries, to paralegals, to journalists—any number of individuals that currently earn more than \$22,100 per year.

Worse, many of these individuals are currently in professions that are essential to national security or difficult to fill. In my State of New Mexico, for example, the proposed regulations would have very profound effects. According to an analysis undertaken by the New Mexico Department of Labor, over 37,000 workers will lose overtime benefits as a result of the proposed rule change. Many of these workers are in professions that we need in the State and we may lose if salaries are decreased—specialty fields like teachers, physical therapists, health care technicians, first responders, and so on. For the life of me I don't see why the Bush administration would be providing disincentives for people to work in fields where we need them the most. Why are we telling teachers, or nurses, or firefighters that we don't value the extra time you put in on the job? In my State these folks are frequently living on a shoestring as it is. How can the Bush administration justify a policy that takes money away from them?

I have three specific problems with the proposed overtime regulations. First, as I have mentioned previously, it pulls back from the social contract made with American workers in the past. I don't understand what has changed over the last few years to require that overtime rules be altered, and I don't believe it is time to alter an agreement that at its core is designed to allow Americans to be rewarded for hard work and spend more time with their families.

Second, I think it's the wrong time for change. We have now some of the worst economic conditions that we have seen in years in this country. Levels of unemployment continue to climb, so much so that many workers have simply given up looking for work. Why are we telling those who have work at this time that they should get less for what they do? Why are we telling these folks they have to take a pay cut? Why are we taking money out of the pockets of these folks, money that these days go to make ends meet, but can also go for mortgages, education, and savings accounts?

Third, given the current record of the Bush administration on key labor issues—be it outsourcing, minimum wage, FMLA, workplace protections, or anything else—I am not convinced that it is time to give it "flexibility" to apply regulations of any type that will affect American workers. From what I have seen so far, I think the administration has taken a very clear stance against the low- and middle-income workers that form the very heart and soul of this country, and I think it is time that we push back on these policies.

I think it is essential that we send an unequivocal message to the Bush administration that we will not allow changes on the overtime regulations to occur. I believe it is bad policy that will hurt working Americans at a time when they need our support.

Mr. HATCH. Mr. President, I rise today to encourage my Senate colleagues to support the Department of Labor's proposed changes to our nation's overtime regulations. The amendment being offered by my friend Senator HARKIN to the 2004 Labor, Health and Human Services, and Education appropriations bill would prohibit spending to implement the Department of Labor's proposed regulations and, thereby, cripple the Department in making these important changes. This is not a wise course of action and I wish to voice my support today for the Department's proposed regulations changes.

Before discussing the proposed regulations, I would like to take a moment to address current overtime rules. As you may know, there have been very few changes to the Fair Labor Standards Act's, FLSA, overtime provisions since the early 1970s.

Under these outdated rules, most workers are only guaranteed time-and-a-half overtime pay if they earn less than \$155 per week. If they earn more than \$155 per week, then employers have to use a number of complicated and confusing tests to decide if a particular worker's job is "executive, administrative, or professional," and must also use complicated tests to determine if the worker's pay qualifies as a "salary" rather than an hourly wage.

Thus, if a job pays over \$155 per week—\$170 per week for "professionals"—and the job is executive, administrative or professional, and the worker's pay fits the official definition of a "salary," then that particular worker is not eligible for overtime. You can imagine the complexity and confusion that businesses have to deal with when they try to determine which workers have to be paid overtime and which do not.

The current rules mean that a restaurant manager or a factory shift supervisor who is paid a salary of \$300 per week would be ineligible for overtime, since these kinds of work are generally considered executive or administrative.

I want to discuss the proposed rules in some detail, as I believe there is a great deal of misunderstanding about what they would do and why they are necessary. The Department of Labor's proposed regulations would raise the \$155 per week test to \$425 per week. That means that, as a general rule, anyone earning less than \$425 per week would automatically be guaranteed to be eligible for overtime pay, regardless of what kind of work they do.

Therefore, the Department of Labor's proposed rules will guarantee overtime pay to both the restaurant manager and the shift supervisor I mentioned above. The proposed regulations will be

a boon to lower-income salaried workers. The Department of Labor estimates that its proposed rules will make 1.2 million more lower-income workers eligible for overtime pay. They also estimate that 20 percent of salaried employees earn \$425 per week or less, roughly \$21,000 per year.

The rules will also modernize the definition of “executive, administrative, or professional” work to reflect better the realities of today’s workforce and to reduce the incomprehensible regulatory definitions that businesses have had to interpret for the last 20 years. That means that workers who earn more than \$425 per week will find it easier to determine whether or not they qualify for overtime pay, and it will reduce the number of lawsuits over the “gray areas” in current overtime regulations.

Further, the Department of Labor also proposes to allow salaried employees’ pay to be docked for full-day absences taken for disciplinary reasons, such as sexual harassment or workplace violence. Currently, only hourly workers’ wages are subject to such discipline-related pay deductions.

And finally, the proposed rules state that workers who earn more than \$65,000 per year will be ineligible for overtime pay if their job has at least some duties that are “executive, administrative, or professional.” Therefore, employers who have these kinds of highly compensated workers will find it easier to make them ineligible for overtime. The Department of Labor chose the \$65,000 threshold because roughly 20 percent of salaried workers earn \$65,000 or more per year. The Department chose to focus its energies on strengthening access to overtime for the most vulnerable workers, a group that is unlikely to include many workers whose salaries are in the top 20 percent.

I believe that the current overtime regulations are confusing and outdated. They have created a maze of uncertainty for business owners, who can be fined up to 3 years of back wages if they misinterpret the overtime eligibility rules. The Department of Labor’s proposed rules will make over a million more lower-income workers eligible for overtime while also creating clearer overtime eligibility rules for all businesses to follow. The Department of Labor’s rules would guarantee overtime pay to the bottom 20 percent of salaried workers—some of the most economically vulnerable people in our society—while at the same time giving employers more freedom over how they compensate the top 20 percent of salaried workers.

These rules are part of this administration’s broader agenda for long-lasting, long-term wage growth. These clearer, simpler regulations will increase the efficiency and productivity of American businesses. And since higher productivity is the key to higher wages, I expect these regulations to help increase the typical American’s standard of living.

I have received numerous letters from individuals and industry who support these regulatory efforts by the Department of Labor. I believe the Department has done an excellent job of researching the overtime issue and preparing regulations that meet the needs of American workers. I encourage all of my Senate colleagues to support these regulations and vote against any amendments that would weaken or impede these much-needed overtime regulation updates.

Mrs. CLINTON. Mr. President, I rise in strong support of the Harkin amendment, which would prevent the Department of Labor from implementing its regulation that would deny overtime pay to 8 million Americans, including 450,000 New Yorkers. I am proud to be a co-sponsor of this amendment and hope that my colleagues will join me in supporting it with their vote this afternoon.

Many of us celebrated Labor Day with picnics, parades, and fanfare, but for too many American workers, there was not much to celebrate at all. Close to 10 million Americans are about to lose overtime protection because this administration has decided to do the bidding of its corporate donors instead of protecting the rights of overworked and underpaid Americans.

The regulation being proposed by the Department of Labor unilaterally removes entire classes of workers from overtime eligibility. Paralegals, engineers, social workers—today rely on overtime. Tomorrow these individuals will be forced to work longer hours for less pay.

An let’s not forget our police officers, firefighters, and nurses—individuals who regularly work overtime because they are on the front lines of our homeland defense. Does anyone imagine that these dedicated individuals will stop working overtime after this regulation goes into effect?

I can assure you that the New Yorkers who tell me how this will affect them do not think so. They know that when duty calls, they will respond. They simply will not be compensated for their effort.

A nurse from Lancaster, NY, wrote to me recently to say, “I assure you that as a Health Care Professional I work many exhausting though rewarding hours in my position. However, I feel strongly that being forced to work overtime without appropriate compensation is an insult. As a dedicated health professional, I find it impossible to leave my patients untended.”

If the administration wants to help working families as they say they do they can fight to expand access to overtime, to raise the minimum wage, and to ensure that every working American can take a sick day to recover from the common cold without fearing for their jobs.

Instead, this regulation would make unpaid overtime a household word and make it easier for bad-faith employers to coerce other workers into accepting time off instead of overtime pay.

I do not think the administration is unaware of the impact of what they are proposing. If they were, they would not have proposed this overhaul of the Fair Labor Standards Act under the cloak of secrecy, without a single Congressional hearing, without a single public hearing.

As many of my colleagues know, when the Clinton administration tried to issue ergonomics regulations, Republicans in Congress attacked the Labor Department for “rushing to judgment” because it held “only” 27 days of public hearings. Twenty-seven days.

And from this administration, not even one.

Those who support the administration’s regulation argue that Democrats are overstating our case. They claim that the proposed regulation will not have anywhere near the impact that independent experts say it will.

But for the sake of argument, let’s assume the Department of Labor’s impact analysis is absolutely accurate. The administration’s own analysis reveals that 644,000 workers will lose overtime pay. But that is only the number of workers currently earning overtime pay who will lose eligibility. For each worker earning overtime pay, there are another four or five who are protected by the overtime provisions of the Fair Labor Standards Act but do not currently work more than 40 hours a week. All of them—between 3.2 million and 3.8 million by the Department of Labor’s own estimates—will lose their overtime protection under the proposed rule. Their employers will require many of them to work longer hours because they will have no incentive not to. It won’t cost them a dime, but it will cost our firefighters, our police officers, our nurses, and so many others in time away from their families and money out of their pocket.

The Department of Labor’s analysis goes on to state that the changes in the education test alone will result in 44 percent of the “learned professionals” losing their right to overtime pay. That is 44 percent of those working in the fields of chemistry, biology, nursing, engineering, accounting, and more. That is 440,000 cooks who would lose their right to overtime pay.

That analysis assumes, and I quote, “that six years of work experience might be considered equivalent to a bachelor’s degree”—even without a day of higher education. But this assumption is not grounded in the rule. In fact, the Department of Labor’s rule requires no minimum education standard. If employers decide that their employees have the same skills as employees with college degrees, employers may exempt those employees from overtime.

So a cook from Buffalo who has never attended a day of college can be deemed an exempt professional and denied overtime.

The administration is taking away the bread and butter earnings American families count on, and leaving them with crumbs.

Republicans in my State have crossed party lines to block this regulation—and I applaud them for doing so. They know how many New Yorkers rely on overtime pay—not as a luxury, as a necessity.

I recently received a note from John, New York City police officer, who wrote to me to say “police officers like myself are forced to do overtime whether we like or not because we need the money to stay ahead of our bills.” John is not alone. Overtime compensation accounts for 25 percent of the total compensation of all workers who receive overtime pay.

This issue is not trivial. At its very core, this issue is about our American values of work and family. Workers stripped of their overtime protection would end up working longer hours for less pay. That translates into less time with their children, less time with their parents, their spouses, less time to volunteer and contribute to the fabric of our community. More work hours, for less pay, and less family time—that is not the American way.

I urge my colleagues to vote in favor of the Harkin amendment.

Mrs. FEINSTEIN. Mr. President, today the Senate will be voting on an amendment that is of vital importance to the working people of California and indeed the Nation.

Earlier this year the White House proposed redefining the job descriptions of millions of workers and thus eliminate their right to overtime pay. Left alone, these rules will go into effect early next year.

The Bush administration’s proposal could wipe out overtime pay protections and increase work hours for at least 8 million workers. Losing overtime pay protections would also result in huge pay cuts for many workers.

For more than 65 years we have maintained an appropriate balance between family life and work life by forcing employers to pay certain workers time and a half when those workers were required to work more than 40 hours in a single week.

Thanks to Franklin Delano Roosevelt, this requirement has protected the 40-hour workweek which has been a trademark of our economy for more than six decades. And, as a result, our Nation’s workers now have greater dignity, better health, and a more appropriate balance between work and family.

This is an issue of fairness. Our workers are more productive than ever and yet the Bush administration believes it is necessary to penalize those very individuals who have literally built this Nation.

The men and women who will be most hurt by the President’s decision will be the hourly workers who maintain our streets, ring up our groceries, and respond to our calls to 911. Those

hurt most will be disproportionately women and minority. They will be mostly middle and lower income. They will be struggling to make ends meet and they will be worrying about paying the mortgage. They are, in fact, our neighbors and friends.

Given the high unemployment rate and economic uncertainty that is still smoldering in our economy, this is not the time to be making it harder for our hardest workers. Rather, it is a time when we should be helping all workers achieve fairness in the workplace.

Fairness in the workplace is good for business. It is well known that by requiring companies to respect the 40-hour workweek, we encourage businesses to hire additional workers. With unemployment above 6 percent, we should continue to encourage companies to maximize employment while respecting the workforce they have.

I support Senator HARKIN’s amendment to stop the Department of Labor from issuing any regulation that disqualifies workers from the overtime protections of the Fair Labor Standards Act.

I think the amendment is fair and just.

Ms. MIKULSKI. I oppose President Bush’s plan to deny overtime pay to millions of workers. I am proud to cosponsor Senator HARKIN’s amendment to protect overtime pay for 8 million American workers. Millions of Americans depend on overtime pay to make ends meet and pay their housing, food, and health care bills. Yet the Bush administration wants to strip overtime protections for these hard-working men and women. I thought in this country, the best social program was a job. I thought in this country, we reward those who practice self-help.

Eight million workers would lose overtime protection under the new Bush proposal. Who are these workers? They are nurses, firefighters, policemen, secretaries, and social workers. These men and women work hard to serve our communities. They protect us, and they help us when we are in need. They deserve extra pay for their extra efforts.

If we do not stop the Bush proposal, workers will have to work long hours for less money because they will no longer be eligible for overtime pay. They might have to find a second job, because they will not be able to count on overtime pay to make ends meet. They will spend less time with their families but they will not get compensated. I think that is outrageous.

America is facing a crisis in nursing. In Maryland hospitals, 12.6 percent of nursing jobs are vacant. They desperately need over 2,000 nurses. Nationwide, we will need about 2.8 million registered nurses by the year 2020, but only about 2 million will be available. Nurses work an average of 8.5 weeks of overtime each year, and 87 percent of Maryland nurses work overtime just to make up for the shortage. If the Bush proposal becomes law, nurses will have

to work these same hours for no extra pay. Hospitals will have to get by without enough nurses to take care of patients. Lack of overtime pay will discourage young nurses from entering the profession and experienced nurses from staying. I worked hard to pass legislation to help eliminate the nursing shortage. Changing the overtime rules would be a huge step backwards.

The Bush plan would also deny overtime pay for our first responders: our firefighters, policemen, and EMTs. Maryland has about 2,000 professional firefighters and 7,500 police. These men and women put their lives on the line to keep us safe no matter what time it is or how many hours they have worked already. When the Pentagon was on fire, the firefighters in my own State of Maryland dashed across the Potomac to help. They were there night and day. We say a grateful Nation never forgets. We give our heroes parades, but now some want to take away overtime and make them work for free to protect the homeland. What a thing to say to first responders and their families.

Every time a firefighter or police officer leaves their home, they do not know when they will be home. They do not even know if they will be home, and now the Bush administration is asking them to donate their overtime. That is no way to show our appreciation. We need to protect the protectors so that they can protect us. That means protecting their overtime pay.

Nurses and first responders are just a few examples. The Bush proposal would deny overtime pay for workers in many industries. It would take money out of the pockets of hard working Americans and their families unless we do something to stop it. I urge my colleagues to vote to uphold overtime pay by voting for the Harkin amendment.

Mr. DOMENICI. Mr. President, I rise today in opposition to the amendment offered by my colleague, Senator HARKIN. The Harkin amendment would prohibit the Department of Labor from pursuing a proposed rule to modernize the Fair Labor Standards Act overtime regulations.

In 1938, Congress passed the Fair Labor Standards Act to protect the lowest paid of our nations working population. The Fair Labor Standards Act guarantees overtime pay for all employees who work over 40 hours in one week, except for those employed in certain “white collar” jobs. Unfortunately, the current regulations have not been revised since the 1950s and employers face serious challenges in trying to interpret this law and classify modern jobs into categories created in a different era. Consequently, what should be a simple test, has become a very complex one with little certainty.

Thankfully, this past March, the Department of Labor proposed changes that would update the regulations to reflect the realities of our 21st century workplace. The purpose of these new

regulations is not, as many claim, to take away overtime pay from hard-working Americans; nobody wants that to occur. The purpose of these new regulations is to bring up to date overtime regulations so that employers will be better able to understand their obligations and comply with the law, and the Department of Labor will be better equipped to more vigorously enforce the law.

If adopted, the Department of Labor proposal will guarantee overtime pay for any employee making less than \$22,100 per year (\$425 per week) regardless of the person's job duties. Current regulations only provide guaranteed overtime for those making less than \$8,060 per year (\$155 per week). This is almost a 175 percent increase and will mean that an additional 1.3 million employees nationwide will be guaranteed overtime pay under the proposed changes. In my home state of New Mexico, the Department of Labor estimates that enactment of this proposal would automatically guarantee overtime pay for 10,000 additional workers, and that these workers would receive \$3,878,398 every year in additional overtime pay.

The proposed regulations will not deny overtime pay to any workers based on salary alone; in fact, they will make it easier to determine which employees meet specific tests and thus qualify for "exempt" status. These exempt employees will continue to qualify for overtime pay.

The proposed regulations will not affect employees paid pursuant to the terms of collective bargaining agreements, thus unionized employees will continue to have the right to bargain for overtime pay, regardless of salary or job duties.

The proposed regulations will not affect the right to overtime for non-white-collar workers such as police officers, firefighters or other first responders. This fact has been acknowledged in a recent press release from the Fraternal Order of Police.

Modernization and reform of the Fair Labor Standards Act regulations has been on the Labor Department's regulatory agenda since the 1970s, and both Republican and Democratic administrations have recognized that the existing regulations simply do not comport with the realities of the modern workplace. I therefore encourage my colleagues to vote against this amendment, and support the modernization of the Fair Labor Standards Act.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, let us remember what is happening. Basically, the Congress is trying to step into the middle of a regulatory process, which is ongoing and has not reached a conclusion, and short circuit it. Eighty thousand comments have been received relative to these regulations. They have not been promulgated in final form. In fact, I know the Department is aggressively reviewing those comments, and I expect substantive changes in significant parts of the reg-

ulatory proposal as it has been put forth. So it is premature to step in at this time. It is not ripe. The matter is not before us at this time.

If the regulations come down in a format that is unacceptable, we as a Congress have the right to step forward and revoke those regulations, as is occurring right now relative to the FCC rule that was promulgated by that regulatory agency.

So we are stepping forward at the wrong time in the wrong place and we are short circuiting the regulatory process in doing it in this manner.

Secondly, what we have heard for the last few days and what we have heard nationally from some of the promotional groups that advocate on the other side of this issue is misrepresentation on the number of people involved. They have been saying 8 million people will be affected in a negative way.

That number is absolutely bogus. Of that number, 1.5 million are part-time workers who will not be affected at all; 3.8 million of that number are already exempt, so they will not be affected; 1.1 million will be exempt under the proposal as it is being proposed, so they will not be affected; and 800,000 are manual workers who will not be affected in the first place. So 7.2 million of that alleged 8 million people are off the table and are not going to be impacted. So what we are talking about is 800,000 who may be affected by this regulation in a negative way.

On the other side of the coin, let's recall that this regulation raises the number at which people get and are guaranteed overtime. Today in the workplace, if one makes \$8,000, they get overtime. That is not much money. Under this regulation, if one makes \$21,000, they are guaranteed overtime, no matter what their job description is. That means it is going to empower 1.3 million people—this is a hard number—1.3 million people who do not have it today will be getting overtime under this regulation.

So there is a net win for America's workers. At least 500,000 American workers are going to come out winners in relationship to American workers who may be impacted by this regulation, and that 800,000 number of people who might be impacted may not be impacted at all because they may be union individuals and as a result their union contracts may be negotiated over the overtime issue.

The fact is that we should allow this regulation, this process, to go forward, allow these 1.3 million people who are going to be enfranchised with the right to receive overtime to receive that overtime, and not short circuit the process and leave these 1.3 million people who would get overtime without the ability to receive this new opportunity.

This is a proposed regulation. For the Congress to step forward at this time is wrong.

The PRESIDENT pro tempore. All time has expired.

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

The PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 1580.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL, I announce that the Senator from Oregon (Mr. SMITH) is absent because of a death in the family.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 334 Leg.]

Akaka	Dorgan	Lieberman
Baucus	Durbin	Lincoln
Bayh	Edwards	Mikulski
Biden	Feingold	Murkowski
Bingaman	Feinstein	Murray
Boxer	Graham (FL)	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Pryor
Campbell	Inouye	Reed
Cantwell	Jeffords	Reid
Carper	Johnson	Rockefeller
Chafee	Kennedy	Sarbanes
Clinton	Kerry	Schumer
Conrad	Kohl	Snowe
Corzine	Landrieu	Specter
Daschle	Lautenberg	Stabenow
Dayton	Leahy	Stevens
Dodd	Levin	Wyden

NAYS—45

Alexander	DeWine	Lugar
Allard	Dole	McCain
Allen	Domenici	McConnell
Bennett	Ensign	Miller
Bond	Enzi	Nickles
Brownback	Fitzgerald	Roberts
Bunning	Frist	Santorum
Burns	Graham (SC)	Sessions
Chambliss	Grassley	Shelby
Cochran	Gregg	Sununu
Coleman	Hagel	Talent
Collins	Hatch	Thomas
Cornyn	Hutchison	Voinovich
Craig	Inhofe	Warner
Crapo	Kyl	
	Lott	

NOT VOTING—1

Smith

The amendment (No. 1580) was agreed to.

Mr. SPECTER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. HARKIN. I ask unanimous consent to add the following as cosponsors of the amendment just voted on: Senators LANDRIEU, ROCKEFELLER, LEVIN, BINGAMAN, CANTWELL, and BIDEN.

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

AMENDMENT NO. 1588

The PRESIDING OFFICER. There will now be 2 minutes evenly divided on the Schumer amendment.

Mr. SCHUMER. Mr. President, this is a very simple amendment. It adds \$400 million to the Ryan White fund to deal with the problem of AIDS. AIDS is spreading throughout our country. Many rural States that have not experienced AIDS in the past are experiencing large increases. This money

goes to reducing AIDS, the ADAP funding, to the early detection centers, to the centers that develop prevention. If ever there was a "stitch in time saves nine" amendment, this is it.

This has broad bipartisan support in the Senate. I hope we will fund it. This is not an ideological issue. No one disputes whether Government should do this. It is not a question of whether the money is needed. We all agree it is needed. I hope we can step to the plate and support this modest increase so that Ryan White is appropriated at the level that is needed.

Mr. NELSON of Florida. Mr. President, I rise to state my support for Senator SCHUMER's amendment to increase funding for the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act.

The Ryan White CARE Act is the largest single source of Federal funding dedicated to the care and treatment of people living with HIV/AIDS in our Nation. This exceptional program provides funding for primary health care and support services for people with HIV/AIDS who lack health insurance and the financial resources to pay for their care. Each year, CARE Act programs nationwide reach over half a million individuals with or at risk for HIV.

The Centers for Disease Control and Prevention (CDC) estimate that 850,000 to 950,000 people are living with HIV and/or AIDS in the U.S., and of those people approximately one-third are not accessing proper care and treatment. CARE Act programs are essential to extending care to all those living with HIV/AIDS.

Recent reports indicate that the number of patients with HIV/AIDS is increasing faster than the Federal funding. In my own State of Florida that has meant that patients in need have had to delay getting care. The number of people on the waiting lists has never been so widespread or long-lasting.

According to a recent article in the Sun Sentinel, AIDS Project Florida, Broward County's largest agency serving these individuals, exhausted its July funds for medical care before the end of the month and had to put newly diagnosed HIV patients on a waiting list to see a doctor.

The same article tells us the situation is in Palm Beach County is no better. The Comprehensive AIDS Program of Palm Beach County has had up to three-dozen HIV patients waiting to see counselors at each of three offices because of a rush of new clients—including some from Broward.

Ryan White CARE Act programs grant vital resources to communities affected by this epidemic. This program's comprehensive scope not only addresses a patient's health care needs, but also food supplies, alternative medicine options, as well as transportation. We cannot expect our communities to meet this growing need without increased funds.

I urge my colleagues to join me in supporting Senator SCHUMER's efforts to increase funding to this critical program.

Mr. SPECTER. Mr. President, I agree with the Senator from New York about the importance of funding to fight HIV/AIDS, but we are funding more than \$2 billion for the Ryan White program. We have in the Senate bill on AIDS some \$14 billion-plus. We have on other Departments funding some \$4 million.

There has been a certification from the Director of HIV/AIDS that this \$2 billion is all that can be appropriately used. We raised a point of order last night. I very much would like to have a larger appropriation for this subcommittee to have more money on education and health care and more money for HIV/AIDS, but we are constrained by the budget resolution and by our allocation.

Therefore, I reluctantly oppose the amendment and have raised the point of order. The waiver has been asked for. We are now ready to vote.

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.

Mr. MCCONNELL. I announce that the Senator from Oregon (Mr. SMITH) is absent because of a death in the family.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

The yeas and nays resulted—yeas 44, nays 53, as follows:

[Rollcall Vote No. 335 Leg.]

YEAS—44

Akaka	Durbin	Levin
Baucus	Feingold	Lincoln
Bayh	Feinstein	Mikulski
Biden	Graham (FL)	Murray
Bingaman	Harkin	Nelson (FL)
Boxer	Hollings	Nelson (NE)
Breaux	Inouye	Pryor
Byrd	Jeffords	Reed
Cantwell	Johnson	Reid
Clinton	Kennedy	Rockefeller
Corzine	Kerry	Sarbanes
Daschle	Kohl	Schumer
Dayton	Landrieu	Stabenow
DeWine	Lautenberg	Wyden
Dodd	Leahy	

NAYS—53

Alexander	Crapo	McCain
Allard	Dole	McConnell
Allen	Domenici	Miller
Bennett	Dorgan	Murkowski
Bond	Ensign	Nickles
Brownback	Enzi	Roberts
Bunning	Fitzgerald	Santorum
Burns	Frist	Sessions
Campbell	Graham (SC)	Shelby
Carper	Grassley	Snowe
Chafee	Gregg	Specter
Chambliss	Hagel	Stevens
Cochran	Hatch	Sununu
Coleman	Hutchison	Talent
Collins	Inhofe	Thomas
Conrad	Kyl	Voinovich
Cornyn	Lott	Warner
Craig	Lugar	

NOT VOTING—3

Edwards Lieberman Smith

The PRESIDING OFFICER. On this vote the yeas are 44, the nays are 53. 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.

AMENDMENT NO. 1595

The PRESIDING OFFICER. Under the previous order, there will be 4 minutes evenly divided for a motion to waive the Budget Act with respect to the Reed amendment No. 1595. Who yields time?

The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent to add Senators CANTWELL, MURRAY, and DODD as cosponsors of my amendment.

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

Mr. REED. Mr. President, I join Senator COLLINS in urging the adoption of an amendment that would add \$300 million to the LIHEAP contingency fund. This fund will be available in cases of severe weather or severe economic circumstances during this heating season and next year's cooling season. We already know that residential natural gas prices are scheduled to rise at least 15 percent. We also understand poor economic times may force more people into requirements to need this program. This is a vital program. This contingency fund would be necessary so that States could meet the needs of heating for seniors, for a whole range of people who need heat and need cooling in the summertime in a hot climate. I urge all my colleagues to support the amendment. The underlying bill does have \$2 billion for the basic grant program, but without this contingency funding, we will not have the flexibility to respond to spikes in heating costs or in economic downturns in different parts of the country.

I yield my remaining time to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I join my colleague from Rhode Island in urging support for this amendment which would provide additional emergency funding for the Low Income Home Heating Assistance Program. When we experience huge spikes in the increase of home heating oil and natural gas, it imposes an incredible hardship on our low-income families and on our elderly who are living on limited incomes. We are taking a prudent action by setting aside \$300 million in emergency funding in case this winter we experience the kinds of price disruptions that create such hardships for our constituents. I urge my colleagues to support the amendment.

Mr. VOINOVICH. Mr. President, I rise today as a cosponsor of the Collins-Reed Low-Income Home Energy Assistance Program, LIHEAP, amendment. This amendment will provide an additional \$300 million for LIHEAP.

Additional funding at this time is critical because of the crisis the United States is facing with natural gas prices. Natural gas, pinched by low inventories and a dearth of new drilling activity, has been hovering in the United States at about \$6 per million British thermal units, MMBtu. This amount is roughly twice the historical norm. In fact, we set records for natural gas prices this past spring and summer. And there is no end in sight. Recently, Federal Reserve Chairman Alan Greenspan stated that little prospect is seen for natural gas prices to fall much in coming months.

These historic highs in natural gas prices should be a harbinger for the winter. In fact, if we look to this past winter in anticipation of what this nation should expect in terms of natural gas prices, the outlook is grim. In fact, the utility company that provides my heating in Cleveland has already acknowledged the fact that I can expect my home heating costs to at least double this winter. In February of this year, natural gas spot prices reached an historic high of over \$18 per MMBtu. To compare, the spot price in 2002 was \$2.40 per MMBtu during the same time period. That is a 650 percent increase over the previous year.

Why are rising natural gas prices important for LIHEAP?

In Ohio, of the 235,000 households that receive assistance through LIHEAP, 70 percent of them—or 162,500 households—are heated by natural gas. That means that 70 percent of LIHEAP recipients in Ohio will be adversely affected by the rising cost of natural gas.

And who are LIHEAP recipients? In Ohio: two-thirds of the households that receive LIHEAP assistance—160,000 households—are below 100 percent of the Federal poverty level; one-third are seniors; one-third are disabled; and three-fourths of the households have children under five years of age. LIHEAP provides crucial assistance to the least of our brethren to help survive the most extreme weather conditions.

In Ohio, there is no doubt that home heating costs are going to rise dramatically. The doubling of natural gas prices will not allow current resources to provide adequate assistance for low-income seniors and families. This is going to force folks on low- and fixed-incomes to choose between heating their homes and paying for other necessities such as food or medicine.

This is the environment laid before the Senate: the Nation is facing some of the highest natural gas prices in history with no end in sight; a soft economy has left an increased number of households in need of assistance; and winter is quickly approaching.

So where does that leave us?

States, which receive LIHEAP funding from the Federal Government, will not be able to adequately plan for the acute need that will certainly occur. The National Energy Assistance Directors' Association—the folks that run

LIHEAP in the States—indicated, in a letter dated September 4, 2003, that providing additional funds through the regular FY2004 appropriations process is necessary to plan and manage for the upcoming winter. If States cannot plan, then this in turn leaves social service agencies, like the Council for Economic Opportunity of Greater Cleveland and Catholic Charities, unable to provide assistance at the local level. The bottom line is that low-income households will be in dire straits when winter rears its head. Inevitably, if we do not appropriate additional funding now, LIHEAP funds will be depleted and a growing murmur will turn into a cry for additional LIHEAP funds—then to be declared “emergency funding.”

I believe all my colleagues here realize that, at some point, we will have to increase LIHEAP funding. The question is whether we will do so now through the regular FY2004 appropriations process, or through the FY2004 supplemental.

The responsible action to take would be to increase LIHEAP funding now. Besides being morally responsible, increasing funding now is fiscally responsible. Natural gas prices will continue to rise as demand will increase as colder temperature set in. It would be fiscally irresponsible for the U.S. Senate not to appropriate additional funds that would better help states and social service providers plan assistance for low-income households. And while there is no doubt that the U.S. Senate should appropriate additional funds for LIHEAP now, I would be remiss if I did not take time and reflect on why there is the need to do so.

This natural gas crisis is the result of environmental policies that have driven up the use of natural gas in electricity generation significantly while domestic supplies of natural gas have fallen. The result is predictable, tighter supplies of natural gas, higher energy prices and a financial strain on low-income households and a drain on our economy. Not only will natural gas prices adversely affect the least of our brethren, these exorbitant prices will also affect our economy. The agricultural community, the steel and metal industries, the chemical and polymer industries and the manufacturing community all rely on natural gas and have seen their energy costs skyrocket. Ohio companies are closing plants, laying off workers and moving their production overseas due to these high energy prices. I recently met with a group of manufacturers from Cleveland and was shocked when two of them told me that they will be forced to move their operations overseas unless something is done to give them some relief.

In order to deal with this natural gas crisis, we must enact legislation that will increase domestic supplies of natural gas and ensure that utilities will not be forced to fuel switch from coal to natural gas for electricity generation.

I want to commend Majority Leader FRIST and Chairman DOMENICI for trying to pass a comprehensive energy bill that will increase domestic supplies of natural gas, and I am currently working with Chairman INHOFE to move President Bush's Clear Skies Initiative out of committee to ensure that utilities will not be forced to rely solely on natural gas. These two important pieces of legislation clearly show that there is a fundamental disconnect happening here in Washington. Republicans are trying to enact legislation that will address our natural gas crisis, keep energy and home heating costs low and protect American jobs. Democrats on the other hand are moving in exactly the opposite direction.

Democrats are pushing legislation that will establish a Nationwide cap on carbon emissions and their passage would force they utility sector, that is now coal to generate over half of our Nation's electricity, in my State of Ohio it is 85 percent, to rely solely on natural gas for generation. Carbon-cap language that has been sponsored by Senators JEFFORDS, LIEBERMAN, and CARPER, if enacted, will force our utilities to fuel switch to natural gas, will significantly raise energy prices and will cause thousands of jobs to be lost, particularly in manufacturing States like Ohio.

Let me be clear, carbon-caps mean fuel switching. And fuel switching means moving jobs and production overseas where there are less stringent environmental programs and will actually increase global levels of pollution and higher burdens on our poor and elderly.

The question we face is whether we should enact comprehensive and balanced energy legislation and Clear Skies, which will help solve our natural gas crisis, or rush into a short-sighted policy that will cap carbon, shut down our economy, cost thousands of American jobs and move manufacturing overseas?

The answer is clear. We need to pass the energy bill and Clear Skies. And we need to move away from harshly ideological positions that advance nothing other than the agenda of national environmental groups who have made a carbon cap a political litmus test. There is an energy crisis in America. Increasing LIHEAP funding is only a temporary measure to help low-income households get by. If we do not enact a comprehensive energy bill that balances our Nation's environmental and consumption needs, we will be dooming not only low-income households, but our economy as well.

I ask unanimous consent to print the letter I referenced in the RECORD.

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

NATIONAL ENERGY ASSISTANCE
DIRECTORS' ASSOCIATION,

Washington, DC, September 4, 2003.

Hon. GEORGE V. VOINOVICH,
Hart Senate Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR VOINOVICH: On behalf of the National Energy Assistance Directors' Association, representing the state directors of the Low-Income Home Energy Assistance Program (LIHEAP), I am writing to urge you to consider providing \$3.4 billion for LIHEAP for FY 2004. The increase in funds is necessary in light of the continuing high prices for natural gas and high unemployment rates.

Without the additional funding, states will not be able to adjust benefit levels to account for rising natural gas prices. The continuing tightness in natural gas supply has placed very strong upward pressure on price that will keep prices high and volatile into the winter heating season. The Wall Street Journal cites that natural gas prices have risen nearly 3 times the past decade's average. Federal Reserve Chairman Alan Greenspan has also warned that continued high natural gas prices are a serious problem that could jeopardize the economy.

Additional funding would allow the states to provide benefits to families who are unemployed as a result of the continuing weakness in the national economy. Current program funding levels are not sufficient to allow states to provide adequate services to these families or support active outreach programs. According to the U.S. Department of Labor, there were more than two million Americans unemployed for more than 26 weeks—up from 692,000 in 2001.

By providing these funds now, the states will be able to quickly get the funds in place and to the working, disabled and elderly families households that need them. Please feel free to contact me if I can provide you with any additional information.

Sincerely,

MARK WOLFE,
Executive Director.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I believe low-income home energy assistance is a vital program. I have fought for it during my entire tenure in the Senate. Pennsylvania has a problem similar to Maine and Rhode Island. We have in this budget \$2 billion for LIHEAP. Last year there was \$1.7 billion in the regular account and \$300 million in the contingency fund. This year we improved it. We put all the money into the regular account so you won't have to go to contingency to have the extra \$300 million spent if certain conditions arise. Had we left the account as it was last year, perhaps this amendment would have been obviated or perhaps whatever amount of money we would have put in there would have been an increase. That is a constant occurrence in the management of this bill.

I must tell you that it gets a little tiresome reading the newspaper accounts in the Philadelphia Inquirer and other Pennsylvania papers about how Senator SPECTER is voting against increases on important discretionary programs. The fact is, we have funded this program more generously than last year. Although the total figure is the same, \$2 billion, we now have it all

in the regular account so you don't have to go to contingency in order to access the \$300 million. I would like to have a larger account for this bill to have more money for education, more money for health, and more money for LIHEAP. I know the choice for many people, especially senior citizens, is heat or eat. But we have a budget resolution that this Senator-manager has to stay within the limits. Therefore, I reluctantly have raised the point of order.

Mr. REED. Is there any remaining time on my side?

The PRESIDING OFFICER. Five seconds.

Mr. REED. Mr. President, this amendment is fully offset. And even with the \$2 billion, not all qualified individuals will receive the funds.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act in relation to the Reed amendment No. 1595. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Oregon (Mr. SMITH) is absent because of a death in the family.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

The yeas and nays resulted—yeas 49, nays 46, as follows:

[Rollcall Vote No. 336 Leg.]

YEAS—49

Akaka	Dorgan	McCain
Baucus	Durbin	Mikulski
Bayh	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Harkin	Nelson (NE)
Boxer	Hollings	Pryor
Breaux	Inouye	Reed
Byrd	Jeffords	Reid
Cantwell	Johnson	Rockefeller
Clinton	Kennedy	Sarbanes
Coleman	Kohl	Schumer
Collins	Landrieu	Snowe
Corzine	Lautenberg	Stabenow
Daschle	Leahy	Voinovich
Dayton	Levin	Wyden
DeWine	Lincoln	
Dodd	Lugar	

NAYS—46

Alexander	Crapo	McConnell
Allard	Dole	Miller
Allen	Domenici	Murkowski
Bennett	Ensign	Nickles
Bond	Enzi	Roberts
Brownback	Fitzgerald	Santorum
Bunning	Frist	Sessions
Burns	Graham (SC)	Shelby
Campbell	Grassley	Specter
Carper	Gregg	Stevens
Chafee	Hagel	Sununu
Chambliss	Hatch	Talent
Cochran	Hutchison	Thomas
Conrad	Inhofe	Warner
Cornyn	Kyl	
Craig	Lott	

NOT VOTING—5

Edwards	Kerry	Smith
Graham (FL)	Lieberman	

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 46.

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.

AMENDMENT NO. 1592

The PRESIDING OFFICER. There will now be 2 minutes equally divided on a motion to waive the Budget Act with respect to amendment No. 1592 offered by Senator REED of Rhode Island.

The Senator from Rhode Island.
Mr. REED. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors: Senators LAUTENBERG, KERRY, CLINTON, and KENNEDY.

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

Mr. REED. I thank the Chair.

Mr. President, this amendment would add \$50 million for the CDC immunization program under section 317 of the Public Health Service Act. My amendment is offset by using the same mechanism that the chairman and ranking member utilized on \$2.2 billion of the underlying bill.

Immunization of children is one of the great hallmarks of our public health system of the United States. It has had remarkable success. Diseases such as polio that were terrifying America when I was a child have been eradicated. We have to keep up this effort. This \$50 million will add to that effort to be sure we do not lose ground and that we continue to immunize all our children. It is fully offset, and I urge my colleagues to support the amendment.

Mr. BYRD. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, will the Senator add my name as a cosponsor?

Mr. REED. Mr. President, I ask unanimous consent that Senator BYRD be added as a cosponsor, and also Senator DURBIN.

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

Mr. SPECTER. Mr. President, I concur that the immunization program—vaccines—is vitally important, but I have to point out that we already have in this bill almost \$3 billion directed toward vaccines. We have the vaccines for children under the one account in the Centers for Disease Control, which currently has \$1.145 billion. I suppose if we added \$50 million more to that sum, the Senator from Rhode Island would still be asking for more money.

It seems no matter how much money we allocate to vaccines, more is always needed—and I believe they are vitally important. Just this past weekend, I visited the Centers for Disease Control to be sure they had adequate capital resources and buildings to construct these vaccines. No matter how much money we put in, there is always some additional sum which is asked for.

I think the total of \$3 billion—and right on top of the issue of the Senator from Rhode Island, we have \$1.145 billion—that is as good as we can do with

the limitations of the budget resolution in the allocation of this subcommittee.

The PRESIDING OFFICER. All time has expired. 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. McCONNELL. I announce that the Senator from Oregon (Mr. SMITH) is absent because of a death in the family.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), and the Senator from Connecticut (Mr. LEIBERMAN) are necessarily absent.

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

The yeas and nays resulted—yeas 47, nays 49, as follows:

[Rollcall Vote No. 337 Leg.]

YEAS—47

Akaka	Dayton	Leahy
Baucus	Dodd	Levin
Bayh	Dorgan	Lincoln
Biden	Durbin	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Bunning	Hollings	Pryor
Byrd	Inouye	Reed
Campbell	Jeffords	Reid
Cantwell	Johnson	Rockefeller
Carper	Kennedy	Sarbanes
Clinton	Kerry	Schumer
Conrad	Kohl	Stabenow
Corzine	Landrieu	Wyden
Daschle	Lautenberg	

NAYS—49

Alexander	Domenici	Miller
Allard	Ensign	Murkowski
Allen	Enzi	Nickles
Bennett	Fitzgerald	Roberts
Bond	Frist	Santorum
Brownback	Graham (SC)	Sessions
Burns	Grassley	Shelby
Chafee	Gregg	Snowe
Chambliss	Hagel	Specter
Cochran	Hatch	Stevens
Coleman	Hutchison	Sununu
Collins	Inhofe	Talent
Cornyn	Kyl	Thomas
Craig	Lott	Thomas
Crapo	Lugar	Voinovich
DeWine	McCain	Warner
Dole	McConnell	

NOT VOTING—4

Edwards	Lieberman
Graham (FL)	Smith

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 49. 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.

AMENDMENT NO. 1572, AS MODIFIED

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I send a modification of an amendment of mine to the desk. I believe I have a right to do that.

The PRESIDING OFFICER. Is there objection to the modification? The amendment is modified without objection.

The amendment (No. 1572), as modified, is as follows:

On page 76, between lines 10 and 11, insert the following:

SEC. ____ In addition to any amounts otherwise appropriated under this Act for grants to States under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), there are appropriated an additional \$1,200,000,000 for such grants:

CUSTOMS USER FEES.—Section 1303(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking “September 30, 2003” and inserting “September 30, 2004”.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. Under the previous order, there are 2 minutes equally divided for the vote on the motion to waive the budget resolution.

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

Mr. SPECTER. Mr. President, on the modification, I do not anticipate a problem, but I would like to have a chance to look at it. May I call for the regular order? I can examine it when we vote next. The regular order is to hear from the Senator from Rhode Island for a brief period of time before we vote.

AMENDMENT NO. 1596

The PRESIDING OFFICER. That is the regular order. The Senator from Rhode Island.

Mr. REED. Mr. President, I ask that Senator DASCHLE and Senator STABENOW be added as cosponsors.

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

Mr. REED. Mr. President, this amendment would add funding for our libraries and museums. We all understand in every part of this country the vital role that libraries and museums play in education and culture and in community spirit.

Many times President Bush is criticized by Members of Congress for not living up to his expectations in terms of funding. But here is an example where I am proposing to increase funding to the levels President Bush requested in his fiscal year 2004 budget proposal to the Senate.

For the Improving Literacy Through School Libraries program my amendment would add \$15.081 million to bring it up to the total of \$27.5 million that President Bush requested. For the Library Services and Technology Act I request an additional \$24.1 million to bring it up to \$171.48 million, the Bush total plus an additional \$1.8 million needed to double the minimum state allotment. For the Museum Services Act I ask for \$5.18 million to bring it up to the total suggested by the President.

I believe we should support the President on this one and agree to this amendment. It is fully offset.

Mr. SARBANES. Mr. President, I strongly support the Reed amendment to increase funding for libraries and museums in the fiscal year 2004 Labor/HHS/Education appropriations bill. This amendment would bring funding for library and museum programs in line with the President’s fiscal year 2004 budget requests, adding a total of \$44.36 million in funding.

I do not believe the value of libraries and museums can be understated. State and local school districts are struggling with funding cuts at the same time that they work to improve achievement and accountability as required by the No Child Left Behind Act. Libraries play a critical role in providing students and teachers the resources they need to develop academically and professionally, which will greatly help them meet the mandates of this legislation. Museums have the potential to expand all of our lives and these cultural experiences are even more important during economic downturns as they offer a free or relatively affordable option to young people and families seeking a diversion. An educational and culturally gratifying outing is an ideal way to combine entertainment and enrichment. It is a most appropriate time to provide adequate funding for our Nation’s libraries and museums.

This important amendment would increase funding for the Library Services and Technology Act, LSTA, by \$24.1 million to bring the new total to \$171.48 million. This increase in funding for LSTA would reach the President’s funding request of \$169.6 million for library state grants and library services to Native Americans, and provide the additional \$1.6 million needed to double the minimum state allotment as included in both the Senate and House versions of the Museum and Library Services Act of 2003. It would increase funding for the No Child Left Behind Act-authorized Improving Literacy Through School Libraries program by \$15.081 million to reach the President’s fiscal year 2004 requested level of \$27.5 million. This year, at the current funding level of \$12.4 million, the Department of Education has estimated it will only be able to fund about 70 of the over 800 applications it received from needy school districts across the nation. Finally, the amendment would increase funding for the Museum Services Act by \$5.182 million to reach the President’s fiscal year 2004 funding request of \$30.28 million.

The success of our young people, especially those in low-income neighborhoods, is dependent upon Congress providing the resources required to educate them and enrich their lives. Throughout my career in public service, I have worked closely with members of the Maryland Library Association, colleges and universities, and others involved in the library community throughout my State to strengthen libraries and arts programs. I commend Senator REED’s consistent efforts to achieve this goal by providing additional funding for our Nation’s libraries and museums. I urge my colleagues to vote for this amendment so that we can enable libraries and museums to provide the unique and vital services available to all Americans.

The PRESIDING OFFICER. The time of the Senator has expired. The Senate will please come to order. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the allocations for the Institute of Museum and Library Services is obviously very important. We already have a very substantial allocation, as specified in the principal arguments last night. Here again, much as I would like to increase the funding on this important line—and as I noted as a personal matter, my sister, Shirley Specter Kety, is a professional librarian. I am going to have a little problem at home over this because she is watching the C-SPAN proceedings. But we have made as large an allocation as we can under the Budget Act and the allocation for this subcommittee.

We already have \$243 million in this account. Again, I wish we could do more, but that is the best we can do. That is why I have raised the point of order.

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.

Mr. MCCONNELL. I announce that the Senator from Oregon (Mr. SMITH) is absent because of a death in the family.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

The yeas and nays resulted—yeas 47, nays 49, as follows:

[Rollcall Vote No. 338 Leg.]

YEAS—47

Akaka	Dodd	Levin
Baucus	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Harkin	Nelson (NE)
Breaux	Hollings	Pryor
Byrd	Inouye	Reed
Cantwell	Jeffords	Reid
Carper	Johnson	Rockefeller
Clinton	Kennedy	Sarbanes
Collins	Kerry	Schumer
Conrad	Kohl	Snowe
Corzine	Landrieu	Stabenow
Daschle	Lautenberg	Wyden
Dayton	Leahy	

NAYS—49

Alexander	Dole	McConnell
Allard	Domenici	Miller
Allen	Ensign	Murkowski
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Brownback	Frist	Santorum
Bunning	Graham (SC)	Sessions
Burns	Grassley	Shelby
Campbell	Gregg	Specter
Chafee	Hagel	Stevens
Chambliss	Hatch	Sununu
Cochran	Hutchison	Talent
Coleman	Inhofe	Thomas
Cornyn	Kyl	Voinovich
Craig	Lott	Warner
Crapo	Lugar	
DeWine	McCain	

NOT VOTING—4

Edwards	Lieberman
Graham (FL)	Smith

The PRESIDING OFFICER. On this question, the yeas are 47, the nays are 49. 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.

AMENDMENT NO. 1602

The PRESIDING OFFICER. There will be 2 minutes equally divided prior to the vote with respect to the amendment of the Senator from New Jersey.

Mr. CORZINE. Mr. President, my amendment is pretty simple. It restores cuts to student aid by prohibiting the use of funds for implementation of new regulations put out by the Department of Education reducing the amount of Federal student aid that individuals will receive. This is Federal aid, for Pell grants and subsidized loans.

The Department of Education estimates these reductions in State and local tax allowances in computing the expected family contribution formula will eliminate Pell grants for 84,000 students across the country; 49 out of the 50 States are impacted. It will cost \$270 million in Pell grants. The ripple effect, using the same formula throughout all State grants and private grants, could reach into the billions of dollars. And I think all of you know, across the country colleges are raising their tuitions. State and local taxes are going up.

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

Mr. CORZINE. Mr. President, I urge my colleagues to vote for this fully off-set amendment.

Mr. CORZINE. Mr. President, I would like to make a few additional comments beyond what I said last night about my student aid amendment, No. 1602. In particular, I want to describe my intent as to how the amendment would work.

The amendment says that the Department of Education cannot use any funds to implement the May 30, 2003 updates to the State and local tax allowances, to the extent that they would reduce aid for any student.

In effect, what the amendment means is that the Department must republish its State and local tax allowance tables, and use the prior allowances in all cases in which the prior allowances were higher, which is the case for the vast majority of States and types of students. There were a few cases where the Department got it right. That is, they increased the State and local tax allowances for independent students in a handful of States. And I don't want the amendment to hurt those students.

That is why the amendment qualifies the prohibition on implementation or enforcement of the May 30 updates by adding that the prohibition applies "to the extent that such implementation or enforcement of the updates will reduce the amount of Federal student financial assistance for which a student is eligible."

I want to clarify that it is the Department's responsibility to make sure this qualifier works by publishing new tables as I just described. It is not in-

tended that college aid administrators would have to figure out which students would be hurt by the May 30 updates on a student-by-student, case-by-case basis at the college level. That would be an unnecessary, unwieldy and burdensome approach, and is not my intent.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the amendment offered by the Senator from New Jersey is a very complicated amendment which ought not to be handled on an appropriations bill in an amendment to limit funding. It ought to be submitted to the authorizing committee so the Secretary of Education could be heard on this calculation as to scholarship benefits and so the Secretary of the Treasury could be heard.

The Senator from New Jersey talked last night about a swing of billions of dollars. This is affecting the flow of money for the National Institutes of Health, which ought not to be affected. The very document which he has cited, the Congressional Research Service study, says this issue remains "largely undetermined" "without substantial and complex modeling."

This is an amendment which ought not to be considered at this time. I hope we will not have the traditional party-line vote, which we see all the time invariably here.

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

Mr. SPECTER. Anybody who takes a look at this amendment would say, fairly stated, it is too complicated to be discussed in 2 minutes after an argument last night. It ought to go before the authorizing committee.

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

Mr. SPECTER. Then I yield the floor.

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

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Oregon (Mr. SMITH) is absent because of a death in the family.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY), would vote "yea."

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

The yeas and nays resulted—yeas 51, nays 44, as follows:

[Rollcall Vote No. 339 Leg.]

YEAS—51

Akaka	Dodd	Lincoln
Baucus	Dorgan	Mikulski
Bayh	Durbin	Miller
Biden	Feingold	Murkowski
Bingaman	Feinstein	Murray
Boxer	Hagel	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Pryor
Cantwell	Inouye	Reed
Carper	Jeffords	Reid
Chafee	Johnson	Rockefeller
Clinton	Kennedy	Sarbanes
Collins	Kohl	Schumer
Conrad	Landrieu	Snowe
Corzine	Lautenberg	Stabenow
Daschle	Leahy	Voinovich
Dayton	Levin	Wyden

NAYS—44

Alexander	DeWine	Lugar
Allard	Dole	McCain
Allen	Domenici	McConnell
Bennett	Ensign	Nickles
Bond	Enzi	Roberts
Brownback	Fitzgerald	Santorum
Bunning	Frist	Sessions
Burns	Graham (SC)	Shelby
Campbell	Grassley	Specter
Chambliss	Gregg	Stevens
Cochran	Hatch	Sununu
Coleman	Hutchison	Talent
Cornyn	Inhofe	Thomas
Craig	Kyl	Warner
Crapo	Lott	

NOT VOTING—5

Edwards	Kerry	Smith
Graham (FL)	Lieberman	

The amendment (No. 1602) was agreed to.

Mr. HARKIN. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Ms. MURKOWSKI. Mr. President, on rollcall vote No. 339 I voted "nay." It was my intention to vote "yea." Therefore, I ask unanimous consent that I be permitted to change my vote since it will not 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 (Ms. MURKOWSKI). The Senator from New Hampshire is recognized.

Mr. GREGG. Madam President, I ask unanimous consent that the next amendments to be offered and debated be the following: Boxer, afterschool, 30 minutes; Landrieu, 20 minutes; Durbin, No Child Left Behind, 40 minutes; Durbin, teacher quality, 10 minutes equally divided. I further ask consent that there be no second degrees in order to the amendments prior to votes in relationship to the amendments, and, further, that the votes occur in relationship to the amendments in sequence beginning at a time determined by the majority leader after consultation with the Democratic leader.

Mr. REID. Madam President, I ask the Senator from New Hampshire to modify his request to allow the Senator from Connecticut, Mr. DODD, to speak for up to 15 minutes on the amendment that is now pending, the

IDEA amendment, and the Senator from Connecticut can take whatever time he wishes, not to exceed 15 minutes, in opposition to that, after which time there would be a voice vote.

Mr. GREGG. I have no objection, except that I will not be speaking in opposition. I wish time to speak on the amendment, though.

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

Mr. REID. Madam President, if I could have the attention of the Senate, we hope to be able to complete debate on these amendments by around 2 o'clock, if the leaders wish to schedule the vote around that time, to begin the series of votes, prior to the 3:15 matter.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

AMENDMENT NO. 1572, AS MODIFIED

Mr. DODD. Madam President, I call up amendment No. 1572.

The PRESIDING OFFICER. The amendment is now pending.

Mr. DODD. Madam President, I ask unanimous consent that in addition to the listed cosponsors, Senator JOHN WARNER be added as a cosponsor as well.

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

Mr. DODD. Madam President, I will now turn to my colleague from Arkansas, Senator PRYOR, for up to 5 minutes for him to discuss the subject of the professional education amendment that is before us.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Madam President, I rise today in support of Mr. DODD's amendment, as well as Mr. JEFFORDS' and Mr. HAGEL's. I know Senator DAYTON, my seatmate here, has been a strong advocate of IDEA funding and fully funding IDEA, and I want to mention Senator DAYTON because he is such a great advocate on this issue.

There is no commitment we can make, no investment we can make, no service we can perform that is more important to the domestic well-being of this country than to educate our children. It truly is an investment in the future.

I quote a statement from Brown v. Board of Education of Topeka, KS, in 1954:

When I say in these days it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity for an education, such an opportunity is a right which must be made available on equal terms.

That is what IDEA is all about—providing a quality, equal education to our children who are disabled.

This proposal by Senator DODD will increase the funding for IDEA—unfortunately, not up to the 40 percent threshold the Federal Government committed to several years ago but, nonetheless, a sizable increase in IDEA funding. I am very supportive of Senator DODD and his efforts.

I also believe that for 27 years, we have found excuse after excuse to

break our promise when it comes to IDEA. If it is not one thing it is another. There is always some reason. There is always some explanation. There is always a promise to do better next year. Senator DODD's leadership and this great amendment he is offering is getting us closer to fulfilling our commitment and our promise this year in this bill.

In 2003, we appropriated only 17.6 percent of the funding for IDEA. We promised to fund 40 percent. We have never come close. In my State of Arkansas, we have 58,000 disabled children who will benefit from Senator DODD's amendment.

Again, I thank him for his leadership and for his courage in standing up on this issue. It is very critical for this country that we educate our disabled children.

The last point I wish to make before I turn the floor back over to my colleague from Connecticut is that when I was attorney general of my State, many of the cases dealt with IDEA. Not in all cases, but in many instances, the fundamental problem and the reason the State was being sued was because we were not providing enough money and resources to educate our handicapped children. Today, we are taking a step in the right direction to do that.

I thank the Chair, and I yield back the remainder of my time to my colleague from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I thank my colleague from Arkansas for his eloquent comments and his support in this effort. He brings a special knowledge and awareness to this issue, as we heard, as a result of his experience as attorney general in Arkansas.

Like his colleagues, attorneys general around the country have grappled with this issue. As he points out, almost 30 years ago, when I first arrived as a new Member of Congress with my colleague from Vermont—President Gerald Ford initiated the idea of the Education of All Children Act—which included, of course, special education. He did this to see to it that far more than 20 percent of special needs children receiving services at the time would have an opportunity to receive an education. Less than 20 percent of special needs children were being educated 30 years ago.

As a result of the efforts of people such as Senator PRYOR as attorney general in his State, and now as a Member of this body, and others over the years, we have increased the funding for special education, and almost 6 million children across the country today who are special needs children are getting help. Several hundred thousand infants are getting help, and several hundred thousand preschoolers are getting help, giving them a chance to maximize their potential.

Just this past Monday, I was at the Buttonball School in Glastonbury, CT.

I wish all of my colleagues could have been there with me to see what this remarkable school is doing. They have consolidated the special education children and the services that they need and mainstream them each day in their respective classes so they have an opportunity to learn to the maximum extent possible. The affection and the dedication of the teachers and assistants who work one on one, in many cases, to see to it that these children have an opportunity to grow and prosper is marvelous to see. I know it goes on in every State.

As I have said before, almost 30 years ago, we committed to provide, at the Federal level, 40 percent of special education funding. To date, we have only gotten up to about 17 percent of that funding. As a result of the amendment I am offering today on behalf of myself, Senator JEFFORDS, Senator HAGEL, Senator KERRY, Senator COLLINS, Senator MURRAY, Senator COLEMAN, Senator BINGAMAN, Senator DORGAN, Senator MIKULSKI, Senator PRYOR, from whom we just heard, Senator LAUTENBERG, Senator STABENOW, Senator LEAHY, Senator JOHNSON, Senator CLINTON, and Senator WARNER, we are able to offer a \$1.2 billion increase in special education funding bringing us from a little more than 17 percent of total cost to in excess of 21 percent. We are still 19 percent short of where we need to be, but certainly this amendment is a major step in the right direction.

If we increase our grants now with the money that is in the amendment, plus what we are already offering, to the tune of \$2.2 billion a year, as we promised, by the way, in the 2004 fiscal

year budget resolution, then over the next 7 years, we will meet our 40 percent commitment, and we ought to do so.

My hope is that we do not have to go through this every year; that we will have these numbers included in the budget process.

I am anxious to hear—and I know he is going to address us in a moment—from the Senator from New Hampshire about our ability to hold this in conference. Obviously, we have to deal with the other body. Previously, this body adopted language to increase funding for special education, and the other body rejected it. My hope is that this year will be different. I will be anxious to hear the level of commitment we have to adopt this amendment, have it supported by the House of Representatives and have it supported by the White House. No other issue I can think of engenders as much support as this one does at the local level. I don't care what State you are from, talk to a county supervisor, talk to a mayor, a first select person, a city council member, they will tell you that in the area of education they need help. That is why Senator JEFFORDS has fought so hard over the years, Senator HARKIN, Senator HAGEL—they have been the champions on this issue to try and increase the level of funding for special education to give these kids a chance.

I am delighted to hear my colleagues are going to accept the amendment we have offered for the \$1.2 billion increase, in addition to what is in the bill. This is going to make a difference. This is the way this body ought to be operating. We need not have to go through these huge battles each year

to bring these amendments up in order to convince people that this is deserving of our collective support.

With the adoption of this amendment, we are going to make a huge difference for an awful lot of people in the country. While there are a lot of other programs I would have liked to have seen in this bill, all of us can take some pride in the fact that we have done a good job on behalf of special needs children, their families, and the communities that wrestle every day to provide the resources to see to it they have an opportunity to achieve.

A special thanks goes to Senator JEFFORDS of Vermont who has been a champion in this area, and Senator HARKIN who has been the leader over many years on special needs children and special education efforts. Senator HAGEL has been tremendously helpful. Senator COLLINS, Senator COLEMAN, as well as other colleagues over the years, have been tremendous champions. Senator MURRAY from the State of Washington has been a tremendous fighter on behalf of these children. Senator MIKULSKI, Senator BINGAMAN, of course, Senator DORGAN, and many others as well, I thank them for their efforts.

We are serving 5.4 million children, 200,000 infants, and 600,000 preschool children.

Madam President, I ask unanimous consent that a list of all 50 States, with the additional amounts of money that will become available to them as a result of this amendment being adopted, be printed in the RECORD.

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

State	FY2003 final amount	FY2004 Senate Appropriations Committee amount	Dodd/Hagel/Jeffords FY2004 increase of \$2.2 billion over FY2003 amount
Alabama	\$143,066,000	\$158,700,000	\$178,923,000
Alaska	26,501,000	29,838,000	33,468,000
Arizona	132,563,000	149,252,000	167,414,000
Arkansas	85,906,000	95,603,000	107,944,000
California	933,124,000	1,046,811,000	1,178,446,000
Colorado	112,272,000	126,407,000	141,789,000
Connecticut	103,861,000	114,227,000	128,051,000
Delaware	24,288,000	27,346,000	30,674,000
District of Columbia	12,212,000	13,750,000	15,423,000
Florida	479,525,000	530,376,000	595,151,000
Georgia	233,043,000	262,383,000	294,312,000
Hawaii	30,632,000	34,489,000	38,686,000
Idaho	41,226,000	46,416,000	52,064,000
Illinois	393,134,000	435,094,000	489,367,000
Indiana	200,791,000	221,789,000	248,948,000
Iowa	96,042,000	105,628,000	118,411,000
Kansas	84,072,000	93,293,000	105,220,000
Kentucky	122,827,000	135,917,000	152,848,000
Louisiana	142,508,000	160,449,000	179,974,000
Maine	43,047,000	47,343,000	53,073,000
Maryland	153,622,000	169,751,000	190,613,000
Massachusetts	223,317,000	245,605,000	275,328,000
Michigan	308,119,000	342,792,000	387,640,000
Minnesota	149,337,000	164,529,000	185,076,000
Mississippi	92,158,000	103,760,000	116,387,000
Missouri	178,701,000	196,536,000	220,321,000
Montana	28,125,000	31,490,000	35,519,000
Nebraska	58,742,000	64,605,000	72,424,000
Nevada	49,853,000	56,129,000	62,959,000
New Hampshire	37,334,000	41,060,000	46,029,000
New Jersey	284,356,000	312,736,000	350,583,000
New Mexico	71,699,000	79,229,000	88,969,000
New York	597,208,000	660,212,000	741,706,000
North Carolina	235,924,000	260,564,000	293,542,000
North Dakota	19,722,000	22,205,000	24,907,000
Ohio	344,364,000	386,101,000	434,899,000
Oklahoma	116,368,000	129,216,000	145,834,000
Oregon	100,991,000	112,110,000	126,494,000
Pennsylvania	336,056,000	374,907,000	424,147,000
Puerto Rico	81,033,000	91,234,000	102,337,000
Rhode Island	34,402,000	37,836,000	42,415,000
South Carolina	137,797,000	153,708,000	172,926,000
South Dakota	23,494,000	26,452,000	29,670,000
Tennessee	181,996,000	201,695,000	227,175,000

State	FY2003 final amount	FY2004 Senate Appropriations Committee amount	Dodd/Hagel/Jeffords FY2004 increase of \$2.2 billion over FY2003 amount
Texas	725,934,000	811,593,000	916,785,000
Utah	81,887,000	92,196,000	103,416,000
Vermont	19,016,000	21,410,000	24,015,000
Virginia	214,099,000	236,861,000	266,302,000
Washington	170,259,000	190,579,000	215,021,000
West Virginia	59,745,000	65,708,000	73,660,000
Wisconsin	163,780,000	181,384,000	204,153,000
Wyoming	19,949,000	22,461,000	25,194,000
State subtotals	8,740,029,000	9,721,766,000	10,937,631,000

Mr. DODD. Madam President, the Dodd-Hagel-Jeffords amendment and the money in the bill—\$2.2 billion—raises considerably the amount of money that will be available in each of the States as a result of our efforts. I thank them for their efforts, and each Senator ought to know there are going to be a lot more children, families, and communities who are going to get needed help.

My hope is, of course, that we will keep this language in conference. We tried over the years to do that. We now need Members of the other body to stand up and say to their mayors, Governors, county supervisors, and others: You have our support, and we are going to try and do it each and every year between now and the year 2009 to complete the obligation we made some three decades ago.

Madam President, I yield the floor and reserve the remainder of my time. I see my colleague from New Hampshire who may want to address this issue. I don't know if he does. If he does, maybe we can vote on this and move on to other matters.

Mr. GREGG. Madam President, how much time remains?

The PRESIDING OFFICER. The Senator from New Hampshire has 15 minutes.

Mr. GREGG. And the Senator from Connecticut?

The PRESIDING OFFICER. There are 3 minutes 42 seconds remaining for the Senator from Connecticut.

Mr. GREGG. Madam President, I rise to support the amendment offered by the Senator from Connecticut, which I think is a good amendment. Initially, the proposed amendment used advanced funding, which, in my opinion, is inappropriate because it essentially aggravates the deficit and tries to escape the budget discipline of our spending caps. The Senator from Connecticut has modified his amendment to offset it so the dollars being spent will be offset in an appropriate budgetary process way that keeps this amendment within the budgetary caps and the allocations of this committee.

Therefore, I can support it with enthusiasm because it is offset and it is an appropriate amendment. In fact, I would have offered an amendment as an alternative to his had he gone forward with the advanced funding approach which would have accomplished the same goal on funding but would have also accomplished the budgetary discipline that we needed, which is now reflected in the amendment as offered.

I intend to work and be supportive of this amendment in conference, although I do not chair this subcommittee. Obviously, that is Senator SPECTER's role, and hopefully we can be successful in the House in retaining this number. I think it is important, however, to reflect this number in the context of what has been done in the past and how aggressively we have tried to fund special education.

Trying to get special education funding up has been a priority of mine since being in the Senate. When I arrived in the Senate, the Federal Government was paying about 6 percent of the special education costs of the local school districts in New Hampshire. The original agreement under which the special education act was approved, the Federal Government would pay 40 percent of the cost of special education. So the Federal Government was coming nowhere near its obligation. As a result, local communities in New Hampshire, through their local property taxes, were having to pick up the responsibility of the Federal Government relative to special needs children. We ended up with special needs children being pitted against other children in the school system, parents against parents competing for these resources. It was totally unfair to the special needs child and to their parents because they were being reflected as taking a disproportionate share of the local property tax to benefit or to address their educational needs because of the fact that the Federal Government was not fulfilling its obligation.

I have aggressively pursued trying to increase special education funding. As a result of that initiative, when we took back control of the Senate in 1996, Senator LOTT and Senator SPECTER took on this cause. I like to think I encouraged them in that direction, but I think they had that inclination anyway.

Significant progress in the area of increasing special education dollars has been made since then. In fact, we have now gone from the Federal Government paying 6 percent, after this bill, to over 20 percent of the costs of special education. It is on a path, especially with this amendment, toward full funding of special education by the year 2009, which is a commitment that many of us have made and tried to reach.

It is also important to note that this effort was made pretty much unilaterally by the energy and commitment of the Republican Congress at that time.

In fact, historically, the Clinton administration did not send us an increase of any significance in special education funding during its first 7 years in office. It was not until the last year in office that the Clinton administration actually sent up an increase in special education funding of any significance, and yet during the last 4 years of the Clinton administration we basically reallocated, within the budget caps that we had at that time, money in the Republican Senate and at that time the Republican House, and we significantly increased the funding every one of those years.

In fact, there was over a billion dollars of increase each year during that period of time. That was in large part due to the strong commitment made by Senator SPECTER, who chaired this appropriations subcommittee during that period. So I think it is important to put in context the effort that has been made in educational funding by President Bush and by the Republican Congress.

Since President Bush has come into office, he has maintained and continued this effort that was started by the Republican Senate in dramatic terms. This chart reflects it in very stark terms. During the 8 years of President Clinton's term, the increase for IDEA was about \$400 million in his proposed budgets. During the 3 years President Bush has been in office, his increases in special education funding have been over \$3 billion, with the addition of funding this time in this budget.

So every year since he has been in office, President Bush has asked for and made a commitment to significant increases in special education funding—over a billion dollars a year. If we want to put this in some sort of statistical context, the average annual increase for special education funding since President Bush has been has been \$1.1 billion. That is a 700-percent higher commitment—almost 770 percent—to special education than occurred during the Clinton administration. So the commitment by this administration has been there. In fact, this administration has increased special education funding in just 3 years by 53 percent. Special education is the single largest-growing function of the Federal Government on a percentage basis. That is a strong, firm commitment to special education.

This is another chart that shows it rather starkly. That commitment has essentially been carried forward as a

result of a commitment made by President Bush and our party to this very critical element of education.

Why are we so committed to special education? Well, there are basically two reasons. One, because special needs children do have the right to receive a quality education and, two, local taxpayers have the right to be able to use their dollars to fund what they think is a priority, not have to use their dollars to fund the Federal responsibility in special education. So we are on a path, an aggressive path, led by the President in his 3 years and by this Congress, toward full funding of special education.

This amendment increases by \$1,200,000,000, the \$1 billion increase which was already in the bill. That is an appropriate step. It also almost assures that we will be on a path toward full funding and as a result will do significant good in relieving local school districts of the pressure which they are getting to fund special education and the Federal role in special education.

Along with the funding issue, however, we have made a significant commitment to trying to improve the quality and the actual terms of the program. We have reported out of the Health, Education, Labor, and Pensions Committee—which I have the good fortune to chair and on which Senator KENNEDY is the ranking member—a bill which basically reforms the IDEA program, the special education program. It takes out a lot of the input controls, it takes out a lot of the regulatory morass which has been created over the years and refocuses the emphasis of special education on the child, on output, on making sure the special needs child is actually learning what we think is important and appropriate to their skill levels, rather than spending all of our time on consultants, on attorneys, and on highly structured plans which inevitably end up with a lot more time being spent on paperwork than time being spent directly on making sure the child can get ahead in their school system.

This bill which we have reported out of committee also allows the local school district to more effectively deal with the issues which we hear most often have affected their ability to make the special need's child experience in the school system constructive and useful. First, the paperwork which I just mentioned, but also the issue of discipline, where there were different standards of discipline for different children and as a result there were inconsistencies and it was difficult to maintain decorum in the classroom in some instances, we have tried to address that issue.

Hopefully, to some degree, we have also taken out this very litigious atmosphere that has been out there for far too long where actually in some places such as Washington, DC, an entire cottage industry has been created which essentially involves litigating

all sorts of miscellaneous technical points such as whether a 10-day time frame has been made versus 11 days, creating very significant costs on the school systems, which basically are drained off to lawsuits instead of going to assisting children.

Significant progress is being made in the area of special education, both on the policy side, where I think we have produced an excellent piece of legislation which I hope will be passed by the full Senate later this year, and also on the funding side. Year after year since this President has taken office, we have dramatically increased the amount of money flowing to special education. This amendment continues that process. It raises the number by \$1.2 billion.

I believe as we go through the appropriating process, it should be funded within the budget caps, as this amendment does, but it does so really in a manner which is consistent with the Republican effort and this President's effort over his first 3 years in office. He has year in and year out made the very substantive commitment to special needs children that is appropriate and necessary for taking care of those children and relieving local taxpayers of the burden of paying the Federal share.

I support this amendment. I expect we will take it on a voice vote. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I did not intend to have this become a partisan discussion at all. Going back, as a member of the Budget Committee, I offered I think the first such amendment in the Budget Committee, along with Senator LOTT. We lost on a tie vote back in the Budget Committee in the early 1980s on special education, trying to get the dollars up.

I am very grateful. The only reason we are getting this support now is that obviously we have some key Republicans who are willing to help us on this—Senator HAGEL, principally, who has been a champion on this issue for a number of years. Senator COLLINS, Senator COLEMAN, and Senator WARNER have been very helpful.

Let there be no illusions. We tried to get this. We can argue about offsets and so forth, but the fact is, had I not been able to get some Republican support, this amendment would have gone down. I do not make that case because I think it takes both of us working together here. But the reason we are back at this is that, back in the beginning of 2001, Senator HARKIN, Senator JEFFORDS, and Senator HAGEL offered language to increase dollars for special education—in fact, they ended up getting 100 votes here. The other body, led by the Republican leadership, just wouldn't allow a vote to occur on this issue and the President never had anything to say about it.

If we took the increases in the underlying bill, we would never get near the 40 percent figure at which special education would become fully funded.

The fact is, we have fought this battle especially hard over the last 2 years. We have gotten zero help from the White House and zero help from the leadership in the other body. As a result, we are back again this year making our case again.

I am very grateful for the bipartisan support we have on this. That is the way we get these things done. We are prepared to vote on this, accept a voice vote.

They don't want a rollcall vote. They only want a voice vote. I was born at night, Madam President, but not last night. I know what that usually means—it is so no one has to be on record here. We are just going to have a vote and go along with this. It makes it a little easier for the other body to reject it because we have not had a recorded vote on it.

I accept that because I think if you can get something done, get it done, whether it is by voice vote or recorded vote. If we are going to get this done, let's get it done. Let's hope it stays in conference so the real winners of this will be the children and the families and the communities that need the help—not one party over another but people who desperately need our help and support, children who are, unfortunately, suffering from special education needs who will get some help from their Federal Government.

Most of special education funding comes from local property tax payers. We are just fulfilling an obligation we promised we would meet 30 years ago and we are coming only halfway there as a result of this amendment.

I am grateful, again, for the support we have received. It is unfortunate it has taken us this long. Senator MARK DAYTON of Minnesota offered a full funding amendment, which I supported, that would get us there right away. Obviously, that did not make it. This is a partial step in that direction. But Senator DAYTON deserves a great deal of credit for telling us all how important this issue is and how quickly we ought to meet that obligation.

With that, I yield the remainder of my time. If we are going to have a voice vote on it, let's have that voice vote and move on to other business.

Mr. KERRY. Mr. President, I am a proud cosponsor of the Dodd-Hagel-Jeffords amendment No. 1572 to H.R. 2660. I am also proud of the Individuals with Disabilities Education Act and the 6 million disabled children who this year have the keys to a brighter, more self-sufficient future. But so too am I greatly disappointed in this Congress and the President for breaking a promise for 28 straight years.

In 1975, we made a deal with our State and local school boards. Give our disabled children the education they deserve, we said, and we'll pay 40 percent of the additional cost, no matter what it takes. An expensive commitment? You bet. But without it, our values of fairness and personal initiative are just words on a page.

In the nearly three decades since, tens of millions of Americans have risen through the ranks of special education to become independent, productive citizens. They go to college, get jobs, and pay taxes. Every one of them a shining example of what can happen when people are empowered.

Yet where they have fulfilled their promise, we have broken ours. We carry just 18 percent of this noble burden on our broad shoulders. Our States stagger under the heavy weight of the rest.

We have tried to correct this problem before. In 2001, this body wisely passed a version of No Child Left Behind that was true to its name.

We didn't mean "no able-bodied child left behind". We didn't mean "no disabled child in private school left behind". We meant that no child—no child—would be denied the tools needed to succeed. That's why we included—by a unanimous vote—full funding for IDEA.

Unfortunately, George Bush and his henchmen in the House of Representatives had other ideas. They decided that our tax dollars were better spent on corporate welfare and massive tax cuts for the wealthiest Americans. This amendment would begin to right that wrong by restoring the \$1.2 billion for IDEA cut from the Budget Resolution. Use the Republican forward-funding mechanism to pay for it. Get us back on the road to full funding.

I know most of my colleagues recognize the desperate needs in special education. But this amendment is about so much more than that. It's about a principal made heart-sick by pitting one group of students against another. It's about a mainstream teacher on the short end of that equation who loses her job. It's about a mother and father who just want their child to have a chance.

And right now, it's also about keeping a promise made to our most vulnerable children. We must take a stand. We must pass the Dodd/Hagel/Jeffords amendment on IDEA.

Ms. MIKULSKI. Mr. President, I rise in support of the Dodd-Jeffords amendment. I am proud to support this amendment—the first step to fully funding the Individuals with Disabilities Education Act, IDEA, in 8 years. This bill adds about \$1 billion over last year's funding level for IDEA. That may sound like a lot. But at that rate it will take at least 30 years to get to full funding.

I think it is shocking that Congress passed tax breaks for zillionaires while delaying help for those who need it most—the children with special needs and their parents and teachers. This amendment increases IDEA funding by another \$1.2 billion, for a total of \$2.2 billion, on pace to full funding in 8 years. We must fully fund IDEA to ensure that children with disabilities are receiving the services they need to succeed with their classmates in public schools.

In 1975, Congress promised to pay 40 percent of the cost of special education when it passed the Individuals with Disabilities Education Act. Yet it has never paid more than 17.5 percent. That means local districts must make up the difference, either by cutting from other education programs or by raising taxes. I do not want to force States and local school districts to forage for funds, cut back on teacher training, or delay school repairs because the Federal Government has failed to live up to its commitment to special education. That's why fully funding IDEA is one of my top priorities.

Everywhere I go in Maryland, I hear about IDEA. I hear about it in urban, rural, and suburban communities, from Democrats and Republicans, and from parents and teachers. They tell me that the Federal Government is not living up to its promise, that special education costs about 18 percent of the average school budget, that schools are suffering, and the parents are worried.

Parents today are under a lot of stress, sometimes working two jobs just to make ends meet, trying to find day care for their kids, and elder care for their own parents. The Federal Government should not add to their worries by not living up to its obligations. With the Federal Government not paying its share of special education, these parents have real questions in their minds: Will my child have a good teacher? Will the classes have up-to-date textbooks? Will they be learning what they need to know?

Parents of disabled children face such a tough burden already. School should not be one of the many things they have to worry about, particularly when the laws are already on the books to guarantee their child a public school education. The bottom line is that the Federal Government is shortchanging these parents by not paying its share of special ed costs.

This bill will give local governments the resources they need to improve education for all children. It will free up money in local budgets for hiring more teachers, buying new textbooks and technology, and repairing old school buildings. It will help the teachers who struggle with teaching the toughest students. It will help students with disabilities and their families by providing enough funding for special education programs so parents can have one less thing to worry about, and students get the opportunities they deserve.

Full funding of IDEA is essential. It will give disabled children a chance to succeed in school and in life without shortchanging other vital education programs. It will give parents peace of mind about their children's education. I urge my colleagues to support this amendment.

Mr. PRYOR. Mr. President, I rise today to support the efforts of Mr. DODD, Mr. JEFFORDS, and Mr. HAGEL, to increase funding for the education of disabled children.

I will also note that a few days ago, Senator DAYTON offered an amendment to increase Federal funding for the Individuals With Disabilities Education Act to its full amount of 40 percent of excess cost to local education agencies.

I was proud to support that effort, although it failed, and I want to thank him for his tireless efforts on behalf of those who cannot always help themselves. I was proud to support it if for no other reason than to call attention to what is right and what is fair and to where our priorities should lay.

There is no commitment we can keep, no investment we can make, no service we can perform that is more important to the domestic well-being of this country than educating our children.

By the same token, it doesn't do us any good to educate some while leaving others behind. Instead of providing opportunity for all of our children, we are closing doors. Instead of educating and shaping future productive citizens and leaders, we are, in some cases neglecting those who need our help the most. Those, who if we do not help now, will surely revisit us in the future disguised as another societal problem—ill prepared for life and solely dependent on the Government.

I quote, Mr. President: "In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, is a right which must be made available to all on equal terms."

That excerpt comes from the decision of Brown v. Board of Education, 1954.

The amendment offered today by the distinguished Senators from Connecticut, Vermont, and Nebraska remind us of our commitment to those children who need our help the most, those children who have been left out and left behind, those who have been denied this right.

They propose to raise funding for IDEA in the Labor-Health Education appropriations bill by \$1.2 billion to the budget authorized increase of \$2.2 billion.

This was a budget, incidentally, that we authorized only several short months ago. The IDEA authorization, a bright spot in an otherwise misprioritized budget, was agreed upon by a vast majority of this body. Now we find ourselves taking a step back from that vote, from that commitment. A vote, I am sure many of us trumpeted in our press releases and in trips back home.

I realize that a lot has happened since we debated and voted on a budget resolution. In the coming days, we will be looking at another war supplemental, revenues are down, and deficits are soaring through the roof.

We have many priorities and little money to meet them. These facts are not lost on me. But, I also believe that for 27 years, we have found excuse after excuse to break our promise. If it wasn't one thing it was another. There

was always some reason, always some explanation and always a promise to do better next year. We can start doing better by this Nation's children this year, right here, right now with this vote.

This is a highly necessary step to continue us on the path toward fully funding IDEA, toward fulfilling the promise made by this body 27 years ago. And I say continue because I recognize that we have increased funding in recent years in this body. I recognize that the level of funding we have provided to Part B of IDEA has increased by over 200 percent since 1996. Even so, if you look at where we started with this legislation, funding less than 7 percent of excess cost, we have woefully shortchanged those whom we have sworn to protect. In addition our current funding levels fail to keep pace with escalating special education costs.

To listen to some of our colleagues speak about the "revolutionary increases" and massive gains we have made in education funding and special education funding in specific, one might think that we have fulfilled those commitments.

But in the history of this legislation, appropriations have never neared the 40 percent promise we made to our schools back in 1975. In fact, in 2003, appropriations only funded 17.6 percent of the excess cost to States. And this is at a time when we are asking our States to shoulder more burdens than ever before. This year, the Economic Policy Institute estimates that local communities and States will take on approximately \$10 billion in unfunded mandate, Federal special education costs.

In my State of Arkansas, there are roughly 58,000 disabled children. With adequate Federal funding to IDEA we can provide these children more teachers, we can provide those teachers better training, we can reduce class size, and we can create more efficiency in diagnostics. We can do all this while alleviating the pressure to States and localities not to mention lessening the tax burden on individual taxpayers.

Some of my colleagues might tell us we cannot afford to fund IDEA at the levels it needs to be funded. I would say we can't afford not to. If this is not a priority for us now, I ask if it will ever be?

It was once said by Hubert H. Humphrey that the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy, and the handicapped.

Well, this is a discussion about those in the dawn of their lives and we in this body, we in government have an opportunity to save these children from being cast in the shadows of life.

I am not sure if there is anyone in this body that disagrees to whether or not IDEA works.

Prior to IDEA's passage, nearly half of all children with disabilities were

not allowed to enroll in public schools. The remaining half were segregated in inadequate classrooms.

Today, over 6 million children with disabilities receive a free appropriate public education, because of IDEA. Since IDEA was enacted, the number of young disabled adults in college has tripled. The disabled child dropout rate has decreased by more than 50 percent.

These are wonderful results. Imagine the results we could attain, if we funded this legislation to the appropriate levels.

We made a commitment; we should keep it. I think we owe our children that much. They reap the rewards or pay the price for the policies we enact today. They are the ones who cannot defend themselves.

As I prepared to speak on this issue I read the debate that preceded the passage of the 'Education for All Handicapped Children Act,' in 1975. I tried to perhaps shed some light on the intent of Congress in passing this legislation. Immediately I saw the importance members of that distinguished body placed on funding special education.

In fact, Senator Javits from New York, a Republican, said "Again, I point out, Mr. President, that we have only appropriated \$100 million under the present law, part B of the Education of the Handicapped Act, which authorizes \$666 million yearly. Mr. President, this shows our lack of the right priorities and our deficiencies."

Senator Stafford, a Vermont Republican, said "If enacted into law, this bill will finally begin to bring to all the handicapped children of our Nation what has always been their right—a free appropriate public education."

A beginning. Both of these distinguished Senators from the other side of the aisle understood where we were, where we had to go, and how we had to get there. They knew that we could do better by our children. And so do Senators DODD, JEFFORDS, HAGEL, and DAYTON.

I appreciate their leadership on this issue, and I wish to join them in making sure that we do better by our children, and I urge my colleagues to do the same.

The PRESIDING OFFICER. The Senator from New Hampshire has 3 minutes remaining.

Mr. GREGG. Madam President, I yield the remainder of my time and I urge the question.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 1572), as modified, was agreed to.

Mr. REID. Madam President, I move to reconsider the vote.

Mr. DODD. 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 Alabama.

Mr. SESSIONS. Mr. President, on behalf of the manager, I ask unanimous

consent that the previous agreement be modified so that following the second Durbin amendment, Senator ENSIGN be recognized to offer an amendment regarding afterschool; further, that there be 10 minutes equally divided for debate. I further ask unanimous consent that following the last amendment on the previous list, Senator LANDRIEU be recognized to offer an amendment relative to mosquitos; again with 10 minutes equally divided in the usual form. Finally, I ask unanimous consent that the remaining provisions of the agreement be applicable to the Ensign and Landrieu amendments.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, reserving the right to object, in effect, following the Durbin amendment under the previous order that has been entered, we will have the Ensign amendment and the Landrieu amendment, and then the leader will set a time to vote after they debate those.

The PRESIDING OFFICER. That is correct.

Without objection, it is so ordered.

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

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

Mrs. BOXER. Madam President, I will send an amendment to the desk. I ask if I have 15 minutes to present this amendment. Is that accurate?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 1609 TO AMENDMENT NO. 1542

Mrs. BOXER. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from California [Mrs. BOXER], for herself and Mr. LAUTENBERG, proposes an amendment numbered 1609.

Mrs. BOXER. 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:

(Purpose: To provide additional funding for afterschool programs under the Elementary and Secondary Education Act of 1965)

On page 76, between lines 10 and 11, insert the following:

SEC. . In addition to any amounts otherwise appropriated under this Act for afterschool programs carried out by 21st Century Community Learning Centers under part B of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7171 et seq.), there are appropriated an additional \$250,000,000 for such programs: *Provided*, That of the funds appropriated in this Act for the National Institutes of Health, \$44,000,000 shall not be available for obligation until September 30, 2004: *Provided further*, That the amount \$6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be \$7,145,199,000: *Provided further*, That the amount \$6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be \$6,533,301,000.

Mrs. BOXER. I ask if my colleague from Nevada would like to take some time now for a consent request.

Mr. REID. No, I would just like to be added as cosponsor of the Senator's amendment.

Mrs. BOXER. I would be proud to add Senator REID as a cosponsor. I make that request.

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

Mrs. BOXER. Madam President, as we look at the request for \$87 billion, most of it for Iraq, I hope we will find it in our hearts to look at the millions of children in our own country who are waiting to get into afterschool programs.

When we passed the No Child Left Behind Act, we made a promise to our children. I want to focus on that promise as it pertains to afterschool programs.

This is a blowup of a little of the act itself.

It is the No Child Left Behind Act of 2001 that President Bush is talking about everywhere he goes in the country but unfortunately is underfunding.

It is very clear. It is in black and white. The No Child Left Behind Act spelled out exactly what was supposed to be spent on afterschool programs for our children. In the year 2002, we were supposed to spend \$1.250 billion; in 2003, we were supposed to spend \$1.5 billion; and in 2004—the bill we are debating now—we were supposed to spend \$1.750 billion.

If this were an exam that our children were giving us, we would fail and fail miserably.

Afterschool is a great program. That is why this afterschool act which is part of the No Child Left Behind Act was supported by both sides of the aisle. It was written by myself and Senator ENSIGN. But I have to say, as the author of this bill, that it saddens me greatly to realize we are breaking our promises to children.

Let me show you how we have broken those promises. It is a sad chapter in our history. I told you that the No Child Left Behind Act calls for \$1.7 billion this year. The Bush budget was \$600 million. Not only would he not fully fund the No Child Left Behind Act but he cut it from the \$1 billion level that is in the current bill before us. I commend my colleagues for at least adding \$400 million and getting it up to level funding. The Boxer amendment doesn't even meet the commitment of the No Child Left Behind Act. If it did, I would be adding \$750 million. But in an effort to win the votes of my colleagues, I am asking for \$2.25 million.

The No Child Left Behind Act says we should be spending \$1.75 billion. The Bush budget, with only \$600 million, throws thousands of children out of coverage. The Senate bill comes to us with \$1 billion, and I am attempting to begin moving this funding to where it would reach what the No Child Left Behind Act has promised. We are breaking a promise to our kids. I want to translate this money into children so that you see how we are not just talking numbers but we are in fact talking about children.

In the Bush budget, if we had not changed the number in the No Child Left Behind Act, 1.6 million fewer children than we promised would have been covered. Under the Senate bill right now, 1.1 million fewer children are covered. Even under my amendment, 800,000 fewer children than we promised would be covered.

To put it another way, the No Child Left Behind Act was supposed to cover 2.5 million children—our present children—after school. Instead, the Bush budget would cover 850,000 kids; the Senate appropriations committee, 1.4 million kids; and the Boxer amendment would cover 1.7 million children.

Even though we are not going to fully cover the 2.5 million children the act promised, at least we are moving up from where we are; 300,000 more children will be covered by the Boxer amendment.

The demand for afterschool care is great. According to the Department of Labor, the parents of more than 28 million school-age children work outside the home. According to the U.S. Census Bureau, as many as 15 million latchkey children go home to an empty house.

Where are our family values? You are a devoted mother, Madam President. You know how important it is for the children to have someone to be there when they come home from school. Yet we are depriving millions of children whose parents can't afford to have a babysitter there, who can't afford to enroll them in some private afterschool program.

What does latchkey kids mean? They have a key, they let themselves in, and they are on their own. The parents can't afford programs for these children.

Mayors surveyed in six cities reported that only one-third of children needing afterschool care were receiving it. And the need for Federal help is growing.

In Minnesota, for example, State budget cuts are forcing schools and community partners to scale back or cut after-school enrichment programs.

This means that in Duluth, the Lincoln Park Youth Collaborative, which unites the Lincoln Park School with such organizations as Lutheran Social Service, the Boys & Girls Club, Duluth Family YMCA and Neighborhood Youth Services, will be dissolved. Additionally the Boys & Girls Club in Duluth is scaling back hours and activities.

Currently, more than 80 percent of the 665 students at Lincoln Park School participate in one or more of these programs. How are people in Duluth reacting? According to the Duluth New Tribune, they are afraid—afraid that youth crime and violence will increase. And the children are devastated, as Tylor, a Lincoln Park seventh grader put it, "How would they feel if they were kids and we were the ones taking the money and they wouldn't have anything to do?"

We know that when our schools close down, their afterschool programs—

which is what is happening now because they are so short of funding. It is very devastating to children. It is very devastating to their families. And the teachers suffer because the kids are just not what they were before. They are not ready for school. They don't have mentors to teach them and to work with them one on one after school. Afterschool care is not a luxury; it is a critical investment in our children's future.

I want to show you a chart that shows juvenile crime. You might say it is a no-brainer. But I think it is worth looking at an FBI chart. What is it showing? Juvenile crime soars to its highest rate between the hours of 3 and 6 p.m. It just goes way up as soon as school ends. We all know this intuitively. But this is a FBI statistic.

What is happening is very clear. According to the National Center for Juvenile Justice, children are more likely to be involved in crime, substance abuse, and teenage pregnancies if they are left on their own after school. We know from studies that these afterschool programs work. They reduce crime. They reduce drug use. They reduce teenage pregnancies.

We have studies done by Quantum Opportunities. We have researchers from Columbia University and the American Health Foundation. They compared five housing facilities without Boys & Girls Clubs to five similar facilities with Boys & Girls Clubs. By the time the study was concluded, housing facilities without the Boys & Girls Clubs had 50 percent more vandalism and they had 37 percent more drug activity.

It is no surprise then that law enforcement supports afterschool programs. In a poll conducted by George Mason University, 86 percent of police chiefs nationwide said that expanding afterschool programs will greatly reduce youth crime and violence.

I will show you a quote from Sheriff Drew Alexander from Summit County, OH—right from the heartland. This is what he said:

We can pay now for afterschool programs and invest in success. Or we can plan to spend far more later on prisons for our failures, and funerals for their victims.

When I first got into politics and into local government, those of us who wanted to invest in things such as afterschool and early childhood education had arguments with law enforcement. They didn't agree. They said: We will get the criminal after the crime is committed.

They have changed dramatically. They are now on the front lines. They are my best helper in helping to get back-to-school programs, which we have enacted here. They have been my best helper in rounding up votes. I hope they have been successful today. We are going to find out later.

What is also remarkable is that while the administration cut afterschool funding in half, throwing millions of children out of afterschool programs,

another arm of the administration was saying in a paid-for advertisement. This is an amazing paid-for advertisement from our government: "It's 3 p.m. Do you know where your kids are?"

Times have changed. Keeping kids off drugs means knowing what they're up to. Especially after school. There are ways to do it.

And they talk about various ways to keep your eye on your children. This is remarkable. It comes from the Office of National Drug Control Policy.

While the administration is spending money asking parents where their kids are after school, on the other hand, with their red pencil they are cutting the funding for afterschool. I don't know how this makes any sense. I was fortunate enough to spend the month of August in my home State. I went to a number of afterschool programs, as I have done over the years. As a matter of fact, I have made 23 visits to afterschool programs. I will show some of the pictures of the kids I have seen in these afterschool programs.

Here is a picture from Sacramento Start. These kids are thoroughly involved in work. They are playing a learning game. They are engrossed, instead of being home alone, watching cartoons, or out on the street getting into trouble.

Here is another picture from Sacramento Start. A mentor came in with this huge alligator. All the kids are standing around in amazement. There is not one disinterested look, not one idle face in the room. It is so exciting what can be done and what is happening in California and across this country in afterschool programs.

Here is an afterschool program at Sullivan Middle School in Fairfield, CA. We call this program, which I visited, The Place To Be After 3. These kids are shining. Walk in there and anyone will see they feel proud of who they are and what they are doing. You can see from the smiles on their faces. When you ask them why, and I do every time I go to one of these programs, they say, "We are safe. Kids ask us to do things after school that are not good and we just say, 'We can't. We are in afterschool programs.'" They come home; they have done their homework; they can have family time. When mom and dad get home—or if it is a single-parent household, they are exhausted. They have to make dinner, make sure the child is bathed and ready for the next morning. The bottom line is the child comes home, the homework is done, and they can then bond with the parent.

It really works.

I will read some of what students have told me. One of L.A.'s best students said:

The most important thing I learned was that anything I set my mind to, I can do.

That is from a fifth grader at Hart Street Elementary School.

Another from Manchester Avenue Elementary School said when asked what he most liked:

There are no strangers to harm us, because the teachers are around.

From a fourth grader at Canoga Park Elementary School:

I know if I'm in trouble, I can turn around and they'll be there for me.

And then a parent of a student:

My daughter has gone from the bottom 30% to the top 25% after joining the LA Best afterschool program.

I ask unanimous consent to have printed in the RECORD other stories of other children.

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

MAURICIO'S STORY, LOS ANGELES, CA

Mauricio was a first grader at Langdon Elementary School in North Hills. He faced the strong possibility that he would be involved with gangs, drugs and violence. Instead he became one of the first participants in LA Best. Through LA Best, he came into contact with police officers and tutors, who gave him an alternative to gang life. He was so affected by the program that he worked at LA Best's Langdon site through high school and still volunteers as he works his way through college. Selected to introduce Mayor Richard Riordan for the Mayor's sixth State of the City address, Mauricio said: "I would never have imagined as a 6-year old that I would be introducing the mayor . . . I saw a lot of young people doing drugs and crime and dying, but today, I am the first member of my family to attend college." Mauricio's plans to be a teacher: "Young people need someone to look up to and someone to help them—I want to give them what people gave to me."

JERRY'S STORY, LOS ANGELES, CA

Although only 10 years old, Jerry was acting out in school, hanging out with gang members and disobeying his parents. His parents began to work with LA Best staff to ensure close supervision of Jerry when he was on the playground. Family counseling and increased emphasis on academics were also part of a carefully developed plan for him. Soon Jerry was involved in computer and geometry classes, the Science Club and sports. He turned his negative behavior into a positive and led his team to victory in several tournaments.

KYRUS BIRCKETT'S STORY, PHILADELPHIA, PA

In 4th grade, Kyrus started in an afterschool program in Philadelphia. He was still in the program through high school. Kyrus's mother was a single parent raising three children and was grateful that her kids were somewhere safe in the afternoons before she got home from work. The afterschool program at Kyrus' school allowed him to work at a day care center and to do peer mediation in school. He said: "The afterschool program has made a huge impact on my life. It's opened doors for me that have helped me learn, helped me contribute to my community and helped me get into the college of my choice . . ."

VICKI'S STORY, MORGANTOWN, WV

Vicki's mom is a stay-at-home mom and a Marine Reservist. After 9/11, her mom was called up to active service, leaving Vicki nowhere to go after school but to an empty house. Vicki's father reports that the afterschool program Vicki attends, Kaleidoscope, has made a big difference in not only her life but in the family's life as well.

Mrs. BOXER. I will wrap up right now by saying, we need to look inside

our hearts. We represent American children. They need our help. These programs work. These programs deserve to be fully funded because the President and the Congress passed the No Child Left Behind Act. To freeze these programs for another year makes 3 years in a row.

How can I tell my kids that the kids in Iraq are more important than them? I am going to do my part to help the kids in Iraq; I am doing my part. I will do my part to help the kids in Afghanistan; I am doing my part. But I will not walk away from doing my part for the children in California and the children all across this country. I urge a "yea" vote on this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 1610 TO AMENDMENT NO. 1542

Ms. LANDRIEU. I believe under the unanimous consent I am in line to offer an amendment and I send an amendment to the desk for its immediate consideration.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, the pending amendment is set aside. The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 1610.

Ms. LANDRIEU. Mr. President, 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:

(Purpose: To increase funding for the promoting safe and stable families program)

On page 61, between lines 14 and 15, insert the following:

SEC. ____ (a) PROMOTING SAFE AND STABLE FAMILIES PROGRAM.—In addition to amounts otherwise appropriated under this Act for the promoting safe and stable families program of the Administration on Children and Families, there are appropriated an additional \$100,000,000 for the Administration on Children and Families to fund such program.

(b) INDEPENDENT LIVING TRAINING VOUCHERS.—In addition to amounts otherwise appropriated under this Act for independent living training vouchers, there are appropriated an additional \$18,000,000 for such vouchers.

(c) OFFSET.—Of the funds appropriated under this Act for the National Institutes of Health, \$70,000,000 shall not be available for obligation until September 30, 2004. The amount \$6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be \$6,995,199,000, and the amount \$6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be \$6,683,301,000.

Ms. LANDRIEU. I inquire of the Chair the time allotments for this amendment.

The PRESIDING OFFICER. The Senator has 10 minutes on this amendment.

Ms. LANDRIEU. Let me be very brief before the Senator from California leaves the floor to say I ask her to add me as a cosponsor to the amendment just presented. She made a beautiful presentation, quite compelling about why this Congress should step forward

and live up to the commitments we made in a bipartisan fashion with the President of the United States to create and pass a landmark piece of legislation. That only works if the funding is attached. The Senator from California has been so eloquent, saying because the funding has not been attached, it is questionable whether the whole act will work. I commend the Senator and add my name as a cosponsor to her amendment.

I move on to describe my amendment, which is complementary but not on the same subject. The amendment I send to the desk is equally as important to Louisiana as the amendment presented by Senator BOXER, which would have provided in Louisiana the opportunity for our Governor, who is Republican—I am a Democrat, he is a Republican—and our board of elementary and secondary education, made up of Democrats and Republicans, her amendment would make it possible for the reformers in our State, made up of members of both parties, to give opportunities for children who find themselves in very difficult situations with no place to go, both parents required to be working or choosing to work, and children needing opportunities after school.

This amendment I have sent to the desk funds a similar program that helps stabilize families but in a different way. It actually builds on a bipartisan effort led on this side by the Senator from West Virginia, Mr. ROCKEFELLER, years ago, that recognized a failing in our foster care system.

Let me give a minute of background, although the time is very short. We actually have 570,000 children in foster care in the country; about 6,000 are in foster care in Louisiana. It is very unfortunate that children find themselves in foster care at all. We would, of course, like to have a child welfare system in this Nation where, first of all, every child stays in the family to which they are born. We would love for every child to be wanted and nurtured and loved and every family to be strong enough to be able to nurture those children and bring them up in a family environment, of course, educating them and sending them off as we wish for our children whom we raise and for all the children in America.

Unfortunately, that situation does not exist in every family for a variety of reasons. Sometimes the parents are simply unable. In some awful situations they are unwilling—drugs, alcohol, very dysfunctional family situations sometimes cause children to be removed from those families, placed into foster care, and then the system is supposed to work.

We spend \$8 billion a year on that system. And there are serious efforts underway to reform that system.

This Senator is convinced we could serve families better, serve the children better, promote adoption, promote family reunification, prevent

child abuse actually for less money if we designed this program differently. And those efforts are in the works.

Recognizing this program needed so much reform and support, and recognizing the difficulty because it is a very complex, huge Federal program that has been developed over the last 30 years in pretty much of a hit-and-miss kind of fashion, Senator ROCKEFELLER came up with a fabulous, excellent, effective bill several years ago called Promoting Safe and Stable Families.

We passed the bill about 7 years ago. The bill basically says we recognize we have this \$8 billion Federal program that could work better, and we are going to work on reforming it, but while we are doing that, let's make sure we are doing everything we can to help States and courts prevent children from going into the foster care system—in other words, reducing child abuse; in other words, giving families support at the front end, so that children do not go into foster care, so we do not have almost 600,000 children having to be taken away from their families and moved into a system, sometimes to languish for years.

Then Senator ROCKEFELLER and others—this was a bipartisan effort—said: Let's create a program on the back end so that when these children "age out"—at that time it was 18; now it is 21—we give them another step so they can become productive adults. Although they have lost their families—many of the parental rights have been terminated—because our system has failed them; they were not adopted—at least let's give them a college education. That is Promoting Safe and Stable Families.

I think the American people, whether they are liberal, conservative, Democrat, or Republican, could most certainly understand the benefit of spending a small portion of money to make sure the \$8 billion we are spending is being spent as wisely as possible, to prevent the taxpayers, basically, from picking up the tab for a program that is not working.

The fact of the matter is, this bill, even though the President requested the program to be at a level of \$504 million, for which he should be commended—he has been criticized, and a great deal of that criticism, actually, I believe, should be leveled in his direction. But in this case, it is actually the opposite. The President put \$504 million in his budget. I commend him for doing that. Yet this underlying bill is shorting that program by over \$100 million.

My amendment seeks to fully fund Promoting Safe and Stable Families to the level President Bush requested. Again, that request was made because Democrats and Republicans believe this program is a way, first, to make sure the \$8 billion taxpayers are spending right now is spent in the appropriate ways, and making sure we have the flexibility given to our States and local governments to prevent children

from coming into foster care. And that is done by supporting community-based programs, time-limited family reunifications, and, in my opinion, most importantly, promoting adoption and the support services that go along with adoption.

Then, at the back end, this money would be given to States. It would be very flexible. States can design their own programs. It is given to the States in a very flexible way to make sure that if the system is failing—and right now it is failing thousands and thousands of our children—when the system takes their parents away, and then when the system fails to provide another family for them, the least this Congress could do, I would argue, for the most vulnerable children in America—some of these children are poor, some of them are not, some of them came from homes of middle-income families—the least we could do, though, for this group of children who have no parents to advocate for them, who have no family to advocate for them, is to fully fund the education component this Congress wisely put in place that gives children an opportunity, when they age out of foster care, to go on and try to build a life, despite the difficulties they have, to stay out of prison, to stay out of mental health hospitals. That is what this amendment does.

In conclusion, this amendment, which adds about \$100 million to the underlying bill, would meet the President's request. It would fund the authorization of Promoting Safe and Stable Families. It would attempt to help the 1 million children last year in the United States who were confirmed as victims of abuse and neglect. It would do it in a way without Federal mandates, without Federal regulations, but would give the money to the States and to our cities and to our local communities to design these programs in the way they see fit.

In closing, Mr. President, let me just add some words from children who have actually received the benefit of this program. Let's listen to what they say in their own words about this program.

The first is written by Belinda J. from Juniata College in Pennsylvania. She says:

There are not enough words to express my gratitude to you for donating money to further my education. When I received the award letter—

which this amendment would fully fund—

I was speechless and almost started to cry. All those years I worked hard in school because I knew I wanted a career in science. I had a dream and people like you—speaking to the Members of Congress—helped me fulfill that dream. Things still do not come easy to me and I still face the same challenges that I had in foster care, but your belief in me has helped keep me going towards my goal. At this point in my life, I do not know if I am going to be a doctor, a scientist or a forensic investigator, but I do know whom to thank when I become one of these.

This is a young woman who has no parents.

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

Ms. LANDRIEU. Mr. President, I ask unanimous consent for one additional minute.

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

Ms. LANDRIEU. The program I am attempting to fully fund meets the President's request. This is unlike some other amendments where the President underfunded it and the committee did the same. We just simply have not found the will to fund the program. This is a program the President put in his budget at a \$540 million level, and it is being underfunded.

Mr. President, I ask unanimous consent that statements from other individuals who have benefited from this program be printed in the RECORD.

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

In the three years that I've been involved with the OFA, they have gradually been able to increase my scholarship to help meet my financial needs. Thanks to Scholarship Sponsors this year I received a \$10,000 award which was substantially higher than previous years. Last year I did housekeeping in the morning, went to class in the afternoon, and worked at a restaurant at night just to pay my college expenses. Working two jobs and balancing school was really difficult. This year, the scholarship made a huge difference in my life, I only work 15 hours a week at one job. Because I work fewer hours, I have more time to focus on my studies. With the help of the Orphan Foundation and scholarship sponsors, I'll graduate in the class of 2003.

AMY F.,
Northwestern University, IL.

First off, I am very proud of the recognition to receive the OFA scholarship. I know that many applied and only a select few students received the scholarship. The money was used to pay for books, parking and miscellaneous school expenses. I go to a community college and the books can be more than the tuition.

SAM E.,
Cuesta Community College, CA.

My \$3,000 scholarship from OFA literally kept me from packing my bags and going home for a semester. I received the news of the scholarship right before the University was going to force me off of the campus. If it was not for your concern and compassion for orphans, a lot of us would not have the opportunity to go to school and expand their academic and even social horizons. Again, I say thank you for supporting orphans all over the country.

LAVERNE B.,
Howard University, DC.

Today I received a call from the financial aid office telling me to come sign for a scholarship from OFA. I cried. It has been so hard attending college for the past two years, I have been doing 12 credits and working a full time job and struggling to pay my bills too. So many times I have felt like giving up and each year it only gets worse and more expensive. But OFA has given me hope and a reminder that people care. From the bottom of my heart I want to say Thank you.

JENNY B.,
Tennessee Temple University.

It is impossible for me to elaborate on the impact your gift has had in my life. Not only have you invested in my education and future, but most importantly you have invested in me. I can honestly say if it weren't for your financial and emotional support, I would not be here at Gonzaga. By investing in me, you believed in me and that gave me the motivation to continue. There is no greater feeling than to know someone believes in you.

ROBERT G.,
Gonzaga University, WA.

Ms. LANDRIEU. Mr. President, I will ask for a vote on this amendment at the appropriate time. I hope the Congress will find a way to fund this program, which saves us from foolishly spending the \$8 billion we are already spending, and to support programs such as this that do so much good for the children in our country.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. 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. SPECTER. 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. SPECTER. Mr. President, there is no doubt about the importance of the program responding to a widespread perception of a crisis in the Nation's child welfare system, that there has been an increased caseload of the foster care system, and the program had no funding at all in 2001. In 2002, the funding was slightly under \$70 million. It was a new program that year which is the reason there is zero under the appropriation line for 2001. Starting off as a new program, it was funded at slightly under \$70 million, \$69.986 million. In this fiscal year of 2003, there was \$29 million plus added, bringing the total to \$99.350 million. It would be highly desirable if we had the extra funding to accommodate more money, but we are at the maximum level of the allocation this subcommittee has from the budget resolution.

When the Senator from Louisiana asks for \$18 million additional for independent living training vouchers, that, again, is a program that I would like to see funded at a higher level. The grave difficulty is that the pleas the Senator from Iowa and I made as managers of the bill on our allocation were not heeded, and we have made the distribution as best we can.

It is with reluctance that I have to oppose the amendment offered by the Senator from Louisiana. That is the essence of the situation.

How much time remains on the amendment on my side?

The PRESIDING OFFICER. Five and a half minutes.

Mr. SPECTER. I am prepared to yield that back, Mr. President, and move to the next amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, would the Senator object to giving me 2 minutes of his time to wrap up?

Mr. SPECTER. I will reclaim my 5 minutes so I may give the Senator from Louisiana 2 minutes. If she is going to speak, I want to reserve the remainder of the 3.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I appreciate the chairman's comments. I know how hard he and the Senator from Iowa have worked to keep this budget within the limits established. As a member of the Appropriations Committee, I am well aware of the process.

It seems as though the Republican leadership has allowed spending for programs using an advance funding mechanism for the priorities they believe are important; yet while saying they think this priority is important, they refuse to accept amendments that basically use the same offset. I want to make clear for the record that the funding for this would come from the exact same provision that the chairman has used for other programs in the health, welfare, and education bill. Yet it seems when it comes to full funding for Leave No Child Behind or full funding for a program the administration says it fully supports, there is all of a sudden no money available.

Again, this has been one of the priorities of this administration. Leave No Child Behind is something this administration speaks about on a daily basis. Yet there are billions of dollars of shortage in funding in that program. That is not just another Federal program. It was a very important historic meeting of the minds on how to reform education and how to give cities—whether it is Washington, DC, or New Orleans or rural areas throughout the country—the resources they need to reform public education. Also, upgrading foster care, promoting adoption, making sure that every child has a family, a loving and stable home because that is the fabric and essence of our society, again, we find that the will is simply not there. That is what I wanted to say in response.

I understand this amendment will not be accepted. I wanted to say that it seeks the same sort of offset that other programs have in the bill.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I respect what the Senator from Louisiana has offered. They are very important programs. We have funded them to the maximum extent that we can, consistent with the allocation which we have under the budget resolution. When the comment is made about offsets, that is an effort on accounting procedures to put money back into fiscal year 2003. But that doesn't address directly the budget resolution or the allocation that this subcommittee has.

We are up to the full expenditure of \$137.6 billion.

We are now prepared to turn to the first amendment by the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 1611 TO AMENDMENT NO. 1542

Mr. DURBIN. Mr. President, I thank the chairman for calling on me and allowing this unanimous consent request which gives me an opportunity to present an amendment.

Most of us in the Senate joined President Bush in voting for No Child Left Behind. When the President took office and said he wanted to make a bipartisan commitment to change education in America, many of us took him seriously and did our best to join him and passed legislation which was historic because it established an obligation of local school districts across America to test children to make certain that they were making progress. It also included some penalties for those schools that were not making progress, for fear that children, after a number of years, would fall so far behind they would never have a chance. It really created an incentive in one respect and a penalty in another respect for those school districts where schools found children falling further and further behind.

There were those who said that this focus on testing was excessive. I shared their concerns but believed that it was an important element in bringing our schools to a national standard of excellence. And there were those who said this is expensive. If you have a child who is struggling to keep up with the class, that child needs extra attention and help. Tutoring, a helping hand, that child may need an afterschool program, a summer program, that child may need a personal mentor or teacher to help—all of those things were reasonable, but all of those things were expensive.

The bill also said, we want to make certain the teacher standing in front of the classroom is qualified to teach. If you hold yourself out as a math or science or foreign language teacher, you need to have a background. If you don't, the bill requires that these teachers go back to school, pick up the necessary college credits to indicate that they deserve a certification in that specialty.

So overall, this is a bill which has a good goal and one I supported.

No Child Left Behind was a bargain between the Federal Government and the school districts. We were going to provide resources to the school districts in exchange for reform, tough accountability provisions. And consequences for failure were implemented.

In return, we pledged new investments of Federal money to pay for the needed improvements. The Senate bill we are considering, this appropriations bill, is more than \$6 billion short of meeting our end of the bargain under title I. We had a chance the other day

when ROBERT BYRD had an amendment saying let's keep our end of the bargain and provide the \$6 billion, and it was voted down.

So we have a mandate on school districts across America that is unfunded—unfunded to the tune of \$6 billion. I have here a chart, which I will share with you, which Senator BYRD brought to the floor. It shows, State by State, what each State will lose as a result of our failure to fund No Child Left Behind as promised. Let's take one State, for example.

In Nebraska, \$24 million will be lost; money that was promised to that State will not be coming for No Child Left Behind, but the mandates and requirements will be coming. There is a \$255 million shortfall in my State of Illinois. The total is \$6 billion.

The Durbin-Schumer amendment that I am offering here prohibits the Department of Education from imposing penalties on schools for failing to meet the requirements of No Child Left Behind if we fail to fund it as promised. Schools should not be penalized for not meeting requirements of this unfunded mandate. This amendment does not repeal or weaken the standards of No Child Left Behind. It does not affect testing or measurement provisions. The tests will continue. So the testing of students will continue. It provides schools with a 1-year respite from corrective action when we fail to live up to our funding commitment for title I. An identical amendment was supported a few weeks ago in the House by 195 members.

When No Child Left Behind was signed into law, we pledged \$18.5 billion to the States for this year to help them meet the tough accountability standards. Without the extra funding provided by the Byrd amendment, which was defeated, we are going to miss that target by \$6 billion. It means 6 million kids are being left behind by the Senate appropriation—by the failure of the Bush administration and this appropriation bill to keep our word.

In my State of Illinois, we are struggling with problems that many States are facing. School districts across Illinois are laying off thousands of teachers and support staff. Class sizes of 40 students are found in some schools. Salaries are being cut for other school employees. The Chicago public schools closed down two schools for teen parents. Hamilton County closed two elementary schools. The Carpentersville suburban school district cut 140 teaching positions. Elgin Unit School District 46, already operating with 600 fewer teachers because of cuts, will be forced to leave four recently built schools vacant for the entire school year because it cannot afford to staff them. Middle-school students in Gurnee must now pay \$145 to play a team sport and \$60 to join the band or choir.

In Pennsylvania, the Mill Creek school board cut 30 positions, including teachers, educational assistants, custodians, and athletic staff. Yester-

day the Pennsylvania State legislature announced an education initiative funded at \$610 million below the Governor's request. This leaves Pennsylvania's 501 school districts with just \$53 million—roughly \$105,000 per district—to help students meet the mandates of the Federal Government in No Child Left Behind.

The Philadelphia school district has had problems for years attracting qualified teachers. At the end of last week, there were 109 vacancies out of 12,000 teaching positions—up from 67 vacancies last week. This increase in teacher vacancies in Philadelphia is a result of new hires not showing up for class on the day they were due to start.

In Tennessee, Montgomery County schools are laying off 30 bus drivers. Rhea County teachers, administrators, and parents pleaded with the local board of education to rehire two school nurses. A Nashville elementary school principal, frustrated with the condition of 49 aging windows at her school, smashed them herself in an attempt to force the district to replace them.

In Massachusetts, the State is planning to eliminate tutorial assistance to students who fail its MCAS test—which is required for graduation—on the first try. More than 100 districts are charging students a fee for school bus transportation, ranging from \$25 to \$850.

The list goes on. Of the most recent news reports of what school districts are facing and the reality across America, one that just came across my desk I think is particularly troubling. It comes from Florida. The headline is, "Law Lets Students Forego Senior Year." It says:

Of all the ways attempted to free up space in Florida's crowded classrooms, this one could be a dream come true for high schoolers in a hurry: a diploma without a senior year.

Supporters of a law granting a high school diploma in just three years said it will help curb crowding in Florida's schools.

This is the reality of the state of funding for education across America.

For us to impose a mandate on school districts in Illinois, Pennsylvania, Nebraska, Tennessee, Massachusetts, and New York and not provide the funding is, frankly, to put additional financial burdens on these school districts, which we are not paying for.

Frankly, I think there is a way to address this in a sensible fashion. If we are not going to provide 95 percent of the money we promised for No Child Left Behind, then we should suspend the penalties that will be imposed on school districts under No Child Left Behind. The testing goes on, and the accountability goes on. But to say to school districts that they have to assume the responsibilities of paying the consequences of our failure to fund No Child Left Behind is fundamentally unfair.

No Child Left Behind provisions that would be suspended under this amendment include mandatory transportation to other schools in the district

for students who wish to transfer—a very expensive undertaking, particularly in large cities such as Philadelphia and Chicago; supplemental tutoring, paid for by the district for students not meeting State proficiency standards. We would like to see that, but we should fund the bill as promised.

My colleagues should remember that Senator DODD came to the floor, and his concern was that No Child Left Behind would not be adequately funded. He offered a bipartisan amendment, which we adopted as a final part of the bill, which promised each and every year the exact amount of money we would appropriate for No Child Left Behind. This year we missed that target by \$6 billion.

My amendment would also suspend corrective action which could include one or more of the following: replacing school staff, implementing new curriculum, appointing an outside consultant, or extending the school day or year. Every one of these is a good idea. I voted for them. But why in the world would we impose that corrective action on a school district and not provide them the resources to take care of it, to provide the tutors and outside consultants?

We also would suspend the mandated restructuring or alternative governance, to reopen a school as a charter school, and replacing all or a majority of the school staff.

I am asking my colleagues to listen to the families, the parents, the schoolteachers, and administrators in their home States. You know what you have heard. I have heard it as well. In school districts large and small, they believe in reform. They will accept accountability. But they ask us for the resources to help. At a time when school districts across America are struggling to keep the doors open, struggling to hire the teachers, crowding into classrooms because of State deficits and local property tax problems, how can we in Washington, in our infinite wisdom, decide we are going to impose new standards and costs on these school districts and not pay for them? That is what we are doing.

This is clearly an unfunded mandate. Frankly, I think the Bush administration and this Congress made a promise. Unfortunately, the President has not worked as ferociously for No Child Left Behind funding as he has for other things, such as his tax-cut program. He has not shown the same passion for providing school resources as he has for many other elements of this budget.

Many of the people who now criticize this amendment claim the authorized amounts for title I are not promises; they are just suggestions. In many cases that is true, but it is not true on this bill.

The Dodd amendment puts specific authorization levels into place for each and every year—authorization levels we failed to meet with this bill's appropriation. We have never done that be-

fore in education bills. Traditionally, Congress only said we would appropriate such amounts as may be necessary. The Dodd amendment locked in authorization levels. In other words, we put those amounts in for a reason.

Not funding title I at the level we set is breaking our promise to schools and families and children across the country. The difference between what Congress agreed in 2001 it would cost to implement the reforms in No Child Left Behind and what has actually been delivered to schools is widening each year. If this bill passes, we are shortchanging schools across America by \$6 billion, but we are sending them the full cost of the mandate—unfunded mandates on local schools at the worst possible moment—in the midst of a national recession, when State budgets are unable to provide the resources they need. It is an unfunded mandate we should not be party to.

Many people have raised the question about the IDEA special education funding. Well, would you suspend that mandate? I, frankly, hope we will vote—and I think the amendment will be offered shortly—to fully fund IDEA. That is a responsibility we should take on our shoulders. Many of us said we believe in it. This bill doesn't fund it properly. I think we can.

The administration's approach to funding IDEA, incidentally, for school districts across America is totally unrealistic.

We just are not going to be able to fund it if we follow the President's lead.

Since we cannot seem to find the money to pay for the reforms of No Child Left Behind, I am offering this amendment that will alleviate some of the pressures for schools until we live up to our promises.

The amendment prevents the Department of Education from penalizing a school for failing to meet the requirements of No Child Left Behind unless the authorized level of funding is provided. The mandate is yes if the funding is yes. No mandate, no funding.

I voted for this law. I want it to work. But just as funneling money into failing schools without accountability is unacceptable, so is imposing new mandates without fully funding them.

The amendment does not repeal or weaken the standards contained in No Child Left Behind. It is not a retreat in the face of reform. Schools are serious about meeting their challenges, but they need the resources to make it work.

When I talk with these teachers working hard to prepare children for this test, they tell me: Senator, I can do well with a lot of kids in my class, but some of them need extra special attention. These are kids who have been transferred just recently into our schools, kids with serious family problems, and kids who have had problems in their classes last year.

These are situations which reflect the real world of classrooms today. Yet

by not funding title I in State after State, we fall \$6 billion short of giving that teacher the resources he or she needs to bring that child up to the appropriate level of testing competence.

My amendment does not affect the testing or measurement provisions of No Child Left Behind. It does not change the requirement that all teachers be highly qualified. My amendment would give schools a 1-year respite from corrective action when we fail to live up to our funding. The Democratic leader in the House of Representatives, NANCY PELOSI, spoke on the floor when they considered a similar amendment, which had 198 votes in favor. She said:

This amendment presents the Chamber with a moment of truth as to whether Congress is honest about its commitment to education; whether or not it will honor its promise to America's children contained in the No Child Left Behind Act.

We need to keep our word and demonstrate our commitment to reform not just by talking tough and imposing new standards, but by giving our schools and teachers the resources we promised, the resources we authorized specifically for this year. When we fail to provide these school districts those resources at this critical time, we are shortchanging education across America. We are saying our Federal brilliance, when it comes to education, that led to these mandates, is much more compelling than the personal and local challenges which these school districts are meeting every single day.

Whether I go to the rural areas of Illinois or the big city of Chicago, I hear the same thing: Senator, it is a good idea. We will do our best to make it work. We are prepared to face the challenge of No Child Left Behind. But send us the resources you promised. Don't mandate this No Child Left Behind Program without the resources to make it work.

Mr. President, I ask that the amendment be stated by the clerk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mr. SCHUMER, and Mr. DORGAN, proposes an amendment numbered 1611 to amendment No. 1542.

Mr. DURBIN. Mr. President, 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:

(Purpose: To prohibit funds appropriated in this Act from being used by the Department of Education to enforce any requirement under section 1116 of the Elementary and Secondary Education Act of 1965, or to implement penalties or sanctions under part A of title I of such Act, if the amount appropriated to carry out such part A for fiscal year 2004 is less than \$18,500,000,000)

At the end of title III (relating to the Department of Education), insert after the last section (preceding the short title) the following:

SEC. _____. None of the funds made available in this Act may be used by the Department

of Education to enforce any requirement under section 1116 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316), or to implement any penalty or sanction applicable to a State, a State educational agency, a local educational agency, or a school under such part A, if the amount appropriated in this Act for the purpose of carrying out such part A for fiscal year 2004 is less than \$18,500,000,000, as authorized to be appropriated for such purpose in section 1002(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6302(a)). Nothing in this section shall be construed to prohibit a State, a State educational agency, a local educational agency, or a school from implementing the requirements of section 1116 of such Act.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, do we have a time agreement on this amendment?

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Massachusetts?

Mr. KENNEDY. I am not asking the Senator to yield. When the Senator from Illinois finishes, I would like to get recognition in my own right.

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

The PRESIDING OFFICER. The Senator from Illinois has 3 minutes remaining.

Mr. DURBIN. I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, there is 20 minutes under the control of the Senator from New Hampshire; am I correct?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. Mr. President, will the Senator yield me 5 minutes?

Mr. GREGG. I yield to the Senator from Massachusetts such time as he needs.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, there is no one in this body who believes more deeply than I do in necessity of full funding of the No Child Left Behind Act. I remember at the beginning of the debate on the No Child Left Behind Act there were those who believed we were putting money into communities without any direction and without accountability and, therefore, we were not seeing results. And, there were those who believed strongly that we ought to have reform. The No Child Left Behind Act brought together both the reform and the resources.

I will continue to fight for increases in education resources, but this amendment, I believe, moves this whole debate in the wrong direction. Let me explain my view to the Members.

This amendment says:

None of the funds made available in this Act may be used by the Department of Education to enforce any requirement under section 1116 of part A. . . .

With what does section 1116(A) deal? It deals with new curriculum. It deals with professional development. It deals with supplementary services.

Let's just take those as an example. They would be emasculated by the Durbin amendment. If we read further back in the Durbin amendment on page 2, it says:

Nothing in this section shall be construed to prohibit a State, a State educational agency, a local educational agency, or a school from implementing the requirements of section 1116 [of the No Child Left Behind Act].

This amendment makes education reform optional. It is not optional today. There is \$12 billion in funding for the title I education program. What is not optional is that 10 percent of that will be used for professional development; for training in struggling schools. The Durbin amendment eliminates that as a requirement, \$1.2 billion out of the \$12 billion eliminated in teacher training. \$12 billion overall is not adequate for title I, but the Durbin amendment eliminates \$1.2 billion of that that is dedicated for better teachers. This amendment makes that optional, means that it will just be there as a slush fund.

No. 2, the No Child Left Behind Act requires between 5 and 15 percent of title I funding be spent on supplementary services, afterschool instruction. That is \$600 million to \$1.8 billion that is being spent today in supplementary services for the neediest children in this country. That is wiped out by the Durbin amendment—eliminated.

The Durbin amendment eliminates any requirement that we are going to have teacher training under title I—the other teacher training in the other titles but teacher training under title I—which many believe is the most important training, because it is taking the title I teachers who are in the classrooms and providing the neediest children with the instruction to upgrade their skills.

We talk about afterschool programs and the President failing to provide for afterschool. The Durbin amendment is eliminating more of that kind of protection. It is unbelievable to me—unbelievable to me.

Third, we have under title I, 5 to 15 percent—again, \$600 million to \$1.8 billion—that has to be used for upgrading curriculum and public school choice. That was the essential part of the No Child Left Behind Act. Let States and local communities develop the curriculum, let well-trained teachers teach the curriculum, provide new examinations to find out whether those children were being uplifted, and provide supplementary services, which is extra tutoring for children who are behind. Under the Durbin amendment, there is no assurance title I will be used for these kinds of vital functions: Upgrading teacher capability, upgrading the curriculum, and supplementary services. That is \$2 billion or \$3 billion out of the \$12 billion. That, to me, is a slush fund.

I happen to be opposed to block grants. We have tried them, and they did not work. Nonetheless, that is

going to be the effect of this amendment. Beyond that, it takes away the funding that exists in a similar way for public school choice that will be available even today.

Mr. President, I yield myself another 2 minutes.

That is why the Citizens Commission on Civil Rights opposes the Durbin amendment. That is why the Harvard Civil Rights Project, Chris Edley, is opposed to the Durbin amendment. That is why the Education Trust, which is a grassroots organization made up of minority parents, is strongly opposed to the Durbin amendment. We need to have this battle and struggle. I differ with my friend and colleague, the Senator from New Hampshire, on the amounts and needs in the local schools and the local community. I differ with him in terms of the national priorities in getting additional funds. Even though we differ in those areas, I agree with him that we cannot take a step backward now when we are beginning to see progress made in these areas.

The final point I would like to make is, I am proud that in my State of Massachusetts we have made very significant progress in the areas of academic achievement and accomplishment. We basically started in a bipartisan way almost 10 years ago. We are tested now with what they call the MCAS. It is a very strenuous kind of test, similar to the National Assessment of Education Progress test, which is a very rigorous kind of test. After almost a 10-year period, what we have are the results in Massachusetts. According to this recent Boston Globe article, "Scores show broad gains on MCAS. More Massachusetts high school students passed the MCAS graduation test on their first attempt and scores climbed in every grade, every subject, and every racial group in statewide results released. About 75 percent of the class of 2005, or 52,000 students, passed both English and math portions of the 10th grade test. That was significantly better than the 69 percent of students in the class of 2004 and 68 percent of the students in 2003."

I will not take the time of the Senate to go into every kind of subgroup by ethnicity, but Black, Latino, White, with disabilities, limited English proficiency, regular education—the whole group has moved up. That is because the State has effectively embraced the identical kinds of requirements that are in the No Child Left Behind Act.

The Durbin amendment steps us back from that kind of a commitment. We ought to commit ourselves to the long road. We ought to get the resources that are necessary. I believe the Durbin amendment is an abdication of this institution to meet our responsibilities to ensure that there is going to be an investment, even with the money we have, in a way that makes a difference in terms of children's lives.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask the status of the remaining time between the parties.

The PRESIDING OFFICER. The Senator from New Hampshire has 11 minutes, 50 seconds remaining. The Senator from Illinois has 3½ minutes remaining.

Mr. GREGG. Mr. President, I begin by congratulating the Senator from Massachusetts for an excellent statement. I agree with 90 percent of what he has said. He is absolutely on the mark relative to what is happening in No Child Left Behind. Progress is occurring.

We still have a debate, obviously, as to what the proper level of funding is, but this bill was passed not as an issue of money but as an issue of looking at the low-income child and recognizing that for generation after generation we have left this child behind in our school systems. We said enough is enough.

Under Senator KENNEDY's leadership, and under President Bush's leadership, we said it is time to say to the low-income child that when they finish their education, when they step out of that classroom that final day when they graduate, they are going to be able to compete for the American dream because they are going to learn what they are supposed to learn, they are going to learn what they need to learn. It was a commitment we made as a Congress and as a country, and it was the right commitment.

Now we have this type of amendment come forward, which is essentially an attempt to put a stake through the heart of the essence of how parents can figure out how to help their low-income children who are in these school systems.

This amendment would have the practical effect of basically eliminating the options which parents get under the No Child Left Behind Act to give their child a better shot at the American dream. We are talking about parents of low-income kids, by the way.

Supplemental services, what is that? Well, it is one of those terms that is a big word. It is a confusing word. What it means is if someone is a parent of a low-income child and their child is in a school that is not working, that has not worked year after year, that has turned out kids who have not been able to compete year after year, we are going to give them the chance, as a parent, to take their child after school, or maybe even during the schoolday if the school decides to structure it that way, to get some remedial support in reading, remedial support in math, things which will catch that child up so they are no longer left behind.

The only way they are going to get some of these third and fourth graders, who come into the school system undernourished, up to speed is to give them this tutorial support. That is what this amendment would kill. It would kill the opportunity of a parent

who has a child in a public school system, who knows that the public school next door or down the road is doing a better job with kids like her kids, who knows that if her child stays in the school in which they are presently enrolled, that child is simply never going to catch up, but knows if they can take them down the road a little way to another public school, that child will have a chance at the American dream because they will be taught what they need to know. It would kill the opportunity of that parent to accomplish that. That is an inexcusable act, in my opinion, of denying parents of low-income kids the opportunity to do something about their children's right to a decent education.

The No Child Left Behind Act has, unfortunately, gotten caught up in a lot of crosscurrents that deal mostly with the funding fight. There is also an undercurrent of resistance from some of our professional community that just does not want to be held accountable.

Unfortunately, what has happened over the years is that we have never had a system where parents really could find out what was happening to their children, especially low-income kids. They knew something was wrong because there was produced child after child who could not compete in our society, but they could never find out what was wrong.

Well, No Child Left Behind creates an atmosphere and a system which, remember, is designed by the local school system—this is not a top-down system. The Federal Government does not set the testing standards. The Federal Government does not set the hurdles. It is set by the local school systems. When those local school systems set their standards for testing as to what a child in the third or fourth grade should know, at that point that information becomes public. The parent gets an opportunity to see it and find out what is happening to their child in that school, and if they discover that their child is in a school that year after year has failed to get their children to the level of ability that has been set as the level by that school system, by that community, of ability that a child should have at that grade level, then the parent has the right to do something to correct it.

Under this bill, we have empowered the parent with tutorial support, with public school choice, both of which would be killed under this proposal, as would, as the Senator from Massachusetts so appropriately pointed out, the funding for those programmatic initiatives which are directed right at the low-income teaching community. Those teachers who have a high number of low-income kids in their school systems need some special skills in many cases to deal with those kids, especially language skills. This amendment would eliminate the ability to fund those programs.

I will touch base also on this whole question of, is there adequate funding?

Let me point out that this amendment is justified on the grounds that Illinois is not getting enough money under No Child Left Behind. That can be debated. But the fact is, Illinois is getting 36 percent more in dollars under No Child Left Behind for title I funding, as a result of No Child Left Behind, than it would have gotten if we had continued under the old law. They have received \$813 million in 2003. They received \$813 million. This was \$213 million more than what they would have received under the old law.

In fact, they have received so much money under No Child Left Behind, it is really a prefunded event. It is not an unfunded mandate. They have been receiving so much money that has been flowing into Illinois. Under No Child Left Behind, there is presently \$312 million of title I funds which is unspent as of the end of the year 2002. It has not been drawn down by the school systems yet in Illinois.

But that gets into the funding debate, which is really another debate, not this debate. Debate about this amendment is about whether or not you are going to eviscerate the basic purpose of the No Child Left Behind law, which was to give low-income kids an opportunity to learn at the level of their peers; and if they were not learning at the level of their peers because their school systems were not delivering the educational standards they needed, then to give their parents some options to try to get them up to speed through tutorial choice or public school choice.

So I join my colleague from Massachusetts in strongly opposing this amendment and hope other Members will join us. I reserve the remainder of the time.

The PRESIDING OFFICER. The Senator from Illinois has 3 minutes 30 seconds remaining.

Mr. DURBIN. And the other side?

The PRESIDING OFFICER. The Senator from New Hampshire has 4 minutes 45 seconds.

Mr. DURBIN. Mr. President, I just listened to the passionate commitment of the Senator from New Hampshire to No Child Left Behind, and it is no surprise. When he made the same speech on the floor on behalf of the legislation, it was so compelling, I joined him and voted for it. But I wonder, where was that passionate commitment to No Child Left Behind when ROBERT C. BYRD of West Virginia offered an amendment yesterday to pay for it?

Here is the rollcall. With the exception of my friend and colleague from Massachusetts, those who were giving these passionate speeches about No Child Left Behind had a chance yesterday to pay for it and refused to do so. They refused to put the money down to pay for this great, new idea, this new Federal mandate.

Lest you believe this is just an issue in Chicago, IL, in a place called Concord, NH, on August 18 they released the State budget. They have a problem.

The budget contains \$1 in each—\$1 in each—of the next 2 years for State assessment tests. If the money is not found, and soon, to pay for the next round of tests, the schools that are on the failing schools list cannot get off it.

It tells me that New Hampshire and Nebraska, like Illinois, like Massachusetts, and every State, are struggling to come up with resources for education.

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

Mr. DURBIN. No, I will not. You have your own time.

If we had voted for the Byrd amendment, \$19 million would have gone to the State of New Hampshire. If we had joined Senator KENNEDY voting for it, the Massachusetts allocation would have been \$129, and \$250 million from my own State. So let me say to those passionately committed to No Child Left Behind today, where were you yesterday? Where were you on the Byrd amendment when you could have put the money we promised into the bill?

To my friend Senator KENNEDY, it is indeed painful. It was unthinkable, when I ran for the Senate, that I would be in this position of debating him on an education issue, but we do disagree.

What I am eliminating is the mandate. Each and every school district in his State and my State can use the Federal funds for tutoring, for teacher quality, for afterschool. The funds that are available can be used. But the mandate is removed until we put an adequate amount of money on the table.

Regarding his State of Massachusetts, he speaks about the MCAS score, and he is proud of it. Yet the most recent report is this out of Massachusetts. The State is planning to eliminate tutorial assistance to students who fail the MCAS test, which is required for graduation, on their first try. Massachusetts, as good a story as there is to be told, is struggling, like the State of Louisiana and the State of Nebraska and the State of New Hampshire and the State of Illinois. Yet our mandates continue.

When I asked the head of the Chicago Public Schools System, his position on it, he said:

I am prepared to implement No Child Left Behind. I am happy to do it. But send me the resources to get it done.

And let me quote from a speech he recently gave in Chicago—Arne Duncan, head of Chicago Public Schools:

I would much rather invest Federal dollars in tutoring struggling students than transporting students outside their neighborhood. I would much rather invest Federal dollars for new schools and buy more buildings and help our teachers and our principals become better educators.

What this professional educator is saying to us is: For goodness' sake, if you are not going to fund the Federal mandate, don't impose it on us. Let us respond to the emergencies we face every single day.

I urge our colleagues to listen to their educators at home and support the amendment today.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

I have difficulty in following the logic of the Senator from Illinois saying, look, Massachusetts is eliminating the supplementary services and, therefore, this is a crisis situation.

I want to get additional funds. But make no mistake about it. We have section 1116 here. This is what his amendment does; it effectively suspends 1116. That is taking, out of the \$12 billion we have in title I, \$1.2 billion out of required teacher training.

You can say the States might still do it or local communities. We say it is important enough that, of the \$12 billion, at least 10 percent has to be provided for that. We are saying between 5 percent and 15 percent is going to have to be spent in supplementary services—required.

Not under the Durbin amendment. We require that. You vote for the Durbin amendment and you are eliminating the requirement of \$1.2 billion of required services today, that is required under that act, under the Durbin amendment.

Under the existing 1116, there are requirements for the development of new curriculum. That is eliminated. Under the Durbin amendment, you are going to get \$3 billion, what I call a slush fund. Senator DURBIN says local people can make up their minds and do a good job. We had that battle. We know what works. We know you need well-trained teachers. That is what 1116 provides. We know you need supplementary services. That is what 1116 provides. We know you need the new curriculum reform, and that is what 1116 provides.

At the end of his amendment, he says: Look, at the end of the day, if the State wants to, they can—nothing in this section is to be construed to prohibit a State.

As one who is committed to this, I don't want to see less money committed to training teachers in struggling schools; I want to see more. The Durbin amendment will mean less. I don't want to see less assistance for supplementary services; I want to see more. Under the Durbin amendment, you will get less.

The list goes on. Could I have 20 seconds?

Section 1116 is the heart and soul, in terms of the educational reforms. That is why there is such strong support from the civil rights community. I have listed the organizations in the civil rights community that take strong exception, who agree with the Senator from New Hampshire and myself and believe it is better to have these resources committed to the neediest and poorest children, rather than just giving a slush fund to the community.

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

The PRESIDING OFFICER. The Senator from New Hampshire has 2 minutes remaining.

Mr. GREGG. Mr. President, again, I join with the Senator from Massachu-

setts, agreeing with his comments. I want to go beyond that because the Senator from Illinois has unfortunately misrepresented the facts in New Hampshire. I hoped he would take a question on his time since he used his time to misrepresent the facts, but since he did not, I will try to correct the Senator from Illinois as to the facts in New Hampshire.

Yes, the State budget did zero out the assessment money, but that has nothing to do with this amendment. In fact, just the opposite. Under the No Child Left Behind bill, the average cost of developing tests in New Hampshire is \$300,000. Under No Child Left Behind, the State of New Hampshire receives \$500,000 for every test it develops, at the various grade levels. So the State actually makes \$200,000, and the legislature figured this out. That is why they zeroed it out, because they realized, instead of an unfunded mandate, what they were getting was more money than they needed to fund the test, and they intended to use that money to fund other parts of the State budget, and right now that is what the fight is about in New Hampshire. It has nothing to do with unfunded mandates.

The Senator from Illinois, in his desire to bring New Hampshire into the debate, appears to have misunderstood the position in New Hampshire, and he misunderstood the entire issue also, because if his position is that he is going to help the children of low-income parents in this country with his amendment, he is absolutely wrong, because he is taking away with his amendment the tools that the parents of those children need, tools such as tutorial services, tools such as public school choice, tools such as having teachers of title I students who understand the special needs of title I students be trained properly. He is taking away those tools with this amendment.

I certainly hope my colleagues in the Senate will join me and Senator KENNEDY, who has spent so many years on this issue, in voting down this amendment.

Mr. President, I yield the remainder of our time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DURBIN. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator has no time remaining.

Mr. SPECTER. Mr. President, I think we are ready to proceed with the amendment by the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. SPECTER. Mr. President, may we go to the Senator from Illinois for his amendment now?

Mr. ENSIGN. Mr. President, parliamentary inquiry: My understanding was the order would be that the Senator from Illinois would proceed, then myself, and then the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Nevada is correct.

Mr. DURBIN. Mr. President, I thank my colleague from Nevada.

Mr. President, what is the time allocation?

The PRESIDING OFFICER. Ten minutes equally divided.

Mr. DURBIN. Thank you very much.

AMENDMENT NO. 1613 TO AMENDMENT NO. 1542

Mr. DURBIN. Mr. President, the amendment which I am offering, with Senator KENNEDY now having joined forces with me as well as Senator EDWARDS and others in support, is an effort to provide money for teacher quality in the No Child Left Behind Act; that is; to fund the Federal mandate.

This bill cuts teacher quality grants by \$84 million, eliminating training for 20,000 teachers nationwide. The No Child Left Behind Act raises the standard for students and requires school districts to close the achievement gap between minority and nonminority students. It also raises standards for teachers, mandating that all teachers are highly qualified by the end of the 2005–2006 school year.

Research shows that teacher effectiveness is the single most important factor that influences student achievement. It is more important than the income of the student's family, for cumulative expenditures or any other investment in the classroom.

Students assigned to high-quality teachers can gain a full grade level of achievement of students over students in ineffective classes. Nine out of 10 Americans believe that improving teaching is the most important strategy for improving schools. Recent research links student learning to having licensed teachers.

Researchers in Arizona State found that students with certified teachers perform 20 percent better than assessments of those with noncertified.

A study at Stanford found that States such as North Carolina, Minnesota, Iowa, North Dakota, Wisconsin, and Maine that have complement student achievement standards and investment in teacher quality have higher achievement in reading and math.

The list goes on and on.

What we are saying with this amendment is that we need to find the resources that we promised under the No Child Left Behind Act.

This amendment is going to provide greater teacher quality and training that will help these students across America reach their potential because they have competent and qualified teachers in the classroom.

I hope my colleagues here who have had second thoughts about whether they want to fund the No Child Left Behind Act will not have second thoughts when it comes to teacher quality. Let us provide the resources that are necessary to make the No

Child Left Behind Act work and allow teachers to have the competence in the classroom to succeed.

I withhold the remainder of my time and yield to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, there is no doubt about the desirability of teacher quality programs and training. We currently have in education professional development \$3.378 billion. This is substantially more than the President's request.

Again, I would like to have more funds available from the budget resolution and the allocation, but we simply do not have it.

Mr. President, how much time does the Senator from Illinois have remaining?

The PRESIDING OFFICER. Two minutes thirty-eight seconds.

Mr. SPECTER. I am prepared to yield back my time. We are running on a very tough time schedule trying to finish this bill today. If the Senator from Illinois has nothing further to say—

Mr. DURBIN. I have very brief remarks and then I will conclude.

Let me make sure we understand exactly what this amendment does. I have spoken to the issue of teacher quality. There is \$325 million in State grants for that purpose. I think this shows an increase in the teacher quality commitment which is important for us to make sure the No Child Left Behind Act succeeds. There is another \$2 million for training teachers in technology.

How many times have we visited the classroom as Senators and found older teachers such as myself in age struggling to understand the new technology? The bill before us zeros that out. There is no money for preparing our teachers to use technology. This amendment adds \$62 million, and \$50 million for training teachers in math and science. It increases the investment by \$50 million to a total of \$150 million.

I think this is an extremely high priority when you consider the technical challenges facing us in this century. Finally, there is \$12.1 million for school leadership which helps to recruit, train, and retain principals and assistant principals. These are the people who have the responsibility to make the school work.

I think this \$450 million is money well spent—money that lets the No Child Left Behind Act have a chance to succeed. To shortchange it, unfortunately, will cause us to fall short of our promise and fall short of the mark in improving education across America.

I yield the remainder of my time.

The PRESIDING OFFICER (Mrs. DOLE). Does the Senator offer his amendment?

Mr. DURBIN. Of course. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mr. KENNEDY, Mr. EDWARDS, Mr. BINGAMAN, Mr. LAUTENBERG, and Mr. CORZINE, proposes an amendment numbered 1613 to amendment No. 1542.

Mr. DURBIN. Madam 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:

(Purpose: To provide additional funding for teacher quality programs under the Elementary and Secondary Education Act of 1965 and the Higher Education Act of 1965 and for the Mathematics and Science Partnerships and the school leadership program under the Elementary and Secondary Education Act of 1965)

On page 36, line 16, strike the period at the end and insert “: *Provided further*, That of the funds appropriated in this Act for the National Institutes of Health, \$85,000,000 shall not be available for obligation until September 30, 2004: *Provided further*, That in addition to amounts otherwise appropriated under this Act for grants to States under part A of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.), there are appropriated an additional \$325,000,000 for such grants: *Provided further*, That in addition to amounts otherwise appropriated under this Act for the Preparing Tomorrow's Teachers to Use Technology Program under part B of title II of the Higher Education Act of 1965 (20 U.S.C. 1041 et seq.), there are appropriated an additional \$62,094,000 for such program: *Provided further*, That in addition to amounts otherwise appropriated under this Act for the Mathematics and Science Partnerships program under part B of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6661 et seq.), there are appropriated an additional \$50,000,000 for such program: *Provided further*, That in addition to amounts otherwise appropriated under this Act for the school leadership program under section 2151(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6651(b)), there are appropriated an additional \$12,500,000 for such program: *Provided further*, That the amount \$6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be \$7,344,793,000: *Provided further*, That the amount \$6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be \$6,333,707,000.”

Mr. SPECTER. Madam President, there is no doubt about the quality or priority of what the Senator from Illinois has offered. We have \$3.378 in funding for educational professional development. I submit that this is adequate, and is certainly all we can do within the budget resolution.

I ask unanimous consent that this chart be printed in the RECORD.

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

LABOR-HHS-EDUCATION APPROPRIATION BILL
 [Resources Available Primarily for Educator Professional Development]

Programs	FY04 Senate	FY04 re-quest	FY03 con-ference rept.	FY02 com-parable	FY01 com-parable
State Grants for Improving Teacher Quality	\$2,850,000	\$2,850,000	\$2,930,825	\$2,850,000	\$2,108,000
Advanced Credentialing	9,935	9,935	9,935	10,000	18,500
Early Childhood Educator Professional Development	14,902	15,000	14,902	15,000	10,000
Math and Science Partnerships	100,344	12,500	100,344	12,500	.....
Troops to Teachers .....	.....	25,000	28,812	18,000	.....
Transition to Teaching	41,727	49,400	41,727	35,000	31,000
Preparing Tomorrow's Teachers to Use Technology .....	.....	.....	62,094	62,500	125,000
National Writing Project	18,890	.....	16,890	14,000	10,000
Civic Education	28,812	27,000	28,812	27,000	21,000
Teaching of Traditional American History	120,000	100,000	99,350	100,000	50,000
Special Education Personnel Preparation	91,899	90,000	91,899	90,000	81,952
Teacher Quality Enhancement	89,415	90,000	89,415	90,000	98,000
School Leadership	12,419	.....	12,419	10,000	0
Total	3,378,343	3,258,900	3,527,424	3,334,000	2,553,452
Percent	32.3	.....	38	.....	.....

Note: Programs listed above specifically support professional development activities for educators. States and school districts also use funding under the Title I Grants to LEAs program, Education Technology state Grant program and English Language Acquisition State Grant program for professional development, but these funds also support a range of other activities. According to the U.S. Department of Education at the President's proposed funding levels for these programs, \$814 million will be used under these state grant authorities on educator professional development.

Mr. SPECTER. Madam President, I yield the remainder of my time so we can proceed to the amendment by the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 1585 TO AMENDMENT NO. 1542

Mr. ENSIGN. Madam President, I ask that the pending amendment which is currently before the Senate be temporarily set aside, and I call up amendment No. 1585.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 1585 to amendment No. 1542.

Mr. ENSIGN. Madam 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:

(Purpose: To provide an additional \$100,000,000 to carry out the 21st Century Community Learning Centers Program under part B of title IV of the Elementary and Secondary Education Act of 1965)

At the end of title III, insert the following:

SEC. ____ (a) The total amount appropriated, out of any money in the Treasury not otherwise appropriated for fiscal year 2004, to carry out the 21st Century Community Learning Centers Program under part B of title IV of the Elementary and Secondary Education Act of 1965, shall be \$1,100,000,000.

(b) Each amount appropriated under this Act (other than amounts appropriated for the Department of Education) that is not required to be appropriated by a provision of law is reduced by the uniform percentage necessary to reduce the total amounts appropriated under this Act (other than amounts appropriated for the Department of Education) by \$100,000,000.

Mr. ENSIGN. Madam President, this amendment would increase funding for the 21st Century Community Learning Centers program by \$100 million.

This amendment does not bust the budget or cut any other education program in the budget. Rather, the amendment requires an across the board cut in every other title of this appropriations bill. This calculates to a

point zero-zero-one-two-percent across the board cut.

I am committed to ensuring that our schools have the assistance they need to make certain that our children leave the education systems as well-rounded individuals.

The 21st Century Community Learning Centers in Nevada, and across the country, work to create well-rounded individuals by partnering with groups such as local YMCAs, local children's museums, the Girl Scouts, Boys and Girls Clubs, and in Nevada, the City of Las Vegas, the University of Nevada, the Clark County Health District, the Nevada Youth Alliance, and America's Promise, just to name a few.

Last year 2,780 new applicants requested over \$1.9 billion from this program. Only 308 applications received approval and funding totaling \$206 million.

Currently in Nevada there are 6,750 children receiving services from a 21st Century Community Learning Center in their neighborhood. However, there are currently over 75,000 students eligible for this program in Nevada alone.

The benefits of this program should go without saying. Not only do children enrolled in these programs improve academically, but are also less likely to become caught up in the juvenile justice system.

According to the Department of Education, children who regularly attend high quality after-school programs have better peer relations and emotional adjustment, better grades and conduct in school, more academic and enrichment opportunities, spend less time watching television, and have lower incidences of drug use, violence, and pregnancy.

This makes sense considering that studies by the FBI have found that the peak hours for juvenile crime and victimization are the hours after school and before parents get home from work.

These important programs not only give students a place to go after school, but use that time to give students assistance with their homework, provide additional English lessons to students

who do not use English has their first language, and give these kids a safe place to interact with their peers.

I ask my colleagues to not give up on the thousands of children across America who may need a little extra help to succeed in school and support this amendment.

Senator BOXER offered an amendment earlier on the very program on which I am offering an amendment. Her amendment was for a larger increase in the afterschool program but her amendment was not offset. I totally support what she is trying to do. I believe very strongly in afterschool programs.

I am offering a \$100 million increase in the afterschool programs compared to what is currently in the bill. I know that the chairman has worked hard and has tried to get as much funding as he can. But as somebody who grew up in a situation as a latchkey kid, afterschool programs would have been very helpful to me. There are many, many children out there today who need afterschool programs to keep them out of the improper type of behavior that kids can engage in these days. It is cheaper to invest in these children in these afterschool programs than it is to spend the money when they get into trouble in the juvenile halls and some of them end up going to prison. These are wonderful programs.

I ask our colleagues to consider this amendment. I know we are trying to stay within the budget. Ours does. It shifts some funding from one place to another so we can provide this extra funding to get more kids into the afterschool programs.

I yield the floor.

Mr. SPECTER. Madam President, there is no doubt about the value of the afterschool programs. That has been recognized by the subcommittee and we have put \$1 billion in the program. This is \$400 million more than the President's request. Would we like to have additional funds? Certainly we would, but we simply don't have it within our allocation.

The amendment offered by the Senator from Nevada with an across-the-board cut would cut into many very important programs. There will be fewer youth employment training centers, fewer NIH grants, fewer dislocated worker trainees, fewer kids in Head Start, and fewer kids in child care.

In the interest of time, I ask unanimous consent that this chart be printed in the RECORD.

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

The Ensign amendment has an across-the-board cut of \$100,000,000 (.0012%) to all programs except Education. This would mean a cut of: -\$1,201,000 (470 fewer youth Employment Training jobs); -\$1,080,000 (600 fewer Adult Training jobs); -\$1,718,000 (1,000 fewer Dislocated Worker trainees); -\$33,579,000 (100 fewer NIH grants); -\$2,165,000 (1,000 fewer people receive substance abuse treatment); -\$526,000 (300 fewer people receiving mental health services); -\$8,179,000 (1,200 fewer kids in Head Start); -\$2,520,000 (600 fewer kids in child care); -\$685,000 (400,000 fewer meals served to seniors); and -\$10,236,000 (6,500 fewer Social Security disability claims processed).

Mr. SPECTER. Madam President, we have structured this bill very carefully and crafted it very carefully. While I appreciate the interest of the Senator from Nevada, if we restructure it with these across-the-board cuts, we will be digging into a lot of vital programs which the subcommittee and the committee have carefully considered and crafted on what we think is balanced.

I yield back the remainder of my time so we can move to the amendment of the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 1614 TO AMENDMENT NO. 1542

Ms. LANDRIEU. Madam 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 Louisiana [Ms. LANDRIEU] proposes an amendment numbered 1614 to amendment No. 1542.

Ms. LANDRIEU. Madam President, 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:

(Purpose: To provide additional funds for programs relating to West Nile Virus and to fund the Mosquito Abatement for Safety and Health Act)

On page 61, between lines 14 and 15, insert the following:

SEC. ____ (a) IN GENERAL.—In addition to amounts otherwise appropriated under this Act for programs relating to West Nile Virus, there are appropriated an additional \$25,000,000 for the Centers for Disease Control and Prevention to fund such programs, of which \$1,250,000 shall be set aside for Indian tribes and tribal organizations, and there are appropriated an additional \$100,000,000 for the Centers for Disease Control and Prevention to fund programs under the Mosquito Abatement for Safety and Health Act (Public Law 108-75), of which \$5,000,000 shall be set

aside for Indian tribes and tribal organizations.

(b) OFFSET.—Of the funds appropriated under this Act for the National Institutes of Health, \$145,000,000 shall not be available for obligation until September 30, 2004. The amount \$6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be \$7,020,199,000, and the amount \$6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be \$6,658,301,000.

Ms. LANDRIEU. Madam President, we have had a series of very important amendments. The priorities of Members and their States are reflected in each amendment that has been offered, and the amendments of Senator BREUX, one of the cosponsors, Senator DASCHLE, Senator JOHNSON, and others, is the same. This is a very important issue to our State and an issue we hope we can find some redress to in this appropriations bill.

My amendment seeks to fund a new piece of legislation passed last year with a great deal of fanfare because the situation is so obvious relating to the West Nile virus sweeping the United States.

Because of this very frightening situation, the Congress acted appropriately last year. Several Members joined together with States that had been very hard hit to pass a new piece of Federal legislation saying yes, the Federal Government should step to the plate and help our States with treatment, with education for the population, with prevention, and also with methods in place to basically kill the mosquitoes and kill the dangerous larvae that create the situation.

There are a lot of serious issues. I don't mean to compare this in any way with the degree of the heartbreak in which we engage in the war in Iraq because that is such an international and extremely important issue. Just to let the taxpayers know, to date we had 286 people die in a war; we have had 246 people die in the United States of West Nile virus. The small, modest amendment I am offering, which is only \$100 million, to fully fund this program makes small grants available to the States. This would help save lives, would help the country become more aware of what individuals and communities can do to protect themselves. Hopefully, with just a little bit of help from the Federal Government, our States will step to the plate.

In 2002, we had 884 cases reported in Illinois. In that State alone, 64 people have died. In Michigan, we have had 614 positive cases of West Nile and 51 people died as a result. My State has been hard hit. In Louisiana we had 329 cases in 2002 and 25 deaths. Other States that have registered high numbers of cases are Colorado, South Dakota, and Louisiana for 2003. Mosquitos are not a new enemy in Louisiana. As a low-lying swampy place, we have been battling this for literally hundreds of years. However, they are more than a nuisance; they are deadly. This is a very serious public health issue in the United States.

The bill last year was passed with great fanfare, authorizing a very simple, modest, but important Federal program to help give moneys to local counties—in our State that would be parishes—to help with mosquito abatement programs. It requires a local government match. Without this money there will be no assistance for the State and local governments to help with the West Nile virus and mosquito control. This funding will make it possible for State and local jurisdictions to develop and implement effective programs. I am proud to say Louisiana has been a leader. Of course, for 300 years we have been fighting mosquitos. We have a lot of experience. Many of the coastal States, including North Carolina, have experienced difficulties, as well as Alaska, I understand. It is interesting to note that it is not limited to just the coastal States.

Again, the highest incidence is in Illinois, Michigan, and Ohio. People are dying. This can be a fatal condition.

Madam President, my amendment seeks to fund the new but very important program to help local governments deal with the West Nile virus. I hope we find the resources in this budget to do so.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Madam President, I will use a couple of minutes of leader time to compliment the distinguished Senator from Louisiana for her amendment. I am pleased to be a cosponsor. This is a particularly difficult problem for many in the Upper Midwest. We now have more than 500 South Dakotans infected by West Nile and seven people have died. Last week 41 cases were reported in 1 day in our State. That we had only 37 cases last year versus over 500 is a sign of the dramatic increase in the problem we are now experiencing. This is a very serious health issue. Tribal populations, in particular, in South Dakota are concerned about accessing the West Nile funding that is available. This amendment contains a tribal set-aside which will help them to access the funds directly from the CDC.

While the problem is particularly acute in South Dakota right now, West Nile virus, as the Senator from Louisiana has pointed out, is a national problem. Over 4,150 cases across the country have now been identified, and nationwide more than 280 people have already died.

This situation is a national issue that deserves far more national attention than the CDC has been able to give it so far. That is why the amendment is so critical and that is why I am hopeful that, on a bipartisan basis, we can support it this afternoon.

I yield the floor.

Mr. JOHNSON. Mr. President, today I join my colleagues Senators LANDRIEU and DASCHLE in offering this West Nile Virus amendment to the Labor-HHS appropriations bill. As many of you know, West Nile Virus has returned

this mosquito season and has already impacted numerous states. Particularly hard hit this year have been Colorado, Nebraska, Wyoming and my home State of South Dakota. Last year, South Dakota only experienced 37 human cases of West Nile, and this year that number has already risen to 583 cases and 7 deaths, representing the highest per capita rate in the Nation.

It is hard to believe that just a few short years ago West Nile Virus had never even been heard of in this country, and this year the total case count has climbed to almost 3000 and took the lives of many. In just one year we learned that this illness could be transmitted not only by mosquitoes, but through blood, tissues and even breast milk. Our recent experiences with this illness and Severe Acute Respiratory Syndrome are just two examples that should make us aware of how critical it is that we be prepared to respond swiftly and effectively to newly emerging infectious disease threats that now face our country and our friends across the globe.

Over the last month, I have met with experts on this issue in South Dakota, as well as CDC Director Dr. Julie Gerberding to try and get a better handle on what is happening in my State and across the Nation regarding this virus. What I have heard from the experts in South Dakota is that our cities and counties are woefully underfunded and ill-equipped to handle the pressing needs to get information to the public and protect the public health from this threat. Community understanding of the virus and how to combat it at the local level is minimal, and State and Federal support is sorely needed.

I have also heard from people in Indian Country who have said that fear is rampant on the reservations and that there is virtually no money for public education and even less for mosquito abatement. Our State lab capacity is fairly good, but turnaround time on tests takes several days and the lab is not open 24 hours, 7 days a week. The medical community has indicated that less than optimal lab testing capabilities for West Nile has resulted in doctors ordering unnecessary and costly tests and treatments.

For these reasons, it is important that we fund not only the newly enacted Mosquito Abatement for Safety and Health or MASH Act, which will provide local communities with funds for mosquito abatement, but also provide CDC with additional funding under its existing authorities for other public health activities in 2004. In South Dakota and I imagine in other States, health departments, public health professionals and the provider community are doing everything they can to prevent and control this illness with resources available. However, we can do better to help them improve public health infrastructure, public education and increased lab capacities, which all mean better West Nile prevention, sur-

veillance and detection of an illness that has challenged South Dakota's public health system and others around the Nation.

Investing in these types of activities will allow us to prepare for next year, when States like mine may experience an even worse outbreak of the virus in South Dakota. In my discussions with Dr. Gerberding last week, she indicated that experts believe that the virus will move West, and has the potential to hit larger communities in California and across the coast, which could present an even greater public health challenge than what we have experienced in South Dakota this year.

I thank Senators LANDRIEU and DASCHLE for their work on this amendment which will provide \$100 million to fund the MASH Act, which did not receive any funding in the President's budget nor in the current bill on the floor. This amendment will also provide \$25 million for other West Nile public health-related grants to States through the CDC to provide public education, information dissemination and basic public health infrastructure. We have also included funding for tribal set asides through these two appropriations which is so important to our reservations that have been hit hard by West Nile this year with little financial assistance.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, there is no doubt about the seriousness of the problem of West Nile. I made a trip to the Centers for Disease Control on Saturday and took a look at their operation, took a look at their charts, took a look at their projections as to where West Nile had struck, the number of illnesses, the number of fatalities. However, we are funding the Centers for Disease Control now at \$5.760 billion. It is true \$1.100 billion is directed additionally for bioterrorism, but that agency is extensively funded.

With respect to the allocation directly for West Nile, they have \$36.760 million in this bill. We have in NIH at least \$40 million more, for a total of \$76 million. Here again, I would like to see additional funding if we had the money.

When we talk about the funding for the mosquitos of \$100,000, I went over, in a lengthy visit at the Centers for Disease Control, their priorities and their needs. That is a program just recently authorized. There was no request by the administration. With the tremendous constraints on the rest of the bill we did not fund it. However, I believe we have adequately funded West Nile. And certainly we have funded the Centers for Disease Control. So they are in a position to allocate additional funds if they think it is necessary. But on this phase of the record, I think our appropriations bill is adequate.

Madam President, I yield the floor.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Madam President, the manager of the bill is soon going to offer a unanimous consent request to start a series of votes forthwith: is that right?

Mr. SPECTER. That is correct, Madam President.

Mr. REID. Madam President, I say, while the Democratic leader is on the floor, we on the minority side have said we are going to do everything we can to finish this bill today. But we have just been informed that starting at 3:15, there will be no votes for probably 2 hours. That is going to make it very difficult.

So I hope during this first vote, the two leaders can visit to see if there is some way we can condense that time. Otherwise, it is going to be very difficult to finish this bill at a decent hour tonight.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I support what the assistant Democratic leader has had to say. We have six votes stacked now. We are going to have quite a number of additional votes. There is a tempo around the Senate of completing the bill. If we are to finish this bill tonight, we are going to have to work through.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. If the Senator yields, I, as chairman of the committee, understand fully the necessity to have these votes and this momentum continue. But in my time here in some 35 years, I have never seen the unveiling of a statue for Statuary Hall be interrupted by a vote.

I suggest if we are going to have votes, we could stack a vote. It only means stacking one vote to do that. But from the hour of 4:30 to 5:30, I believe the honor we are bestowing on the former Vice President, by putting his bust in the Hall, should be respected. I hope the managers of the bill will comply with tradition and allow that to continue. It just merely means stacking a vote. If one, by chance, is to be scheduled between 4:30 and 5:30, I urge that it be stacked beyond the hour of 5:30.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Madam President, I say to my friend, the distinguished chairman of the committee, we will work any way we can. I served with Senator Quayle, Vice President Quayle, and want to make sure he receives the honor to which he is entitled.

We also have a briefing upstairs, so it is not an hour we are concerned about; it is 2 hours. We have an obligation on this side, having told the manager of the bill and the majority leader we would finish this bill tonight. I am just saying, it is going to be really tough when we have 2 hours of basically doing nothing.

Mr. SPECTER. Madam President, I suggest we move to the next vote.

AMENDMENT NO. 1609

Madam President, the first vote is on the amendment offered by the Senator

from California, Mrs. BOXER, on after-school programs. This account has \$1 billion in it. It has an increase of some \$400 million over and above what the administration has requested.

Here again, if we had a larger allocation under the budget resolution for this subcommittee, we could do more. But I think the appropriation of \$1 billion is realistic and reasonable within the constraints of the subcommittee.

Therefore, I raise a point of order under section 504 of the concurrent resolution that the pending amendment is in violation of the Budget Act.

Mr. REID. Is the Senator talking about the Boxer amendment?

Mr. SPECTER. Yes.

Mr. REID. Madam President, under the applicable statutes, I move to waive the budget point of order 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.

Mr. SPECTER. Madam President, I ask unanimous consent that on the subsequent votes, as we proceed through as many votes as we can complete before 3:15, the votes be 10 minutes in duration.

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

Mr. SPECTER. I thank the Chair and call for the vote.

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.

Mr. MCCONNELL. I announce that the Senator from Oregon (Mr. SMITH) is absent because of a death in the family.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "aye."

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

The yeas and nays resulted—yeas 46, nays 49, as follows:

[Rollcall Vote No. 340 Leg.]

YEAS—46

Akaka	Dorgan	Lincoln
Baucus	Durbin	Mikulski
Bayh	Ensign	Murkowski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Harkin	Nelson (NE)
Breaux	Hollings	Pryor
Byrd	Inouye	Reed
Cantwell	Jeffords	Reid
Carper	Johnson	Rockefeller
Clinton	Kennedy	Sarbanes
Conrad	Kohl	Schumer
Corzine	Landrieu	Stabenow
Daschle	Lautenberg	Wyden
Dayton	Leahy	
Dodd	Levin	

NAYS—49

Alexander	DeWine	McConnell
Allard	Dole	Miller
Allen	Domenici	Nickles
Bennett	Enzi	Roberts
Bond	Fitzgerald	Santorum
Brownback	Frist	Sessions
Bunning	Graham (SC)	Shelby
Burns	Grassley	Snowe
Campbell	Gregg	Specter
Chafee	Hagel	Stevens
Chambliss	Hatch	Sununu
Cochran	Hutchison	Talent
Coleman	Inhofe	Thomas
Collins	Kyl	Voinovich
Cornyn	Lott	Warner
Craig	Lugar	
Crapo	McCain	

NOT VOTING—5

Edwards	Kerry	Smith
Graham (FL)	Lieberman	

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 49. 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.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Madam President, I yield 1 minute to the distinguished Senator from California from leader time.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, I ask a minute of my colleagues' time to call attention to this vote we just cast because I think sometimes we go through the motions and we do not connect the dollar amounts to the children.

We have just deprived 300,000 children in every one of our States of after-school care, after being told by law enforcement that it helps solve crime problems, after being told by parents that it makes their children happy, after learning from study after study that the kids do better.

I think it is very sad, indeed, for the children of America to know they will not have this afterschool opportunity that will keep them on the right track when we are giving billions of dollars to the children of Iraq and billions of dollars to the children of Afghanistan. Lord knows, I want to help them, too. But how about the children of America who were promised in No Child Left Behind that they would get afterschool care?

This program has been flat-lined for 3 years in a row. It is a sad day, and I hope we will reverse ourselves at a future date.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Now we go to the Landrieu amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 1610

Ms. LANDRIEU. Madam President, there are fewer issues that bring consensus to the table than the issue of adoption. We in this Congress have worked in a bipartisan manner to help our families be stronger and safer and to help children in foster care.

There are 570,000 children in foster care. This amendment allows us to help

them with \$118 million to live up to the commitments we have made to these children.

Madam President, 100,000 of them are orphans. We promised to help 25,000 who age out of foster care get a chance to go to college. These children have no parents. We are their parents. If we do not help them get to school, they are not going. That is what this amendment does.

We agree on adoption. We agree on improvements to foster care. Let us vote to increase the funding. It is minuscule and inconsequential to this budget, but it is of enormous importance to this group of people and to these children.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, there is no doubt about the desirability of the program encompassed in the amendment by the Senator from Louisiana. We already have in the account \$100 million. I wish we had more money, but that is the maximum we can do with the budget resolution within the allocation. Therefore, with reluctance, I raise a point of order under the Budget Act and the resolution and say that the amendment by the Senator from Louisiana is not in order.

Ms. LANDRIEU. Madam President, I ask unanimous consent that the list of States and the amounts of money that will be lost be printed in the RECORD.

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

PROMOTING SAFE AND STABLE FAMILIES PROGRAM ESTIMATED ALLOTMENTS AT FY2003 ENACTED LEVEL AND FY2004 ADMINISTRATION-REQUESTED LEVELS

(Dollars in thousands)

	FY2003 enacted appropriation level	FY2004 requested funding level
Alabama	\$8,126	\$10,112
Alaska	803	999
Arizona	6,129	7,626
Arkansas	4,792	5,963
California	54,345	67,621
Colorado	3,230	4,019
Connecticut	3,452	4,295
Delaware	751	935
District of Columbia	1,664	2,070
Florida	16,973	21,119
Georgia	12,613	15,695
Hawaii	2,264	2,818
Idaho	1,179	1,467
Illinois	16,215	20,176
Indiana	6,033	7,507
Iowa	2,375	2,955
Kansas	2,084	2,593
Kentucky	6,721	8,363
Louisiana	10,753	13,380
Maine	1,523	1,895
Maryland	5,360	6,669
Massachusetts	5,479	6,818
Michigan	13,664	17,002
Minnesota	3,947	4,911
Mississippi	6,044	7,521
Missouri	7,793	9,696
Montana	1,114	1,387
Nebraska	1,676	2,086
Nevada	1,277	1,589
New Hampshire	745	926
New Jersey	7,353	9,149
New Mexico	3,575	4,448
New York	27,804	34,596
North Carolina	9,721	12,096
North Dakota	605	752
Ohio	12,148	15,115
Oklahoma	5,157	6,417
Oregon	3,952	4,918
Pennsylvania	15,057	18,735
Rhode Island	1,608	2,000
South Carolina	6,176	7,685
South Dakota	908	1,130
Tennessee	9,126	11,356

PROMOTING SAFE AND STABLE FAMILIES PROGRAM ESTIMATED ALLOTMENTS AT FY2003 ENACTED LEVEL AND FY2004 ADMINISTRATION-REQUESTED LEVELS—Continued

(Dollars in thousands)

	FY2003 enacted appropriation level	FY2004 requested funding level
Texas	31,891	39,682
Utah	1,896	2,359
Vermont	725	902
Virginia	6,748	8,397
Washington	5,995	7,460
West Virginia	3,836	4,773
Wisconsin	3,976	4,947
Wyoming	488	607
Territories:		
American Samoa	214	250
Guam	401	483
Northern Mariana Islands	154	175
Puerto Rico	7,799	9,706
Virgin Islands	317	378
Set-Asides:		
Tribes	5,037	7,050
State Court Improvement	13,279	16,599
Evaluation, Research and T&A	9,279	12,599
Total	404,350	504,978

Source: Prepared by the Congressional Research from information provided by the Department of Health and Human Services (FY2003 allocations) and published in HHS budget justifications (FY2004 proposed allocations).
Note: Numbers may not total due to rounding.

Ms. LANDRIEU. Madam President, pursuant to section 504(b)(2) of H. Con. Res. 95, I move to waive section 504 of that concurrent resolution for the purposes of the pending amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Mr. SPECTER. Madam President, the managers would like to have one additional vote before people go to the meeting with Secretary Powell. So I ask Senators to stay in the Chamber. If we are to finish this bill today, we are going to have to move along with dispatch.

The PRESIDING OFFICER. The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Oregon (Mr. SMITH) is absent because of a death in the family.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "aye."

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

The yeas and nays resulted—yeas 49, nays 46, as follows:

[Rollcall Vote No. 341 Leg.]

YEAS—49

Akaka	Byrd	Daschle
Baucus	Cantwell	Dayton
Bayh	Carper	DeWine
Biden	Clinton	Dodd
Bingaman	Collins	Dorgan
Boxer	Conrad	Durbin
Breaux	Corzine	Feingold

Feinstein	Lautenberg	Reed
Harkin	Leahy	Reid
Hollings	Levin	Rockefeller
Hutchison	Lincoln	Sarbanes
Inouye	Mikulski	Schumer
Jeffords	Murkowski	Snowe
Johnson	Murray	Stabenow
Kennedy	Nelson (FL)	Wyden
Kohl	Nelson (NE)	
Landrieu	Pryor	

NAYS—46

Alexander	Dole	McConnell
Allard	Domenici	Miller
Allen	Ensign	Nickles
Bennett	Enzi	Roberts
Bond	Fitzgerald	Santorum
Brownback	Frist	Sessions
Bunning	Graham (SC)	Shelby
Burns	Grassley	Specter
Campbell	Gregg	Stevens
Chafee	Hagel	Talent
Chambliss	Hatch	Sununu
Cochran	Inhofe	Talent
Coleman	Kyl	Thomas
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	McCain	

NOT VOTING—5

Edwards	Kerry	Smith
Graham (FL)	Lieberman	

The PRESIDING OFFICER. On this vote the yeas are 49, the nays are 46. 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.

The Senator from Pennsylvania. Mr. SPECTER. Madam President, may we proceed with the Durbin amendment?

AMENDMENT NO. 1611

Mr. DURBIN. Madam President, like many Members of the Senate, I voted in favor of No Child Left Behind, a bipartisan effort to bring accountability to education, mandates on local school districts to test kids, and if the test scores did not meet certain levels they would be mandated to make necessary changes in the way they taught the children. The understanding was we would provide resources to the school districts to help them meet this challenge. This bill fails by \$6 billion to provide the resources for the school districts.

My amendment says this: We will suspend the mandates. We require the testing to continue so we know the progress being made by the students. But unless and until we are ready to fund this bill as we promised, we are suspending the mandates on the school districts to move children within the school districts, and the other mandated requirements.

I say to my friends, when you go home and speak to the leaders in school districts, they will tell you, as good an idea as this was, Senator, you are not providing the funds. It is an unfunded Federal mandate.

I hope if you have heard the same story from your local school districts that are ready to work with us, ready to comply with No Child Left Behind, you will join me in suspending these mandates until we reach the funding level we promised under No Child Left Behind.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I yield my time to the Senator from Massachusetts.

Mr. KENNEDY. Madam President, I will take 30 seconds and the Senator from New Hampshire 30 seconds.

Madam President, I ask the membership just to read the amendment:

None of the funds made available may be used by the Department to enforce section 1116.

Section 1116 requires, out of the \$12 billion, 10 percent to be used for training teachers for struggling schools. It requires 10 percent or more to be used for supplementary services for children. It provides flexibility for children in the poorest areas to have some choice for public school choice.

It provides also about \$800 million for new curriculum. Why in the world do we want to have \$3 billion of the \$12 billion in a slush fund? We know what works—good teachers, good curriculum, good supplementary services. That was the bill that came out of our committee. That is what this will undermine. Just read the last three sentences. It says nothing in this section shall be construed to prohibit a State or local agency from implementing. That is an option. It isn't a requirement.

I hope the amendment will be defeated.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I want to associate myself with Senator KENNEDY on this amendment. It is unfortunately ill conceived because its practical effect would be to deny parents the empowerment tools which we give them under the No Child Left Behind Act—specifically, the tools to get tutorial services for their children if the school they are in isn't working, and to get the opportunity to send their children to other public schools if the school they are in isn't working.

The No Child Left Behind Act was aimed at low-income children and giving parents of low-income children the tools to educate those children so they are not left behind.

The Durbin amendment would put a stake through the heart of the essence of the No Child Left Behind Act.

Mr. DURBIN. Madam President, how much time is allocated under this amendment?

The PRESIDING OFFICER. Ten minutes.

Mr. DURBIN. Ten minutes?

Mr. REID. No. Madam President, it is 1 minute.

The PRESIDING OFFICER. The Chair understands that there is an agreement for 1 minute on each side.

Mr. DURBIN. How much has been consumed on each side?

The PRESIDING OFFICER. One minute.

Mr. REID. Madam President, I am happy to hear everybody speak. But this whole system is flawed. If we are going to have 1 minute, I would ask the Chair to hold to 1 minute. I went to the Republican side today: Please have the

Chair stick to what the rules are. We want to try to finish this bill. But these speeches are unending on both sides.

Mr. NICKLES. Regular order.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Oregon (Mr. SMITH) is absent because of a death in the family.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

The result was announced—yeas 28, nays 67, as follows:

[Rollcall Vote No. 342 Leg.]

YEAS—28

Baucus	Durbin	Mikulski
Boxer	Feingold	Murray
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Reid
Cantwell	Inouye	Rockefeller
Conrad	Jeffords	Sarbanes
Corzine	Johnson	Schumer
Daschle	Lautenberg	Stabenow
Dayton	Leahy	
Dorgan	Levin	

NAYS—67

Akaka	DeWine	McCain
Alexander	Dodd	McConnell
Allard	Dole	Miller
Allen	Domenici	Murkowski
Bayh	Ensign	Nelson (FL)
Bennett	Enzi	Nickles
Biden	Feinstein	Pryor
Bingaman	Fitzgerald	Reed
Bond	Frist	Roberts
Brownback	Graham (SC)	Santorum
Bunning	Grassley	Sessions
Burns	Gregg	Shelby
Campbell	Hagel	Snowe
Carper	Hatch	Specter
Chafee	Hutchison	Stevens
Chambliss	Inhofe	Sununu
Clinton	Kennedy	Talent
Cochran	Kohl	Thomas
Coleman	Kyl	Voinovich
Collins	Landrieu	Warner
Cornyn	Lincoln	Wyden
Craig	Lott	
Crapo	Lugar	

NOT VOTING—5

Edwards	Kerry	Smith
Graham (FL)	Lieberman	

The amendment (No. 1611) was rejected.

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 1544, 1560, 1578, 1558, AND 1552, AS MODIFIED, EN BLOC

Mr. STEVENS. Madam President, I have at the desk a series of amendments that have been modified. I ask that these amendments be modified

and adopted. They are amendment No. 1544 by Senator AKAKA; amendment No. 1560 by Senator DEWINE; amendment No. 1578 by Senator DEWINE; amendment No. 1558 by Senator KOHL; and amendment No. 1552 by Senator MIKULSKI.

I ask unanimous consent they be modified.

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

Mr. STEVENS. I ask that the amendments be considered en bloc and agreed to en bloc.

The PRESIDING OFFICER. The question is on agreeing to the amendments, as modified.

The amendments, as modified, were agreed to, as follows:

AMENDMENT NO. 1544, AS MODIFIED

At the end of title III, insert the following:
SEC. 306. In addition to any amounts that may be made available under this Act to carry out the Excellence in Economic Education Act of 2001 under subpart 13 of part D of title V of the Elementary and Secondary Education Act of 1965, there are appropriated, out of any money in the Treasury not otherwise appropriated, \$2,000,000 to carry out the Excellence in Economic Education Act of 2001.

AMENDMENT NO. 1560, AS MODIFIED

On page 61, between lines 14 and 15, insert the following:

SEC. __. To provide funding for poison control centers under the Poison Control Enhancement and Awareness Act (42 U.S.C. 14801 et seq.), there are appropriated a total of \$23,854,000, including amounts otherwise made available in this Act for such centers.

AMENDMENT NO. 1578, AS MODIFIED

On page 76, between lines 10 and 11, insert the following:

Sec. __. For necessary expenses for the Underground Railroad Education and Cultural Program, there are appropriated \$2,235,000.

AMENDMENT NO. 1558, AS MODIFIED

At the appropriate place insert the following:

Sec. __. In addition to any amounts otherwise appropriated under this Act under the heading of ADMINISTRATION ON AGING, there are appropriated an additional \$1,000,000: *Provided*, That in addition to the amounts already made available to carry out the ombudsman program under chapter 2 of title VII of the Older Americans Act of 1965 (42 U.S.C. 3058 et seq.), there are made available an additional \$1,000,000.

AMENDMENT NO. 1552, AS MODIFIED

At the appropriate place in title II, insert the following:

SEC. __. STUDIES CONCERNING MAMMOGRAPHY STANDARDS.

(a) STUDY BY GAO.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the program established under the Mammography Quality Standards Act of 1992 (section 354 of the Public Health Service Act (42 U.S.C. 263b)) (referred to in this section as the “MQSA”) to—

(A) evaluate the demonstration program regarding frequency of inspections authorized under section 354(g) of the Public Health Service Act (42 U.S.C. 263b(g)), including the effect of the program on compliance with the MQSA;

(B) evaluate the factors that contributed to the closing of the approximately 700 mammography facilities nationwide since 2001, whether those closings were due to consolidation or were a true reduction in mammog-

raphy availability, explore the relationship between certified units and facility capacity, and evaluate capacity issues, and determine the effect these and other closings have had on the accessibility of mammography services, including for underserved populations, since the April 2002 General Accounting Office report on access to mammography; and

(C) evaluate the role of States in acting as accreditation bodies or certification bodies, or both, in addition to inspection agents under the MQSA, and in acting as accreditation bodies for facilities in other States and determine whether and how these roles affect the system of checks and balances within the MQSA.

(2) REPORT.—Not later than 16 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives a report on the study described in paragraph (1).

(b) STUDY BY THE INSTITUTE OF MEDICINE.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall enter into an agreement with the Institute of Medicine of the National Academy of Sciences for the conduct of a study and the making of recommendations regarding the following:

(A) Ways to improve physicians' interpretations of mammograms, including approaches that could be taken under the MQSA without negatively impacting access to quality mammography.

(B) What changes could be made in the MQSA to improve mammography quality, including additional regulatory requirements that would improve quality, as well as the reduction or modification of regulatory requirements that do not contribute to quality mammography, or are no longer necessary to ensure quality mammography. Such reduction or modification of regulatory requirements and improvements in the efficiency of the program are important to help eliminate disincentives to enter or remain in the field of mammography.

(C) Ways, including incentives, to ensure that sufficient numbers of adequately trained personnel at all levels are recruited and retained to provide quality mammography services.

(D)(i) How data currently collected under the MQSA could be used to improve the quality, interpretation of, and access to mammography.

(ii) Identification of new data points that could be collected to aid in the monitoring and assessment of mammography quality and access.

(E) Other approaches that would improve the quality of and access to mammography services, including approaches to improving provisions under the MQSA.

(F) Steps that should be taken to help make available safe and effective new screening and diagnostic devices and tests for breast cancer.

(2) REPORT.—Not later than 15 months after the date on which the agreement is entered into under paragraph (1), the Institute of Medicine shall complete the study described under such subsection and submit a report to the Secretary of Health and Human Services, the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate, and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives.

(3) FUNDING.—Of the amounts appropriated under this title to the Office of the Secretary

of Health and Human Services for general departmental management, \$500,000 shall be made available to carry out the study under this subsection.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1616 TO AMENDMENT NO. 1542

Mr. STEVENS. Madam President, I offer an amendment on behalf of Senators COLLINS and FEINGOLD regarding funding for dental health and ask unanimous consent for its immediate consideration.

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

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Ms. COLLINS, for herself and Mr. FEINGOLD, proposes an amendment numbered 1616.

Mr. STEVENS. Madam 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:

(Purpose: To provide additional funding for grants for innovative programs to address dental workforce needs of designated dental health professional shortage areas)

On page 49, line 21, insert before the period the following: “: *Provided further*, That of this amount, \$3,000,000 shall be made available to carry out section 340G of the Public Health Service Act (42 U.S.C. 256g) (in addition to other amounts appropriated under this title for such purpose)”.

Mr. STEVENS. Madam President, I ask unanimous consent that the amendment be adopted.

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

The amendment (No. 1616) was agreed to.

Mr. STEVENS. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1617 TO AMENDMENT NO. 1542

Mr. STEVENS. Madam President, I send to the desk an amendment on behalf of Senator INHOFE regarding impact aid and ask unanimous consent for its immediate consideration.

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

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. INHOFE, proposes an amendment numbered 1617.

The amendment is as follows:

(Purpose: To provide additional funding for Impact Aid programs)

On page 63, line 2, strike “\$1,188,226,000, of which \$1,025,292,000” and insert “\$1,193,226,000, of which \$1,030,292,000”.

Mr. STEVENS. Madam President, I ask unanimous consent that the amendment be adopted.

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

The amendment (No. 1617) was agreed to.

Mr. STEVENS. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1618 TO AMENDMENT NO. 1542

Mr. STEVENS. Madam President, I send to the desk an amendment on behalf of Senator WYDEN regarding an NIH report and ask unanimous consent for its consideration.

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

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. WYDEN, proposes an amendment numbered 1618.

The amendment is as follows:

(Purpose: To provide for a report on the availability and affordability of products developed with public funding)

On page 61, between lines 14 and 15, insert the following:

SEC. _____. Not later than 90 days after the date of enactment of this Act, the Director of the National Institutes of Health shall submit to the appropriate committees of Congress a report that shall—

(1) contain the recommendations of the Director concerning the role of the National Institutes of Health in promoting the affordability of inventions and products developed with Federal funds; and

(2) specify whether any circumstances exist to prevent the Director from promoting the affordability of inventions and products developed with Federal funds.

Mr. STEVENS. Madam President, I ask unanimous consent that the amendment be adopted.

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

The amendment (No. 1618) was agreed to.

Mr. STEVENS. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1619 TO AMENDMENT NO. 1542

Mr. STEVENS. Madam President, I send to the desk an amendment on behalf of Senator ENSIGN regarding census data and ask unanimous consent for its consideration.

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

The legislative clerk read as follows: The Senator from Alaska [Mr. STEVENS], for Mr. ENSIGN, proposes an amendment numbered 1619.

The amendment is as follows:

(Purpose: To provide for annually updated educational agency level census poverty data)

On page 62, line 6, insert “annually” after “obtain”.

Mr. STEVENS. Madam President, I ask unanimous consent that the amendment be adopted.

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

The amendment (No. 1619) was agreed to.

Mr. STEVENS. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1620 TO AMENDMENT NO. 1542

Mr. STEVENS. Madam President, I send to the desk an amendment on behalf of Senator SPECTER and ask unanimous consent for its consideration.

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

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. SPECTER, proposes an amendment numbered 1620.

The amendment is as follows:

(Purpose: To provide an offset for additional spending)

At the end of title V, add the following:

SEC. _____. (a) IN GENERAL.—Amounts made available under this Act for the administrative and related expenses for departmental management for the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be reduced on a pro rata basis by \$14,735,000.

(b) LIMITATION.—The reduction required by subsection (a) shall not apply to the Food and Drug Administration and the Indian Health Service.

Mr. STEVENS. Madam President, I ask unanimous consent that the amendment be adopted.

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

The amendment (No. 1620) was agreed to.

Mr. STEVENS. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Madam President, I state for the record, all of those amendments were cleared by both Senator SPECTER and Senator HARKIN as managers of the bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 1588 TO AMENDMENT NO. 1542

Mr. BINGAMAN. Madam President, I ask unanimous consent to call up amendment No. 1588 for consideration.

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

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Mr. LAUTENBERG, Ms. CANTWELL, Mr. BAUCUS, Ms. STABENOW, Mr. LEVIN, Mr. DURBIN, and Mr. PRYOR, proposes an amendment numbered 1588.

Mr. BINGAMAN. Madam 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:

(Purpose: To increase funding for the Low Income Home Energy Assistance Program)

On page 42, line 25, strike “\$2,000,000,000.” and insert “\$3,000,000,000: *Provided*, That of the funds appropriated in this Act for the National Institutes of Health, \$3,000,000,000 shall not be available for obligation until September 30, 2004: *Provided further*, That the amount \$6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be \$7,895,199,000: *Provided further*, That the amount \$6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be \$5,783,301,000.”.

Mr. BINGAMAN. Madam President, this amendment is offered by myself and Senators LAUTENBERG, CANTWELL, BAUCUS, STABENOW, LEVIN, DURBIN, PRYOR, LINCOLN, KENNEDY, KERRY, and FEINSTEIN.

This is an issue that I think deserves a little more attention before we complete action on this appropriations bill.

This an amendment that relates to LIHEAP, which is an acronym we use in the Congress and in Washington to talk about the Low Income Home Energy Assistance Program.

I ask unanimous consent that letters from the American Gas Association, the Campaign for Home Energy Assistance, and the Southern States Energy Board endorsing this amendment be printed in the RECORD following my statement.

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

(See Exhibit 1.)

Mr. BINGAMAN. Madam President, this amendment, as I have proposed it, would increase funding in the bill for the Low Income Home Energy Assistance Program by \$1 billion for this next fiscal year. The amendment would bring the total funding for the LIHEAP State grants up to \$3 billion rather than the \$2 billion that is provided in the bill.

These grants are allocated at the beginning of each fiscal year to each of the 50 States and to the territories and Indian tribes on the basis of a statutory formula.

Let me begin by saying, Senator SPECTER, the manager of this bill, and Senator HARKIN, the ranking member on the subcommittee, have consistently championed the LIHEAP program in the appropriations process. But it is clear they do not have room in this budget resolution that was presented to adequately fund this program.

Obviously, the question is, Why did we adopt a budget resolution that did not provide room? I certainly think that is where the mistake was made and where I disagreed with many of my colleagues.

The amount of funding for LIHEAP that has been appropriated in the past has been enough to help 15 percent of the households that are eligible for that assistance. And as to those 15 percent, for the families who are covered and actually have received that help, the average grant they have received has covered about 10 to 25 percent of their home energy costs.

We had an amendment earlier today by Senator REED of Rhode Island and Senator COLLINS of Maine on this very same issue—not on this exact issue but on adding funds. They proposed to add \$300 million to the emergency funding available under the Low Income Home Energy Assistance Program. Now my proposal is to add \$1 billion to the core program—not the emergency part of it but the core program.

I point out to my colleagues that 49 Senators voted for that amendment as compared to 46 who voted against it, but the amendment failed. And just for those who have not followed our procedure that closely, why would an amendment fail when more Senators supported it than opposed it? It failed because those Senators were not able to get a full 60 votes which were needed to waive the Budget Act.

Well, the question is, Why did they need to waive the Budget Act for that amendment? The amendment contained an offset so that it was not, on a net basis, going to cost more, but we are advised that the offset was not adequate to meet the Budget Act requirements. In fact, the very underlying bill we are going to vote on, presumably later this evening, violates the Budget Act as well.

So we have a situation where the majority of Senators present and voting cannot prevail on an issue they believe is important because of the Budget Act provisions we imposed on ourselves and with which I strongly disagree.

LIHEAP funding has remained essentially level without adjustment for inflation over the last 20 years. We all know the cost of energy to our households around the country has increased very substantially. Now 60 percent of our homes are, in fact, heated by natural gas and, in fact, cooled by that same energy source.

The Department of Energy predicts an average price delivered to the consumer this year of \$9.42 per thousand cubic feet for the cost of natural gas. That \$9.42 compares to \$6.69 that the average consumer had to pay in 1999.

Compared to last winter, which was a very tough winter for gas consumers, the Energy Information Agency predicts costs will be at least 10 to 15 percent higher this year.

The reason I am raising this issue and talking about it is that I believe we will regret our decision to not provide additional funds for the Low Income Home Energy Assistance Program when we get further into this winter.

Forty-three of my colleagues in the Senate joined me in a bipartisan letter to Chairman SPECTER and Ranking Member HARKIN requesting that this core Low Income Home Energy Assistance Program be funded at the level of \$3 billion for this next year. They have not been able to do that.

We are faced with another winter heating season in which there is a great potential for very high natural gas costs, very high heating oil prices for consumers. There will be many low-income Americans who will have great difficulty dealing with those increased prices.

The obvious question that will be asked of us and should be asked of us is what is our plan to deal with the expected high costs of energy this winter? Unfortunately, our answer is, we are going to maintain level funding for LIHEAP. That is not an adequate answer. It is not an adequate answer for this administration or for this Congress. For us to say we are sorry, we couldn't do any better because the budget resolution wouldn't let us, the budget resolution was voted on by a majority of Senators, was approved by a majority of the Senators. Clearly, the Senate shares the responsibility to find a solution to the problem.

EXHIBIT 1

AMERICAN GAS ASSOCIATION,

September 8, 2003.

DEAR SENATOR: On behalf of the 191 members of the American Gas Association who serve over 53 million consumers of natural gas, I am writing in strong support of the Bingaman and Reed-Collins amendments to increase funding for the Low Income Home Energy Assistance Program (LIHEAP) during consideration of the FY04 Labor, HHS and Education spending bill.

The winter heating season is approaching and it is imperative that funding for LIHEAP is increased. The LIHEAP program is woefully under-funded, providing assistance to approximately 4 million households, or only 15 percent of the 30 million households eligible for assistance. Yet demand for energy assistance continues to grow due to high unemployment levels, high energy prices and unpredictable weather conditions.

According to the Bureau of Labor Statistics, the unemployment rate in August remained extremely high at 6.1 percent. A total of 8.9 million people currently are unemployed across the country. Job losses were seen in the manufacturing sector, some travel-related industries, and in the retail industry.

At the same time, according to the Energy Information Agency (EIA), compared to last year, this year's energy prices are 30 percent higher for natural gas, 60 percent higher for heating oil, 25 percent higher for propane and 11 percent higher for electricity. The high energy prices are due in large part to the unusually cold winter experienced in various regions of the country this year, which increased demand for home heating. Natural gas commodity prices continue to bounce between \$5.00 and \$5.25 per mmbtu, and natural gas storage inventories are 7.5 percent below the five-year average.

The amendment proposed by Senator Bingaman would increase LIHEAP funding to \$3.0 billion, representing a \$1 billion increase over the \$2.0 billion currently proposed in the FY04 Labor, HHS and Education spending bill. The Reed-Collins amendment would provide an additional \$300 million in emergency LIHEAP assistance. Both of these amendments will be extremely helpful in protecting low and fixed-income individuals during the winter heating season, and also will make available much needed cooling assistance next summer.

We urge you to recognize the impact the weak economy and the high price of energy is having on low and fixed-income energy consumers. Low-income energy assistance must be increased dramatically before we find ourselves in a crisis. We strongly urge you to support the Bingaman and Reed-Collins amendments. If you have any questions, suggestions or concerns, please contact me personally at (202) 824-7111.

Thank you for your consideration.

Sincerely,

DAVID N. PARKER,
President and CEO.

CAMPAIGN FOR
HOME ENERGY ASSISTANCE,
Washington, DC, September 8, 2003.

DEAR SENATOR: I am writing on behalf of the Campaign for Home Energy Assistance to urge you to support the Bingaman and Reed/Collins amendments to increase funding for the Low Income Home Energy Assistance Program during consideration of the Labor/HHS/Education Appropriations Bill for Fiscal 2004.

Senator Bingaman's amendment would increase baseline funding LIHEAP (the "regular" allocations provided to the states) from \$2.0 billion to \$3.0 billion. The Reed/Collins amendment would add \$300 million in

LIHEAP emergency funds that could be released at the President's discretion.

Both amendments will be extremely helpful in protecting low- and fixed-income individuals during the winter heating season and also make available sorely needed cooling assistance next summer.

Price volatility, temperature extremes and an unstable economy have combined to create a "perfect storm" that has hammered our nation's most vulnerable citizens.

Seniors, people with disabilities and the working poor have been particularly hard hit. They generally carry a higher energy burden than most American households, and, for those people, the price tag has become dangerously unaffordable.

In testimony before a congressional committee this past summer, Federal Reserve Chairman Alan Greenspan said he was worried about the runup in natural gas prices, which have doubled over the past year, and the impact higher prices could have on the economy. Secretary of Energy Spencer Abraham, meanwhile, has warned that the average residential winter heating bill for a typical Midwest consumer could be \$915 next winter—a 19 percent increase over last year—if prices continue to rise.

If the warnings of the Fed Chairman and Energy Secretary are to be taken seriously, and we believe they must, an increase in LIHEAP funding is absolutely essential to protect millions of people living in or on the edge of poverty.

According to the Bureau of Labor Statistics, 8.9 million Americans are currently unemployed. The August unemployment rate was at 6.1 percent, as high as it has been in many years. The Energy Information Agency, meanwhile, has reported that energy prices are 30 percent higher for natural gas, 60 percent higher for heating oil, 25 percent higher for propane and 11 percent higher for electricity compared with last year.

We urge you to recognize the impact of this "perfect storm" on those least able to cope with a higher energy burden.

Even if energy prices were to decline and the economy were to improve, LIHEAP would still be underfunded. Currently, only about one out of every five households eligible for benefits actually receives assistance. Many states regularly run out of LIHEAP funds and are forced to limit benefits, serve fewer eligible recipients or discontinue their programs before the end of the heating season. In states where cooling assistance is essential, programs also fall far short of the need.

Please support the Bingaman and Reed/Collins LIHEAP amendments to the Labor/HHS/Education Appropriations Bill. Your leadership will help many low- and fixed-income consumers through these difficult times. Thank you in advance for your consideration. If you have any questions, please contact me directly at 202-331-2962.

Respectfully,

DAVID L. FOX,
Communications Director.

SOUTHERN LEGISLATIVE CONFERENCE,
THE COUNCIL OF STATE GOVERNMENTS,

Atlanta, GA, September 5, 2003.

To: Members of the U.S. Senate.

Re: LIHEAP Amendment to Labor/HHS Appropriations.

From: Colleen Cousineau, Executive Director.

As the Fiscal Year 2004 Labor/HHS Appropriations bill is brought to the floor of the Senate, the Southern Legislative Conference of the Council of State Governments (SLC), a bipartisan legislative organization representing the interests of more than 1,200

state legislators, urges you to support Senator Jeff Bingaman's amendment designed to increase LIHEAP funding by \$1 billion.

As you are aware, the Low Income Home Energy Assistance Program (LIHEAP) is a federally-funded state administered program that helps qualified needy Americans heat and cool their homes. In light of unprecedented costs for natural gas, and for other reasons, LIHEAP is being stretched beyond its capacity to meet this challenge. Today, only 15 percent of eligible Americans can be served by LIHEAP. In the face of escalating energy costs, it seems certain even fewer Americans will be helped—unless the Senate votes to increase LIHEAP funding.

In its present form, LIHEAP is ill-equipped to respond to the needs of our citizens unless Congress appropriates additional funds for this critical program. Mr. Bingaman's amendment does this, and closely conforms to the SLC's recently unanimously-adopted LIHEAP policy position.

The SLC is pleased to endorse the Bingaman LIHEAP Amendment to the 2004 Labor/HHS appropriations bill and urges each Senator to vote for it.

AMENDMENT NO. 1588 WITHDRAWN

Mr. BINGAMAN. Madam President, in light of the fact that a 60-vote majority would be required for me to prevail on my amendment and in light of the fact that earlier amendment on a related issue by Senators Reed and Collins could not gain more than 49 votes, I will not push for a rollcall vote on my amendment at this time. I do call it to the attention of my colleagues. I hope at some stage before we adjourn this fall we are able to find a way to put additional funds into this very important program so as to head off the very real hardship that is going to be visited upon many of our citizens this winter.

Madam President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BINGAMAN. I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent to speak as in morning business.

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

(The remarks of Mr. CHAMBLISS are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent to speak as in morning business.

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

(The remarks of Mr. SCHUMER are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask unanimous consent that there be 2 minutes of debate, equally divided, prior to each of the next three votes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. 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. REID. 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. 1603

Mr. REID. Mr. President, I have an amendment that is pending. Would you give me the number of that amendment.

The PRESIDING OFFICER. The amendment is No. 1603.

Mr. REID. Thank you very much.

Mr. President, I don't think anyone would disagree that children are the hope of every culture. They certainly are the hope of this culture in our great country of America.

We look to our children and imagine a bright future for their sake. This is true for every group in America and every subgroup in America. It could not be more true for Latino Americans. Latinos are the youngest demographic group in the entire country. They are the fastest growing.

More than one-third of Latino Americans are under 18 years of age. Many came here with nothing to their name. Many of them had no education and some couldn't speak English. For these people, life is what it is and sometimes there is no hope of improving. But one thing that the Hispanic community does is work hard. They work hard in many instances to make a simple living. Some of them clean our houses, landscape our yards, wait on tables, park cars, make beds, and in other places they harvest the food for our tables.

They don't complain about their lot in life, but they dream of better opportunities for their children—our children—because children are the hope of the future.

The great aspiration of Latino Americans, as all immigrants who come to our country, is their children getting a good education.

We recognize that there is an unacceptable gap between the achievement of Latino students and the overall student population. In the State of Nevada, we have the fifth or sixth largest school district in all of America, approaching 300,000 students. Thirty percent of the kids in that school district are Hispanic. Large numbers of those children in comparison to other ethnic groups don't graduate from high school.

Some have asked why. All the reasons are not in but some of the reasons are they are such hard-working people, the business community recognizes that and, in many instances, entices them to work and not to school by offering them jobs. They are young and impressionable, and a job offers what appears to them to be a lot of money; as they proceed through life, they continue to earn the same money as adults as they earned when they were teenagers. They drop out of school for that reason.

Also, most of the Hispanics in the State of Nevada come from Mexico. Mexico does not have the tradition of public education we have, which is another reason there are dropouts. Of course they do not have the parental involvement as a result of their parents not being educated.

So there are a number of reasons. All the reasons are not in. I have named a couple of the reasons these young boys and girls drop out of high school much more quickly than other ethnic groups. We agree it should be this Nation's policy to leave no child behind. This does not say we leave no Caucasian child behind. This act does not say we leave no Asian American behind. This act does not say we leave no African American behind. No, this act says we leave no child behind no matter their race, creed, or culture.

Now it is time to live up to those words and keep our promise. That is why I offer this amendment, amendment No. 1603, the Hispanic educational opportunity amendment to help Latino students achieve their dreams. This amendment invests an additional \$190 million in our Nation's future by strengthening these programs.

I told my good friend, the Democrat manager, the amendment was \$210 million—and it was, earlier—and we changed it for a number of reasons. This is for Hispanic-serving institutions, migrant education, high school equivalency programs, college assistance migrant programs, local family information centers, bilingual education and Head Start for children of migrant workers. These programs give Latino students a step up the ladder of education so they can realize their aspirations.

The 252 Hispanic-serving institutions, which have at least 25 percent Latino enrollment, are the main bridge between Hispanic opportunities and higher education. Despite appropriations under title V, these institutions still have not reached Federal funding parity with other degree-granting institutions. This amendment adds \$6.4 million to help address this inequity.

The high school equivalency programs provide academic instruction, counseling, computer-assisted teaching, and career awareness to migrant students for the GED. The Senate's fiscal year 2004 Labor, HHS, and Education appropriations bill slashes funding for these programs by 43 percent and eliminates 23 programs that achieved a combined GED completion rate of 73 percent.

The proposed budget also cuts the College Assistance Migrant Program by \$400,000. CAMP, or the College Assistance Migrant Program, recruits are talented migrant high school graduates, GED recipients, and they mentor them through their first year of college. Before CAMP was created, there was no record of a migrant child having completed college. Since its inception, nearly 75 percent of all CAMP students receive a college baccalaureate degree.

The existing HEP and CAMP programs serve approximately 15,000 students. Remember, for every one of these students we keep in school or put through college, we save our country much money. It is estimated that for every \$1 we spend on the programs, we save the Government upwards of \$10 in justice costs, insurance costs, welfare costs. For every child we keep in one of these programs, our country makes money. Over the next 5 years, 170,000 migrant children will become eligible for this program while 140,000 will qualify for CAMP. Funding for these programs should be increased, not cut. That is why my amendment adds \$11 million for HEP programs and \$1 million for CAMP.

We also need to make the Head Start Program available to more children of migrant workers so they have a fighting chance to do well in school. In the relatively small State of Nevada, we have hundreds of migrant students. In Amargossa, in Nye County, they make up more than half of the students. These children, many times, have very hard lives. If any child ever deserved a head start in school, they do. Yet we have not a single migrant Head Start Program in all of the State of Nevada.

About 20 percent of the State of Nevada is Hispanic. Nationally, only 19 percent of the eligible migrant children are served by Head Start. The rest are left behind, even before they begin school, even though we have a program that says Leave No Child Behind. We need to offer Head Start to at least 10,000 migrant children. This amendment moves us toward that goal.

We know that parental involvement is crucial to a child's success. That is why the local family information centers were created by the No Child Left Behind Act. These are community-based centers that provide parents of title I students with information about their children's schools so they can get involved in their education. It does much more. An additional investment here of \$13 million strengthens ties between Latino families and the children's schools. We know parental involvement is a success for the teachers and for the students. This might seem like a lot of money, but it will save much more, as I have stated, in the long run—almost 10 to 1. You do not have to be from Nevada to bet on these odds.

One way this investment will pay dividends down the road is by building a stronger labor force. Already, one-third of new workers who join our labor force are Latino. In 20 years, it will be one-half. These are the workers who will pay our taxes, build our roads, keep our military strong, educate our grandchildren, protect our environment.

It is important we educate our grandchildren and our great grandchildren and provide for our Social Security. Our own future will depend upon the hopes, the aspirations, and the dreams of our Latino neighbors. These pro-

grams might not seem that important to some, but to the individuals involved, they provide greater opportunities for these children. They give Latino Americans, their parents, but also all Americans, a better chance for having a better society. They give these boys and girls a chance for realizing their dreams and aspirations.

We had a vote similar to this earlier this week. We had the usual performances on both sides of the aisle: Vote with me; vote with me; do not vote with the minority; the vote might pass. We had three very courageous Republicans crossing over the line and voting for these young boys and girls: Senator SMITH of Oregon, Senator HUTCHISON of Texas, and Senator DOMENICI of New Mexico. I appreciate the courage and their individualism, their independence, in voting for these young people.

I yield the floor.

Mr. MCCAIN. I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. COLLINS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SANTORUM. Thank you, Madam President. I thank the Senator from Arizona, who I understand has a legitimate concern about the way this bill is proceeding, and I appreciate his indulgence in allowing me to talk about an amendment.

Mr. REID. Could I ask my friend a question?

Mr. SANTORUM. I would be happy to yield to the Senator.

Mr. REID. We have a vote scheduled for 5:20. We may not be able to have it now. You are going to speak probably until that time?

Mr. SANTORUM. Maybe not until that time, but no longer than that time. I will certainly stop whenever we are ready to move forward with any pending business.

Madam President, a couple months ago we had a very good debate, late at night on the floor of the Senate, on the issue of AIDS in Africa. We made a commitment in that authorization bill to follow through with the President's plan, his announcement earlier this year to put forward \$15 billion over the next 5 years to meet this scourge that is ravaging so many countries in sub-Saharan Africa, the scourge of AIDS.

The President had the moral courage and provided leadership to the world prior to the G-8 summit to come forth with a big commitment of American dollars, of \$15 billion over the next 5 years, to combat AIDS, in terms of education, prevention, treatment, transmission—all of the areas that are so important and were, frankly, being neglected by the world community.

America had done a reasonable job in providing some funds—roughly \$1 billion a year—toward this problem. The

President stepped up and said: No, that is not sufficient. We need to do \$15 billion over the next 5 years. The President made a budget request that put us on the road to that. It was not \$3 billion a year for 5 years, but it was an aggressive increase in the amount of funding the United States would provide.

Subsequent to his budget request, we passed an authorization bill which said the following: that this country would come up with \$10 billion in bilateral aid, through our agencies of the Federal Government. We would be contributing money either directly to other countries or to nonprofit, sometimes faith-based, organizations for prevention, education, treatment, and other means of dealing with this problem.

Unfortunately, in this bill, and in the foreign operations appropriations bill, the combined amount of money for the accounts for the President's AIDS initiative comes not to \$3 billion but to a little over \$2 billion, \$2.050 billion.

Now having said that, this is a tight budget year. And it is a significant increase over the amount of money that was provided for last year, which was an increase in last year's appropriations. So I do not want to cast any aspersions on any of the appropriators for the work they have done. They have provided a significant amount of increase appropriate with the President's—close to, not exactly but close to what the President originally suggested prior to his big AIDS initiative.

I would suggest that what we need to do in the Senate is, to the best of our ability, meet the expectations we set with respect to the passage of the authorization bill a couple months ago—the expectations of the world community, which in the G-8 summit responded generously with contributions they were told would be matched by Federal dollars to the tune of for every \$2 of international contribution to the Global Fund there would be a \$1 contribution from the U.S. Government for up to 1 billion of U.S. dollars going into the Global Fund.

To date, we have received roughly \$700 million in commitments from the international community, which means that to fund our match in this bill we would need roughly \$350 million. So for \$700 million of international commitment, \$350 million—\$1 for every \$2 pledged—would be necessary in either this bill or the foreign operations appropriations bill.

I am happy to say in the two bills combined, there is \$400 million for the global fund earmarked for matching, and that is in anticipation of some additional dollars being pledged by some other countries. There are a couple of other very significant countries yet that have not pledged, and I think with great foresight the members of the Appropriations Committee put forward roughly \$400 million to match the anticipated contributions from the rest of the world.

So on that score, I would make the argument that the authorization levels

we had committed have been fulfilled. Some have suggested—in fact, others who have offered an amendment on this subject suggested—we need to appropriate \$3 billion to meet our commitment of \$3 billion a year for 5 years. The commitment was \$2 billion a year plus whatever was necessary to match up to \$1 billion.

It seems fairly obvious the match necessary is only going to be no more than \$400 million. So I would argue the \$400 million that is in these bills is sufficient to meet the commitment this country made, this Senate made, and this President made in matching dollars from the international community, which leaves us with the bilateral commitment.

The bilateral commitment was \$2 billion in the authorization bill. The President has said from the start that he was not going to start out at \$2 billion. He was going to start out at a lesser number and ramp up as capacity was going to grow. I respect that. I know the President is trying to stay within a very tight budget with respect to both foreign and domestic programs, other than what would be considered war-related expenditures. He came forward with a proposal for about \$1.6 billion.

The two bills dealing with AIDS funding come up to the level of \$1.65 billion. So the combined amount, the 400 and 1.65 is \$2.50 billion, which is short of the authorization level by \$350 million.

That \$350 million would allow us to fully fund our \$2 billion commitment under the authorization. Again, I understand that the House level is lower than that. I think it is important for us in the Senate to come forth with a number that is closer to what the expectation was when we put forward this authorizing legislation a couple months ago.

I am going to be offering an amendment a little later—because I told Senator MCCAIN that I would not be conducting any formal business, that I would just be talking about my amendment—to transfer \$350 million to provide treatment and prevention programs to combat global HIV/AIDS. I underscore this: I am trying to do this so we can win this with 50 votes, in case of so many Members missing, maybe 46 or 47 votes. I would like to see this pass. I would like to see us make that commitment. Two point four billion dollars does meet the commitment that this Congress was put on the record for a couple months ago.

This is a rather big bill, almost a half-trillion-dollar piece of legislation before us. What I am requesting my colleagues to do is to support an across-the-board reduction of .0741, seven hundred forty-one thousandths of a percent reduction in all other funding so we could meet our commitment to the millions of people suffering in Africa and the Caribbean from this scourge of AIDS. I know there are a lot of people in the Chamber who don't like

across-the-board cuts, thinking they are a gimmick. I assure you, those agencies that have experienced across-the-board cuts do not believe they are a gimmick. They are real. They reduce the amount of money in their appropriated account, and they have to deal with the consequences.

There are lots of programs that have received substantial increases in funding that surely a seven-hundredths-of-a-percent reduction is not going to have any kind of dramatic impact on them. But I assure you, a \$350 million commitment to providing treatment and prevention—one of the programs that is underfunded in this legislation that Senator DEWINE has an amendment on is mother-to-child transmission. The money provided in this bill is actually lower than what the President requested.

We are doing a lot for people in America. I know there is a lot of need in America. But I think when you compare the need in America to the abject poverty and horrific health conditions in this area of the world, I cannot imagine that any one of these organizations that are providing help to those who are struggling here in this country, through health problems or whether it is improving the quality of education, that they wouldn't be willing to give seven-hundredths of a percent of their dollars up to save hundreds of thousands of lives across Africa.

That is what we are asking. I know it is not a popular thing to do. It is probably easier to say we will just borrow the money or we will advance fund or we will forward fund or backward fund or sideways fund, do some other gimmick to get around the budget rules so we don't have to count. It is important to put your money where your mouth is.

I don't think asking for a seven-hundredths of 1 percent across-the-board reduction to provide the money for those in the most need of the brother and sisters that we have in this world is too much to ask. I ask my colleagues on this side of the aisle, those of you who voted for the President's plan on HIV/AIDS, those of you who have just come back from Africa—I know there are many Members who were in Africa over the break who saw firsthand the tremendous human suffering that is going on there as a result of this pandemic. Seven-hundredths of a percent to provide the much needed medicine to treat those mothers suffering from HIV/AIDS, to prevent the next orphan from occurring in Africa, to prevent mother-to-child transmissions so we don't have children born who will be orphans if the mothers don't get treatment and then they themselves will contract AIDS—we can do something that is real, tangible, that saves lives and improves the quality of the life of the people and gives, more importantly, some hope to those who have no

hope. To a world that has in many respects turned their backs to this problem, we will show here in the U.S. Senate that we are willing to give up a little bit, a little bit across the board from programs that may get us votes back home, seven-hundredths of a percent to provide for those who have no voice in the Senate.

I know at 5:20 we were hoping to try to get some votes. We are reaching that time, so I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I ask an inquiry of Senator REID of Nevada. If he could tell me, I was going under the impression that we would move to a vote at 5:20 and I would speak to the amendment which I have pending, but if there is other information I should be aware.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, the Senator from Arizona was concerned. He had some questions. I have checked with the people on the majority. He has no problem with our going ahead with the first vote. So I say to my friend from Illinois, within a minute, the Chair will call the vote in compliance with the order previously entered.

Mr. DURBIN. May I inquire of the Chair, is there a unanimous consent agreement as to the time allocated to myself as sponsor of the amendment and anyone in opposition to speak before the roll is called?

The PRESIDING OFFICER. There is an agreement for 2 minutes equally divided before the vote on the amendment.

Mr. REID. I would say to the Chair, it is my understanding, also, we are going to do a better job of enforcing the 1-minute rule.

The PRESIDING OFFICER. The Chair will be so advised.

The Senator from Illinois.

Mr. DURBIN. May I further inquire at this point if the amendment has not been called, may I be recognized to speak, or is it time?

AMENDMENT NO. 1613

Mr. SANTORUM. Madam President, I ask unanimous consent that the Durbin Amendment be the pending business.

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

There are now 2 minutes equally divided. Who yields time?

The Senator from Illinois is recognized.

Mr. DURBIN. Madam President, for those tortured souls who are following this debate, understand what we have said about the centerpiece of education reform in America, No Child Left Behind. Yesterday, we said we were unwilling to provide the funds that we promised to make No Child Left Behind work—unwilling to provide the title I funds. We are going to undercut that funding by some \$6 billion so money will not be available to help tutor children who are not doing well on tests.

In the previous amendment, I said if we are not going to provide the funds, we should not mandate the school districts to comply with No Child Left Behind, and that was defeated. So the Members of the Senate said, despite the fact we have not funded No Child Left Behind, we are going to enforce mandates on the school districts in America.

Now I give colleagues another chance. This says that when it comes to teacher quality and mandates in No Child Left Behind, we will provide the money we promised so that the teacher in the classroom is qualified to teach. It is a \$450 million amendment. I commend it to my colleagues.

Mr. CRAIG. Madam President, the chairman of the committee has worked hard to resolve this issue in the current legislation. We have \$3.378 billion as it relates to teacher quality programs and the enhancement thereof. This is a substantial increase. There is probably never enough, but because of the caps and the allocations necessary, there is more now than there ever has been.

I hope our colleagues will stand with the committee and chairman in opposing the Durbin Amendment.

With that, I raise a point of order under section 504 of the concurrent resolution on the budget for fiscal 2004 that the amendment exceeds the discretionary spending limits in this specified section and is not in order.

Mr. DURBIN. Madam President, pursuant to section 504(b)(2) of H. Con. Res. 95, I move to waive section 504 of that concurrent resolution for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Minnesota (Mr. COLEMAN) and the Senator from Oregon (Mr. SMITH) are absent because of a death in the family.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

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

The yeas and nays resulted—yeas 43, nays 51, as follows:

[Rollcall Vote No. 343 Leg.]

YEAS—43

Akaka	Biden	Breaux
Baucus	Bingaman	Byrd
Bayh	Boxer	Cantwell

Carper	Inouye	Nelson (FL)
Clinton	Jeffords	Nelson (NE)
Corzine	Johnson	Pryor
Daschle	Kennedy	Reed
Dayton	Kohl	Reid
Dodd	Landrieu	Rockefeller
Dorgan	Lautenberg	Sarbanes
Durbin	Leahy	Schumer
Feingold	Levin	Stabenow
Feinstein	Lincoln	Wyden
Harkin	Mikulski	
Hollings	Murray	

NAYS—51

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Miller
Bennett	Ensign	Murkowski
Bond	Enzi	Nickles
Brownback	Fitzgerald	Roberts
Bunning	Frist	Santorum
Burns	Graham (SC)	Sessions
Campbell	Grassley	Shelby
Chafee	Gregg	Snowe
Chambliss	Hagel	Specter
Cochran	Hatch	Stevens
Collins	Hutchison	Sununu
Conrad	Inhofe	Talent
Cornyn	Kyl	Thomas
Craig	Lott	Voinovich
Crapo	Lugar	Warner

NOT VOTING—6

Coleman	Graham (FL)	Lieberman
Edwards	Kerry	Smith

The PRESIDING OFFICER. On this vote, the yeas are 43, 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. HATCH. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1585

The PRESIDING OFFICER. Under the previous order, there are 2 minutes evenly divided before the vote in respect to the Ensign amendment. Who yields time?

The Senator from Nevada.

Mr. ENSIGN. I will be very brief. This amendment is adding \$100 million for the afterschool programs. It is off-set. We do a small across-the-board cut; it will only be .012 percent for the programs. I think any of the programs can take that. But in the process, we are going to be helping a lot of kids who otherwise are going to be becoming juvenile delinquents. We know the statistics. If you don't have kids in the right activities, they get into trouble. If they are sitting around with nothing to do, they get into trouble. Afterschool programs are perhaps one of the best anticrime measures we can take. I encourage my colleagues to support this amendment.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Illinois.

Mr. DURBIN. Madam President, I say to my colleagues, be prepared. This is the first of the across-the-board cut amendments. As good as it sounds, afterschool programs, this is what this little cut will cost. It will deny 92 grants for research at the National Institutes of Health, it will take 1,134 kids out of the Head Start Program, it

will mean 6,494 households will not be served by LIHEAP, and 403,000 meals for seniors will not be served.

This is a get-well amendment for many of our colleagues who have consistently voted against these education programs. Please, as good as it sounds, don't cut these valuable resources for NIH and other education programs to fund the afterschool programs as suggested by the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. May I say for the record I thought it was my prerogative to oppose the amendment, but I would like to incorporate by reference everything the Senator from Illinois said as if I had said it. He did a good job.

REGAINING FOCUS ON THE WAR ON TERRORISM

Mr. BYRD. Mr. President, tomorrow the Nation will bow our heads in prayer as we remember those who perished 2 years ago. As we close our eyes to remember those who perished in the World Trade Towers and the Pentagon and in the quiet field in Pennsylvania, we cannot help but recall the graphic images of the attacks that shocked the American psyche, the smoke, the fire, the pain, the falling towers. The courage displayed on television sets on September 11, 2001, brought all Americans to the scene of those attacks.

Our Nation united to fight those who were responsible for those terrible acts. Since then, our Armed Forces swept through the rugged terrain of Afghanistan, deposing a government that directly aided Osama bin Laden in his mission to attack America by any means at hand.

In the days following the attacks, Congress acted swiftly to provide essential funds for this military response. The appropriations committees in both Houses acted without delay. But we also included increased moneys for homeland security and the reconstruction of New York and the Pentagon.

But today our fight against terrorism has lost a good deal of its focus. Our homeland security efforts are underfunded. The Department of Homeland Security is a bureaucratic catastrophe. The White House has prioritized tax cuts over protecting our airliners and securing our ports.

Through carefully worded rhetoric, the administration has morphed the image of America's most wanted man from Osama bin Laden to Saddam Hussein. It is as if the President has forgotten the name of the mastermind of the attacks that killed 3,031 in New York and Washington on September 11, 2001; the attacks that killed 17 sailors on the USS *Cole* on October 12, 2000; and the attacks that killed 224 U.S. and foreign nationals in bombings of American embassies in Kenya and Tanzania on August 7, 1998. The name of that man is not Saddam Hussein. It is Osama bin Laden, the elusive terrorist

who this administration so rarely bothers to mention by name anymore.

The President has now stated that the war in Iraq is the central front on the war against terrorism. But it was our invasion of Iraq that has turned Iraq into a staging ground for daily terrorist attacks against our occupation forces. If we are serious about protecting our country from terrorism, it seems to me that the central front should be the war on al-Qaida.

If we are serious about protecting our country from terrorism, should not the central front be the war on al-Qaida? For that matter, isn't the violence between Israelis and Palestinians actually the root of much of the terrorism in the world? Why isn't reaching a lasting peace agreement between those two peoples the central front on fighting international terrorism?

But at the White House, the subject of terrorism now means the subject of our invasion of Iraq. The President waves the bloody shirt of 9/11, and then subtly shifts the conversation to Iraq. The only problem is that the President's attempts to tie Saddam Hussein to the 9/11 attacks have no basis in fact. There has been no evidence of such found to date. By speaking of al-Qaida in one breath and Iraq in the next, the President has devised a construct for confusing the American people about the real threat to this country. And his strategy has worked. According to a Washington Post poll, 7 in 10 Americans believe that Saddam Hussein was behind the September 11 attacks. That was not the case. There is no evidence that that was the case.

Amidst the confusion of the American people, it was the stated policy of White House adviser Karl Rove to use the war against terrorism for partisan electoral advantage. The White House rode that political bandwagon right through Congress in October of 2002, securing a war resolution in the weeks just before a major election. The bandwagon then bypassed the United Nations, alienating our friends and allies, and charged right into Baghdad, powered by a national security strategy that brought the first use of preemptive war in the history of our Nation.

Soon Congress, we understand, will be formally presented with a request for \$87 billion in additional funding for the war. The White House would prefer to call this massive spending bill the "terrorism supplemental." Don't fall for that, I say to my colleagues. I say to the American people, don't fall for that. The American people should not be misled by these word games. The spending in this proposal has little to do with protecting the American people from terrorism.

This request should be called what it is: the second Iraq supplemental appropriations bill in less than 6 months. It is a budget-busting, deficit-enhancing \$87 billion on top of the \$103.3 billion in additional funds that Congress has already provided to the Pentagon since September 11, 2001. Including this new

spending for Iraq, the budget deficit for next year can be expected to exceed \$550 billion. How are we going to pay for this mistake that we have made in the Middle East?

I expect to support the funds that are needed for the safety of our troops, but I will not rubberstamp every spending request that comes down the pike. This \$87 billion package needs to be carefully examined. Congress is not an ATM that will spit out cash on a moment's notice.

I have questions. I am sure that my colleagues, most of them, certainly, or many of them, have questions about the \$20 billion in nation-building funds that are contained, or will be contained, if we understand correctly what we read in the newspapers and what we hear in other areas of the media with respect to the President's request. The formal request has not reached Congress as yet, of course. But initial indications show that the administration intends to go beyond repairing the damage to Iraq's infrastructure and attempt to build a modernized country from the ground up.

Congress needs to ask questions about this plan. There has actually never been a debate in Congress about postwar Iraq. Before we approve of this spending, we must know how long this nation-building plan will take and how the costs will be shared among our allies.

I have some questions about the funds that will be requested for our military. The administration announced this week that it is extending the deployments of our National Guard and our Reserves in Iraq. Many of these citizen-soldiers are already exhausted from back-to-back foreign deployments. The National Guard cannot perform its important homeland security missions if it is half a world away. We are headed towards serious problems with recruiting and retention if this administration thinks that it can keep the men and women of the Guard and Reserve away from their families and their jobs for 12 months, 15 months, or even 18 months on each deployment.

Most importantly, this \$87 billion Iraq supplemental—remember, it is not a terrorism supplemental, it has nothing to do with terrorism here in this country—this Iraq supplemental could be the first installment in what the President's advisers describe as a "generational commitment" to building democracy in the Middle East. I do not recall a single word in the President's case for war in which he said that the war in Iraq would be the beginning of a decades-long engagement in that volatile part of the world. The American people ought to hear an explanation of what it means to have a "generational commitment" to nation building and perhaps regime change in the Middle East.

Tomorrow, the American people will pause to remember those who lost their lives 2 years ago. I will long remember that fateful day, as will every Member

of this Senate and every person within the range of my hearing. I cannot forget the toll exacted on Americans in those attacks, nor will I forget the courage of the firefighters and the police who rushed into burning buildings, nor will I forget those ordinary people on that airliner who fought back against its hijackers. Those people very likely saved this Capitol from another terrible attack, and, along with the Capitol, saved the lives of many of us who are in this Chamber today.

But when Members of Congress return from the memorial services, we have serious work to do in addressing the crisis in Iraq and in our fight against terrorism at home. We will soon be presented with a request for \$87 billion to carry out the administration's occupation and nation-building plans in Iraq.

Let us take a good look at those plans. Let us be prepared to ask questions about them. There is no reason why this request will have to go sailing through Congress in a day or a day and a half or 2 days or 3. We need to ask questions. The administration should be prepared to make its case and be prepared to answer questions.

It is not disrespectful to ask questions. It is not unpatriotic to ask questions. Members of Congress should not be intimidated. They should not be cowed. They should not be afraid to ask questions. The people of America are not here to ask questions. The students in our schools are not here to ask questions. We are here to ask questions.

Let us not act with the same haste and impatience that led our country to begin that war nearly 6 months ago.

REMEMBERING 9/11

Mr. SCHUMER. Mr. President, on the eve of the second anniversary of 9/11, I feel compelled to take the floor and share with my colleagues some of my thoughts. As a New Yorker, of course, as somebody who lives within sight and looks every morning, when I am home in New York, out my window at the empty space that once was occupied by the twin towers, this is something that never escapes my mind and the mind of every New Yorker. It doesn't escape the mind of every American, and probably doesn't escape the mind of just about every citizen of the world. Because 9/11 changed us in many ways, and we can never go back. But hopefully we can learn from it.

I would like to address at least my thoughts to three different areas: Those of the families and victims and those who rushed to help them; the city and the State of New York; and how it has affected us as a Nation.

First, of course, we think of the families. The day after that horrible terrorist attack occurred, I asked Americans to wear the flag or display the flag out their windows. I put on this very flag. I wear it every day in memory of those who were lost and, God

willing, I will wear it every day for the rest of my life in their memory. We think of their bravery, the bravery, of course, of the 343 firefighters who were lost, the many police officers, Port Authority personnel, and the first responders who were lost.

We think of the bravery of average citizens. There was just a story in our New York newspapers about two men who braved the fires and braved the smoke and created a passageway and saved the lives of perhaps a dozen and then went back up to try and save more and perished. In a very real sense, those heroes will live with us forever, like the heroes at Bunker Hill and the heroes at Gettysburg and the heroes on D-Day and the heroes of all the great battles our Nation has faced. Many of those heroes are civilians—whether they be police, fire, EMT, or just ordinary citizens. That shows you how our world has changed because we are all on the front lines.

We think of their families as well; the hole in their hearts will never heal. It is not simply the loss, although that is overwhelming and preponderant. It is that they were taken in such an act of bitter meanness and nastiness and atrocity. We have to do everything for them. We have to be with them spiritually. We have to provide for them, and we have to, in a sense, sanctify the memory of those who were lost for whom they mourn every day.

I can think of the faces in front of me right now of some of the people I knew—a brave firefighter, a friend who led a company, a high school classmate with whom I played basketball—all gone, simply because some vicious, terrible people thought they had a deranged message. We will never forget the families. And if you ask the families and ask the victims what they want us to do, they would want us to keep our resolve. And keep our resolve we must.

New Yorkers, Americans, good citizens of the world must keep their resolve. As for my city, we are still wounded. Still, every day, so many of us look up at the skyline and see the empty place. People who go on the subway or get in the car or just walk down the street every so often say, Could it happen again? Our city is still wounded. We have suffered large economic loss, but we have suffered far greater personal loss. But the amazing thing about New York is that we are strong, we are vital, and we rebound.

I am so proud of New Yorkers. I was proud of New Yorkers on the day it happened. Many people rose to the occasion. I always think of the man who owned a sneaker store. He stood outside the store and gave all the women who were fleeing the World Trade Center sneakers. He said, "What size are you?" and he gave them a pair of sneakers because it would be hard to walk in their heels. Those acts of generosity have continued.

The fortitude of New Yorkers has also continued. Battery Park City, a

residential area by the World Trade Center, which emptied out is full again. Businesses are beginning to return. A leading law firm came back to downtown and opened last week. So the plans proceed apace. Because we are New Yorkers, of course, there are some disputes, but the plans proceed apace for how we should rebuild—both remembering those who were lost and also remembering that terrorists tried to destroy the commercial greatness of our city. We are going to rebuild commercially as well. I was so proud of the polls that showed that more New Yorkers said they wanted to stay in New York after 9/11 than before 9/11. That is the spirit of the city. It is a great city.

It is the spirit of the whole New York area because there were people who lived in the suburbs who rushed in to help, and they all suffered losses. It is the spirit of our whole State, where people from Buffalo in the north and every point in between rushed to New York City and helped us, and we try to remember to help them.

We are grateful that the Nation has remembered us. The money we worked on to bring back to New York is being spent wisely and being spent well. We are not rushing to spend it. Every so often, there is a newspaper article that says not all of it has been spent. Of course not. But the fact that the President—and I give him credit. We disagree on many issues, but he stood by New York and he remembered what we needed and never broke his word. This Senate and the House, both Democrats and Republicans, again, had disputes about how to do it, but the Congress was very generous to our city. We may come back and need more, of course, but the generosity is real, remembered, and appreciated by New Yorkers.

Finally, what did we learn on 9/11? We learned that the very technology that blessed our lives and accounted for so much of the prosperity we have seen in the last two decades has a dark and evil underside; namely, that small groups of bad people can get hold of that technology and do tremendous damage in our country. You can be in a cave in Afghanistan, and if you have a wireless connection to the Internet, you can learn as much about America as many of us know. The sad fact is, if you took 200 people anywhere in the world, or maybe a thousand, and injected them with the "evil virus" and they would decide to fanatically devote themselves to hurting America for the next 5 years, the odds are too high that they could succeed. But we are beginning to respond to that challenge.

The war against terrorism is not a 1-, 2-, or 3-year phenomenon. It is going to be a 30-, 40-, or 50-year phenomenon. Today is not the day to bring up the disputes that we all have about this issue, but it is rather to say that it is brand new, and every one of us should walk humbly before proffering solutions because in a certain sense, we have no experience pool. Mistakes will be made.

In a real sense, we are analogous to, say, 1946. America had just beaten the Germans and the Japanese. The average American said let's forget about the world and put our feet up on the coffee table and enjoy our fruits of our labor here at home. All of a sudden, there was a large Communist monolith looking over our shoulder. Initially, we didn't know how to react, and we made mistakes along the way—McCarthyism and Vietnam—but eventually we triumphed over communism. I am not sure the war on terrorism will take us that long to triumph. It may be 20, 30 or 15 years, but it will not take 2 or 3 years.

We are going to have to be vigilant to the memory of those who were lost, to those who suffered. To rise to the greatness of this Nation, we are going to have to be vigilant and remember that no one has all the answers and we will make mistakes, but we will prevail provided we keep our resolve, which I believe we will. Yes, it has changed us. But Ernest Hemmingway once wrote that the world breaks us in certain places and we grow back stronger over the breaks. Hopefully, that will happen here. I believe it is happening here. We are learning, we are adapting, and we will triumph.

So we say to those evil people halfway around the world, who did what they did on that day 2 years minus 1 day ago, you messed with the wrong city, you messed with the wrong country, and you will pay a price. We will not let you and your evil message prevail.

So it is 2 years now. In some ways, it seems like yesterday. In some ways, it seems like a lifetime. We will remember those who were lost. Our city will maintain and even achieve greater greatness, and our country will prevail over terrorism. God bless those families who still suffer. God bless our city and State, and God bless America.

I yield the floor.

GENERAL RAY DAVIS

Mr. CHAMBLISS. Madam President, I rise to pay tribute to the life of a great American hero and great Georgian. GEN Ray Davis passed away last week at the age of 88. Many will remember General Davis for his legacy of service, honor, and heroism. Most will remember General Davis as one of the most decorated marines in our Nation's history. I will remember him as a man of deep conviction who had a genuine concern for his family, community, and country, but mostly, I will remember him as my friend.

President Truman awarded General Davis the Medal of Honor, the highest honor a soldier can receive, after the Korean War for his extraordinary heroism during the 1st Marine Division's historic battle of the Chosin Reservoir in North Korea. His leadership there secured a mountain pass, enabling the escape of two marine regiments that had been trapped for 5 days. To reach

the regiments, then Lieutenant Colonel Davis led his men through the mountains in subzero temperatures through the night, battling vastly superior numbers, to eventually defeat the Chinese the next morning. The remaining epic 14-mile fighting march lasted 3 days.

I ask unanimous consent to print in the RECORD the full text of General Davis's Medal of Honor citation.

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

KOREAN WAR MEDAL OF HONOR RECIPIENT RAYMOND G. DAVIS

Rank and organization: Lieutenant Colonel, U.S. Marine Corps commanding officer, 1st Battalion, 7th Marines, 1st Marine Division (Rein.). Place and date: Vicinity Hagaru-ri, Korea, 1 through 4 December 1950. Entered service at: Atlanta, Ga. Born: 13 January 1915, Fitzgerald, Ga. Citation: For conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty as commanding officer of the 1st Battalion, in action against enemy aggressor forces. Although keenly aware that the operation involved breaking through a surrounding enemy and advancing 8 miles along primitive icy trails in the bitter cold with every passage disputed by a savage and determined foe, Lt. Col. Davis boldly led his battalion into the attack in a daring attempt to relieve a beleaguered rifle company and to seize, hold, and defend a vital mountain pass controlling the only route available for 2 marine regiments in danger of being cut off by numerically superior hostile forces during their re-deployment to the port of Hungnam. When the battalion immediately encountered strong opposition from entrenched enemy forces commanding high ground in the path of the advance, he promptly spearheaded his unit in a fierce attack up the steep, ice-covered slopes in the face of withering fire and, personally leading the assault groups in a hand-to-hand encounter, drove the hostile troops from their positions, rested his men, and reconnoitered the area under enemy fire to determine the best route for continuing the mission. Always in the thick of the fighting Lt. Col. Davis led his battalion over 3 successive ridges in the deep snow in continuous attacks against the enemy and, constantly inspiring and encouraging his men throughout the night, brought his unit to a point within 1,500 yards of the surrounded rifle company by daybreak. Although knocked to the ground when a shell fragment struck his helmet and 2 bullets pierced his clothing, he arose and fought his way forward at the head of his men until he reached the isolated marines. On the following morning, he bravely led his battalion in securing the vital mountain pass from a strongly entrenched and numerically superior hostile force, carrying all his wounded with him, including 22 litter cases and numerous ambulatory patients. Despite repeated savage and heavy assaults by the enemy, he stubbornly held the vital terrain until the 2 regiments of the division had deployed through the pass and, on the morning of 4 December, led his battalion into Hagaru-ri intact. By his superb leadership, outstanding courage, and brilliant tactical ability, Lt. Col. Davis was directly instrumental in saving the beleaguered rifle company from complete annihilation and enabled the 2 marine regiments to escape possible destruction. His valiant devotion to duty and unyielding fighting spirit in the face of almost insurmountable odds enhance and sustain the highest traditions of the U.S. Naval Service.

Mr. CHAMBLISS. After the Korean War, General Davis went on to command the 3rd Marine Division in Vietnam. In 1972 he retired as a four-star general, having served his country for 33 years. During his service, General Davis earned a Purple Heart, a Bronze Star, two Legions of Merit, two Silver Stars, two Distinguished Service Medals, the Navy Cross for his service in the Palua Islands operation, as well as the Medal of Honor.

As an anecdote, our current chairman of the Senate Armed Services Committee, Senator John Warner, told me the other day that when he was Secretary of the Navy, he was responsible for seeing to the promotion of General Davis to full general.

After his retirement he refused to fade from the scene and his tireless efforts on behalf of veterans nationwide led to the construction of the Korean War Memorial here in Washington, DC. General Davis made it a practice of keeping in touch with me with respect to issues regarding the Active Force as well as veterans on a regular basis.

I noticed in my faxes I received last week that on the day before he died, he sent me a letter with an op ed he had written regarding a particular issue our Senate Armed Services Committee is dealing with on this very day.

General Davis has been a constant source of encouragement and support to me over the years. I will miss him dearly. He is survived by his wife of 61 years, Willa Knox Davis, three children, seven grandchildren, and two great-grandchildren.

We who knew him have been blessed by his wisdom, humility, and, above all, his honor. Our thoughts and prayers will remain with his family as they remember and celebrate the extraordinary life of GEN Ray Davis.

MEDICARE

Mr. NELSON of Florida. Mr. President, I wish to talk about cancer as well as finalize details of this appropriations bill which includes more than \$5 billion for the Cancer Institute. I am reminded of a related issue that threatens cancer care in this country. I am extremely concerned with several provisions in the Medicare prescription drug coverage bill already passed by the Senate and the House.

As we know, when the Medicare Program was first enacted, much of the care provided to patients was delivered in the hospital inpatient setting. That was 1965 when Medicare was enacted.

Over the course of the next 37 years, as science and medicine has progressed, patient care has shifted dramatically to the physician's office. Perhaps nowhere has this shift been more prevalent than in cancer care. Today, over 80 percent of all care is delivered in physicians' offices, and that is cancer care. This is due in large part to the introduction of the new outpatient drugs which have significantly reduced the need for inpatient hospital care for cancer patients.

If Congress was designing the Medicare Program today, in 2003, instead of in 1965, there is little doubt that outpatient prescription drug coverage would be a central part of that program. That is a lot of the argument we made when we passed the prescription drug benefit, a bill that passed earlier in the summer.

The current Medicare system, however, only provides limited coverage for outpatient drugs. Clearly, that needs to change, especially for cancer care.

Medicare does provide coverage for many cancer drugs, such as chemotherapeutic agents and supportive drugs. In addition, Medicare provides reimbursement to physician practices for professional services associated with the administration of those covered drugs under Medicare. As has been noted by the General Accounting Office and the HHS inspector general, the current system for reimbursement of cancer care is seriously flawed.

Medicare payments for cancer drugs frequently exceed the cost to the providers, and at the same time, however, Medicare reimbursement for drug administration covers only a small fraction of the actual cost of providing quality cancer care.

It is estimated that the current Medicare reimbursement only covers about 20 percent of the actual practice expenses.

I have heard from many of Florida's 775 oncologists, and they have told me that the overpayment for covered drugs has helped make up for the significant underpayment in practice expenses incurred by physicians' offices. This includes expenses for oncology nurses, pharmacists, case managers, medical equipment, and other services and supplies involved in providing cancer patients with the highest quality of care.

The goal for reform ought to be simple. Medicare should neither overpay nor underpay for drugs and related expenses. Unfortunately, the legislation passed by both Houses does not achieve the balanced reform that I think all of us agree is needed.

Instead, the legislation passed by the Senate on prescription drugs calls for a cut of \$16 billion over the next 10 years. The House-passed bill is no better, and it includes a cut of over \$13 billion from the current Medicare reimbursement levels.

The consequences from cuts of this magnitude are going to be dramatic, including the closure of satellite clinics in rural areas, forcing cancer patients to drive hundreds of miles for treatments. Oncology nurses, pharmacists, social workers, and the like will lose their jobs. Clinical research in community-based clinics, where approximately 60 percent of all cancer clinical trials are conducted today, are going to be brought to a halt. Many doctors will be forced to significantly reduce the number of Medicare cancer patients they treat, while others will

stop accepting new cancer patients altogether.

Patients are going to be forced to seek treatment elsewhere, but hospitals have indicated they have neither the physical capacity nor the nursing staff to treat a large volume of new cancer patients. In fact, a recent survey conducted by the American Society of Clinical Oncology found that if the proposed cuts in Medicare reimbursement are enacted into law, 73 percent of physicians surveyed would send chemotherapy patients to a hospital instead of treating them in the office. Fifty-three percent would limit the number of Medicare patients they treat, and nearly one in five indicated they would stop treating Medicare patients entirely.

If that happens, it is exactly the opposite of what we ought to be doing, because a person can keep their costs a lot lower if they are doing this treatment in a doctor's office instead of doing it in the hospital.

I am sure all of us unanimously would agree that we cannot let this happen, especially at a time when such tremendous progress is being made in cancer research and treatment. Yet it is happening under our eyes. It happened in this bill that we passed.

According to the statistics from the American Cancer Society, approximately 1.3 million new cancer cases will be diagnosed this year, and 60 percent of those cases will be among Medicare beneficiaries.

In my home State, more than a million people will be told over the next decade that they have been diagnosed with cancer. If the \$16 billion of cuts in cancer care that have been proposed are enacted into law, this would mean a \$1.6 billion reduction in Medicare cancer care reimbursement in my State of Florida alone. This cut is second only to the cut in California, which would be hit with a \$1.7 billion cut.

Let's face it, cuts of this magnitude are not sustainable. This is just Medicare reimbursement that we are talking about because private payers frequently follow the Medicare payment formulas. In the private sector, those cuts will be even more dramatic. The cumulative effect of all of these proposed Medicare cuts, combined with the private payer cuts that will undoubtedly follow, will have a very serious impact on the ability of cancer patients to receive the care they need in order to survive.

I remind everybody that there is not one among us who has not been touched by cancer in some way, if not among ourselves, among our loved ones and our friends. We have the greatest system of cancer care in the world. Patients are living longer. They are living productive lives thanks to the scientific advances and the dedicated men and women who provide the high-quality care in convenient and cost-effective community clinics throughout this country. People from around the world travel to America for cancer care.

My colleagues ought to see the Latin American market, how it comes to Florida for that care, because they know we have the latest technologies, the best doctors, the most compassionate nurses, and the best trained medical workforce in the world. That is why people come to the United States for their health care, especially cancer care.

Advances in cancer research have led to the development of new therapies that are more targeted, and those therapies are less toxic. As a result, cancer mortality rates in the U.S. have been declining. We are winning this war on cancer. Now is not the time to call for a retreat, a surrender, by slashing Medicare payments.

The conference committee on the Medicare prescription drug bill is meeting right now, and all across this land people who care about what I am trying to articulate ought to be sending their ideas, their requests, and their pleas, along with their prayers, to that conference committee and let them know what they think. We have a saying in the South: Let them have an earful.

While many issues still have to be ironed out in that conference committee, it is putting the Congress one step closer to enacting the most sweeping reform of the Medicare Program since its inception.

In closing, I urge my colleagues to continue the discussions with the cancer care community to develop a proposal that will preserve patient access to community-based cancer care. Cancer patients and their families are counting on Congress to preserve high-quality community-based cancer care. This is one of the most serious issues we are facing, and when we make tradeoffs because of budgetary limitations, as we did on the floor of this Senate in the consideration of the Medicare prescription drug benefit, where we traded cuts in cancer care for increases in rural health care, that is a tradeoff that we should not have to make. We ought to be able to do both. The consequences, if we allow it to stand, are going to be extremely great.

I yield the floor.

CANCER

Mr. STEVENS. Mr. President, increasing scientific evidence indicates that what a person includes in his or her diet may be as important as what a person excludes. Scientists estimate that at least 30 to 40 percent of all cancers are linked to diet and related lifestyle factors.

Some foods contain substances known to increase the risk of cancer, including saturated fat, cholesterol, and oxidants.

Avoiding these foods may reduce the risk of many of the most common forms of cancer, including prostate cancer, breast cancer, and colon cancer. I happen to have an extreme interest in that because I am a prostate cancer survivor. I am now told other foods

contain substances that help protect against cancer and heart disease.

A growing number of compounds in fruits, vegetables, and cereal grains have been found to interfere with the process of cancer development in laboratory research.

Epidemiologists have found that populations that consume large amounts of plant-derived foods have lower incidence rates of some types of cancer.

According to a study conducted by Stephanie London, a doctor and epidemiologist at the National Institutes of Environmental Health Sciences and Research Triangle Park, North Carolina, broccoli and other members of the cruciferous vegetable family, including cabbage and bok choy, appear to protect humans from lung cancer.

Several other studies have pointed to the cancer-prevention properties of phytochemicals found in these vegetables. According to Hien T. Le, Ph.D., a molecular biologist with the University of California Berkeley, consumption of these cruciferous vegetables has been linked with prevention of cancers of the breast, endometrium, colon, and prostate cancer.

One study further found these chemicals are "novel," naturally occurring and could have potential in cancer prevention or treatment.

Broccoli and related vegetables contain the chemical that kills the bacteria responsible for most stomach cancers, say researchers, confirming the dietary advice that moms have been handing out for years. Dr. Paul Talalay, a coresearcher at Johns Hopkins University, found the chemical sulforaphane even killed *H. pylori*, a bacteria that causes stomach ulcers and often fatal stomach cancers. Researchers stated:

If clinical studies show that a food can relieve or prevent disease associated with this bacterium in people, it could have a significant public health implication in the United States and around the world.

The good news is there appears to be enough of this chemical in broccoli sprouts and some varieties of broccoli to significantly benefit people who eat them. However, researchers cannot now say how much broccoli one should eat for there to be such an impact. The actual amounts would need to be determined with long-term tests involving human trials. "The levels at which we test it . . . is such that those could be achieved by eating broccoli or broccoli sprouts. It's a reasonable level that we think would be reached in the stomach," said Jed W. Fahey, of the Johns Hopkins University School of Medicine.

Researchers have created a synthetic version of the compound found in broccoli and other vegetables. "It may be easier to take a cancer prevention pill once a day rather than rely on massive quantities of fruits and vegetables," says the study author, Jerome Kosmeder, another Ph.D. research assistant professor at the University of Illinois at Chicago. However, such drug

development is several years away, I am informed.

The reason for my statement today is that I recently met with Dean Ornish, a great friend, a medical doctor, founder and president of the Preventive Medicine Research Institute, and clinical professor of medicine at the University of California, San Francisco. According to Dr. Ornish, "We often have had a hard time believing that the simple choices we make in our life each day—what we eat, how we respond to stress, how much exercise we get, whether or not we smoke, and the quality of our relationships—have such a powerful impact on our health and well-being."

With Dr. Ornish was Dr. S. Ward Casscells, a medical doctor who is the John Edward Tyson Distinguished Professor of Medicine and Public Health and vice president for biotechnology at the University of Texas Health Center in Houston.

Dr. Casscells was diagnosed with very aggressive metastatic prostate cancer in July of 2001. He began utilizing diet and a lifestyle program that Dr. Ornish and his colleagues had developed, along with conventional drug treatment. Today, Dr. Casscells shows no sign of cancer. He shows no sign at all of a cancer that had metastasized.

Meanwhile, researchers say populations should continue to eat healthy amounts of fruits and vegetables, enabling them to take advantage of cancer-fighting properties. Several other studies have pointed to the cancer prevention properties of the phytochemicals found in vegetables, according to several other people.

Mr. President, I emphasize, because of the nature of some of the moneys in this bill—I do believe we have spent a lot of Federal-tax payers' money on various approaches to cancer—I think we should concentrate more of the money we have available on these methods of prevention and methods of retarding the development of cancer once discovered.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment. Is there a request for the yeas and nays?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), Senator from Florida (Mr. GRAHAM), Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay."

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

The result was announced—yeas 7, nays 87, as follows:

[Rollcall Vote No. 344 Leg.]

YEAS—7

Bunning	Ensign	Santorum
Coleman	Gregg	
Collins	Murkowski	

NAYS—87

Akaka	Dodd	Lott
Alexander	Dole	Lugar
Allen	Domenici	McCain
Baucus	Dorgan	McConnell
Bayh	Durbin	Mikulski
Bennett	Enzi	Miller
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Bond	Fitzgerald	Nelson (NE)
Boxer	Frist	Nickles
Breaux	Graham (SC)	Pryor
Brownback	Grassley	Reed
Burns	Hagel	Reid
Byrd	Harkin	Roberts
Campbell	Hatch	Rockefeller
Cantwell	Hollings	Sarbanes
Carper	Hutchison	Schumer
Chafee	Inhofe	Sessions
Chambliss	Inouye	Shelby
Clinton	Jeffords	Snowe
Cochran	Johnson	Specter
Conrad	Kennedy	Stabenow
Cornyn	Kohl	Stevens
Corzine	Kyl	Sununu
Craig	Landrieu	Talent
Crapo	Lautenberg	Thomas
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lincoln	Wyden

NOT VOTING—6

Allard	Graham (FL)	Lieberman
Edwards	Kerry	Smith

The amendment (No. 1585) was rejected.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I alert all Senators as to our schedule. I have had a number of inquiries as to what we will be doing. There are very few amendments remaining to be voted upon. Unless we are going to have a series of rollcall votes on amendments which the managers have agreed to, the senior Senator from Arizona has notified this manager there are objections to amendments.

At this time I ask unanimous consent to offer an amendment by Senator SESSIONS regarding the Centers for Disease Control on a plan related to blood safety and ask for its immediate adoption. The provision of the amendment is "not later than 90 days after the date of enactment of this act, the director of the Centers for Disease Control and Prevention shall prepare a plan to comprehensively address blood safety and injection safety in Africa under the global AIDS program."

The area of disagreement, if I may inform my colleagues, is whether the word "shall" will be in the amendment, which is what Senator SESSIONS insists upon, or whether it will be "may," which would leave it up to the discretion of the executive branch as to whether they will carry out the study.

If the yeas and nays are requested, I intend to ask my colleagues to deny a sufficient second. I have consulted with the Parliamentarian who advises that the rule is, to have a sufficient second, there must be one-fifth of those who

previously voted, which would be 19 out of 95. If this will require a rollcall vote, I cannot predict how many rollcall votes we will have this evening, but I would not make dinner plans.

Mr. INHOFE. Regular order.

Mr. SPECTER. Mr. President, I ask unanimous consent for the adoption of the Sessions amendment.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCAIN. I suggest the absence of a quorum.

Mr. INHOFE. Regular order.

Mr. HARKIN. Regular order.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HARKIN addressed the Chair.

Mr. BREAUX. Regular order.

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

AMENDMENT NO. 1614

Mr. HARKIN. Regular order, Mr. President.

Mr. MCCAIN. Is the amendment debateable?

The PRESIDING OFFICER. The regular order is there are 2 minutes evenly divided prior to a vote with respect to the Landrieu amendment No. 1614.

Who yields time?

The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I am glad to have a quorum. This is a very important amendment. I need my colleagues' help, if they would direct their attention to this chart I have in the Chamber.

This amendment is called the MASH amendment. It is a very serious amendment: mosquito abatement, safety, and health.

We are fighting multiple wars—one in Iraq, which is very serious, with far-reaching consequences.

I know my colleagues are interested in knowing about how many people have lost their lives in their own States in this last year. It has been quite a few from this new and very deadly disease.

We have lost 286 men and women in Iraq, which is very serious, and we are spending a great deal of time, energy, money, and treasure, but we have also lost 246 individuals in the United States. The highest instances have been in Louisiana, South Dakota, Michigan, and Ohio.

This amendment will provide the only Federal funds available to help our States combat this deadly disease. I ask for your support. I ask unanimous consent to have printed in the RECORD data on the number of confirmed cases of people who have contracted this

deadly disease and the number of people who have died from it.

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

WEST NILE VIRUS CURRENT CASE COUNT

(Data currently listed shows case counts for 2002 only)

State	Laboratory-positive human cases	Deaths
Alabama	49	3
Arkansas	43	3
California	1	
Colorado	14	
Connecticut	17	
Delaware	1	
District of Columbia	34	1
Florida	28	2
Georgia	44	7
Illinois	884	64
Indiana	293	11
Iowa	54	2
Kansas	22	
Kentucky	75	5
Louisiana	329	25
Maryland	36	7
Massachusetts	23	3
Michigan	614	51
Minnesota	48	
Mississippi	192	12
Missouri	168	7
Montana	2	
Nebraska	152	7
New Jersey	24	
New York	82	5
North Carolina	2	
North Dakota	17	2
Ohio	441	31
Oklahoma	21	2
Pennsylvania	62	7
Rhode Island	1	
South Carolina	1	
South Dakota	37	
Tennessee	56	7
Texas	202	13
Vermont	1	
Virginia	29	2
West Virginia	3	2
Wisconsin	52	3
Wyoming	2	
Totals	4,156	284

¹Data currently listed shows case counts for 2002 only. As of April 15, 2003 these are the human case totals that have been reported to ArboNet. ArboNet is the national, electronic surveillance system established by CDC to assist states in tracking West Nile and other mosquito-borne viruses.

WEST NILE VIRUS 2003 HUMAN CASES AS OF SEPTEMBER 9, 2003

State	Human cases ¹ reported to CDC	Deaths
Alabama	20	2
Arizona	1	
Arkansas	5	
Colorado	973	13
Connecticut	1	
Florida	22	
Georgia	7	1
Illinois	5	
Indiana	6	
Iowa	20	2
Kansas	18	1
Kentucky	4	
Louisiana	42	
Maryland	8	
Massachusetts	1	
Minnesota	30	
Mississippi	43	1
Missouri	6	1
Montana	116	1
Nebraska	436	10
New Jersey	3	
New Mexico	83	4
New York	6	1
North Carolina	9	
North Dakota	91	
Ohio	18	1
Oklahoma	20	
Pennsylvania	38	
South Carolina	1	
South Dakota	407	5
Tennessee	6	
Texas	190	6
Virginia	4	
Wisconsin	5	
Wyoming	229	4
Total	2,874	53

¹These numbers reflect both mild and severe human disease cases that have been reported to ArboNet by state and local health departments during 2003. ArboNet is the national, electronic surveillance system established by CDC to assist states in tracking West Nile virus and other mosquito-borne viruses.

Note: As of the above date, detailed information is available for 2,752 cases: 1,595 cases (58%) were reported as West Nile Fever (milder disease), 843 (31%) were reported as West Nile meningitis or encephalitis (severe disease) and 314 (11%) were clinically unspecified.

Ms. LANDRIEU. I ask for my colleagues' support on this amendment.

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

Who yields time in opposition?

Mr. SPECTER. Mr. President, there is no doubt about the seriousness of the West Nile virus. But we have, at the present time, some \$76 million at the Centers for Disease Control.

This past Saturday, I visited the Centers for Disease Control. I took a look at their maps and saw the incidence of West Nile and have no request from the Centers for Disease Control that there ought to be any additional funding.

Mr. President, I raise a point of order under section 504 of the concurrent resolution on the budget for fiscal year 2004 that the amendment is not in order because it exceeds discretionary spending limits.

Ms. LANDRIEU. Mr. President, pursuant to section 504(b)(2) of H. Con. Res. 95, I move to waive section 504 of that concurrent resolution for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Oregon (Mr. SMITH) is absent because of a death in the family.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

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

The yeas and nays resulted—yeas 46, nays 49, as follows:

[Rollcall Vote No. 345 Leg.]

YEAS—46

Akaka	Dayton	Levin
Allard	Dodd	Lincoln
Baucus	Dorgan	Mikulski
Bayh	Durbin	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Boxer	Harkin	Pryor
Breaux	Hollings	Reed
Byrd	Inouye	Reid
Campbell	Jeffords	Rockefeller
Cantwell	Johnson	Sarbanes
Clinton	Kennedy	Schumer
Coleman	Kohl	Stabenow
Conrad	Landrieu	Lautenberg
Corzine	Leahy	Wyden
Daschle		

NAYS—49

Alexander	Bennett	Brownback
Allen	Bond	Bunning

Burns	Frist	Nickles
Carper	Graham (SC)	Roberts
Chafee	Grassley	Santorum
Chambliss	Gregg	Sessions
Cochran	Hagel	Shelby
Collins	Hatch	Snowe
Cornyn	Hutchison	Specter
Craig	Inhofe	Stevens
Crapo	Kyl	Sununu
DeWine	Lott	Talent
Dole	Lugar	Thomas
Domenici	McCain	Voinovich
Ensign	McConnell	Warner
Enzi	Miller	
Fitzgerald	Murkowski	

NOT VOTING—5

Edwards	Kerry	Smith
Graham (FL)	Lieberman	

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 49. 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.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I believe we are ready to go to the amendment of the Senator from Nevada, Mr. ENSIGN. He was in the Chamber a moment ago. Let me advise all Senators that it appears at this time that we will have four more rollcall votes, plus final passage.

The leader has authorized me to say that the 15-minute votes will be held sharp to 20 minutes, 15 and 5 grace, cut off after 20 minutes. The 10-minute votes will be 10 plus 5 minutes grace for a total of 15 minutes. We will try to proceed to conclude this bill. It is too late to complete it early, but we will do it as soon as we can.

Is the Senator from Nevada prepared to offer his amendment.

Mr. ENSIGN. Very soon.

Mr. REID. 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. ENSIGN. 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. 1621 TO AMENDMENT NO. 1542

Mr. ENSIGN. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself, Mrs. MURRAY, and Mr. GREGG, proposes an amendment numbered 1621 to amendment No. 1542.

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

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

The amendment is as follows:

(Purpose: To provide funding for statewide, longitudinal data systems under section 208 of the Education Sciences Reform Act of 2002)

At the end of title III, insert the following:

SEC. 306. There are appropriated, out of any money in the Treasury not otherwise appropriated, to carry out section 208 of the Education Sciences Reform Act of 2002, \$80,000,000. All amounts in this Act for management and administration at the Department of Education are reduced on a pro rata basis by an amount required to offset the \$80,000,000 appropriation made by this section.

Mr. ENSIGN. Mr. President, I will take a very short time on this amendment. I am proposing this amendment for myself, Senator MURRAY, and Senator GREGG. This amendment is to address a problem we hear about back home on the No Child Left Behind Act. When you go home and talk to educators, they talk about not having adequate money to get the technology to transfer the data to comply with the No Child Left Behind Act for the local school districts. It is the No. 1 complaint we have heard from all of the school districts back home.

This amendment appropriates \$80 million to basically fund that shortfall, and it takes the money out of administrative costs in the Department of Education. We think it is a very reasonable amendment. We hope our colleagues will support the amendment. Hearing from educators across the country, this will address one of the most pressing concerns they have in complying with the No Child Left Behind Act.

I just spoke to the new teachers in Clark County. They had to break it down into 2 days, with 700 one day and 700 the next for new teacher orientation. During that time, there were a lot of administrators around, and this was by far the biggest question they had—making sure they had adequate funds to comply with the No Child Left Behind Act. We think this amendment goes a long way toward complying with the No Child Left Behind Act.

I will yield to my friend from New Hampshire to make some remarks.

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

Mr. GREGG. Mr. President, I rise in support of this amendment. It is paid for, which is a critical element of any amendment. More important than that, it does fund the data-tracking capabilities of the States. That is part of the No Child Left Behind initiative.

Last year, we passed the legislation, basically creating this opportunity for States to set up these databases. Unfortunately, we never funded it. So this would allow us to fund that new piece of legislation. I think it was a separate freestanding piece of legislation.

In any event, it funds the effort of the States to set up the data tracking within the States that is necessary for them to determine how they are doing in obtaining their achievement goals under No Child Left Behind. It is reasonable that this money be appropriated, and I am hopeful that it will be accepted. If it cannot be accepted, I hope we can do it by the offsets presented in this amendment.

Mr. ENSIGN. Mr. President, if no one else seeks recognition, I just add a cou-

ple of comments about the amendment. It has the support of the Council of Chief State School Officers. The reason, as I mentioned before, is because no matter how small or large the school district is, they are all facing the same problems this amendment attempts to correct.

They just do not have the infrastructure that is necessary to capture, analyze, and disseminate the data required by the No Child Left Behind Act.

Several States have not even done the planning to implement this because they don't have the resources. This amendment is going to give those resources necessary to comply with the No Child Left Behind Act.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this amendment provides \$80 million for data collection for student achievement. While it would be desirable to have more funds in this appropriations bill, we don't have them, and the offset is a cut in the program out of the Department of Education which would be very burdensome, really intolerable for the Department of Education.

For that reason, I reluctantly oppose the amendment by the Senator from Nevada.

The PRESIDING OFFICER. Is there further debate?

Mr. ENSIGN. Mr. President, I 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.

Mr. REID. Mr. President, the Senator from Washington, Mrs. MURRAY, wishes to speak on the amendment, so I ask that the vote not occur at this time. She is on her way over to the Chamber.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that the pending amendment be set aside until Senator MURRAY arrives.

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

AMENDMENT NO. 1622 TO AMENDMENT NO. 1542

Mr. SPECTER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself, Mr. HARKIN, Mrs. FEINSTEIN, and Ms. COLLINS, proposes an amendment numbered 1622 to amendment No. 1542.

The amendment is as follows:

(Purpose: To increase funding for the National Institutes of Health)

On page 61, between lines 14 and 15, insert the following:

SEC. ____ In addition to any amounts otherwise appropriated under this Act under the heading of NATIONAL INSTITUTES OF HEALTH—OFFICE OF THE DIRECTOR, there are appropriated an additional \$1,500,000,000 for programs and activities under the discretion of the Office of the Director of the National Institutes of Health. Such additional amount shall be designated as emergency spending

pursuant to section 502(c) of House Concurrent Resolution 95 (108th Congress).

Mr. SPECTER. Mr. President, the amendment provides for an additional \$1.5 billion for the National Institutes of Health. This is one of the most important functions of the Federal Government. I don't think we have anything in our budget on the domestic side which is more important, perhaps not as important, as funding for the National Institutes of Health. That is the crown jewel of the Federal Government.

We are asking that this be classified as an emergency because the budget resolution provides for an emergency classification if it meets the following criteria: No. 1, vital; No. 2, urgent and compelling; No. 3, unpredictable; and No. 4, temporary.

It is vital because the lives and health of Americans are at stake. It is a life-and-death matter in the way NIH funding has saved lives, moving forward the cures of so many dreadful maladies.

It is urgent and compelling because Americans who have family members with muscular dystrophy, Parkinson's, Alzheimer's, or a host of other ailments will tell you that with each passing day, the hope that their loved one will be saved grows dimmer.

It is unpredictable and unanticipated because the nature of the scientific enterprise is unpredictable. The potential cures for disease have grown through research at NIH.

It is temporary because a disease such as cancer or Alzheimer's costs our economy billions of dollars a year.

As the diseases that afflict Americans are cured, they are able to return to productive lives, and these investments in the health of Americans will more than pay for themselves.

I offer this amendment on behalf of Senator HARKIN, Senator FEINSTEIN, Senator COLLINS, and myself. I know there are objections to the classification as an emergency. So I invite whoever seeks to object to come to the floor.

Mr. HARKIN. Does the Senator yield the floor?

Mr. SPECTER. I do.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, again I commend Senator SPECTER for his many years of hard work, his efforts, and his success in increasing the funding for the crown jewel of the Federal Government, and that is the National Institutes of Health. Certainly, no one has fought harder and longer to ensure that our National Institutes of Health get the funding they need for the cutting-edge research that is saving so many lives.

It was under Senator SPECTER's leadership that we embarked upon a program to double the NIH funding over 5 years. People said it could not be done, but we did it.

Now we are up there and there seems to be some idea that somehow since we

did that—the reason we did that was that NIH had fallen so far behind in the number of peer-reviewed grants that were being approved and funded. So we got them back up to where they were at least 20 years ago. Some think now we have them up there, we do not have to fund them anymore and we can start falling back again. The purpose of the Specter amendment is to bring the NIH up and keep them on a track that will not allow them to fall back again.

The Senate bill will increase funding for NIH by \$1 billion; that is 3.7 percent. It will be the smallest percentage increase for NIH since 1995. This is the wrong time to put the squeeze on NIH funding. Doing so will severely impact NIH's ability to award new research grants at the very time when scientists should be taking full advantage of everything they have learned over the past 5 years to translate that research into treatments and cures.

Under the Senate bill, the number of new and competing nonbiodefense research grants would actually drop from 9,902 in fiscal year 2003 to 9,827 in fiscal year 2004. That is why Senator SPECTER, Senator FEINSTEIN, Senator COLLINS, and I are offering an amendment to add \$1.5 billion more for NIH.

This additional funding is critical to ensuring that researchers can continue the remarkable pace of medical advances during the past 5 years, as I said, when we doubled the funding for NIH. Perhaps most importantly, the doubling of the funding helped result in the completion of the final DNA sequence of the human genome. That was done during that period of time.

In the past 5 years, NIH research has led directly to new knowledge about the dangers of hormone replacement therapy for millions of American women, contradicting commonly accepted medical practice.

NIH research supported the development of new techniques for bone marrow transplantation.

NIH research demonstrated that intense therapy of type 1 diabetes can reduce long-term diabetes complications by at least 75 percent.

NIH research has now enabled scientists to identify several genes that increase vulnerability to schizophrenia.

I guess what I am saying is we are truly on the brink of a golden age in medical research with the mapping and sequencing of the human genes and other measures funded by NIH. But those opportunities are threatened if we don't maintain NIH funding at a reasonable level.

The impact of the bill's dramatic slowing in the growth of the NIH budget will be particularly devastating in the areas of clinical research where, again, the fruits of our investment in medical research are applied to improving the health of the American people.

A crash landing in NIH funding sends a chilling message to young scientists in training and those just entering the

research field. Scientific competition will always be fierce, but young scientists must be sure that sufficient funding will be available or exceptionally talented young people will begin to pursue other careers.

So again I rise in strong support of Senator SPECTER's amendment, along with Senator FEINSTEIN, and I hope the Senate will adopt this very modest but very meaningful increase in funding for the National Institutes of Health.

Ms. MIKULSKI. Mr. President, I rise as a cosponsor of the Specter-Harkin-Feinstein amendment to increase funding for the National Institutes of Health, NIH. I fought hard to make sure that Congress kept the commitment it made 5 years ago to double Federal spending for the NIH. I am proud that Congress kept its promise. I strongly support the NIH. I believe that it is an investment that saves lives and that Congress must continue this valuable investment.

The underlying Senate bill that funds health programs would increase funding for NIH by \$1 billion, or just 3.7 percent in 2004. This would be the smallest percentage increase for NIH since 1995. The Specter-Harkins-Feinstein amendment would increase funding by \$1.5 billion, for a total of \$29.5 billion. This is the wrong time to cut the Federal investment in NIH. Congress and the American people have invested in the NIH. We must allow scientists to continue the great work they are doing and translate the research they have been working on over the past 5 years into treatments and cures.

If this amendment fails there would be an increase of only 26 new and competing research grants in fiscal year 2004. That is approximately one grant for each NIH Institute and Center. Also, nonbiodefense grants would actually drop, from 9,902 in fiscal year 2003 to 9,607 in fiscal year 2004. This means that more promising research on cancer, diabetes, or other devastating diseases may go unfunded.

The research conducted at NIH today can help lead to longer, more productive lives for people struck with countless conditions and diseases. Whether it is Alzheimer's, cancer, cardiovascular disease, autoimmune diseases, or diabetes, this research can help lead to a higher quality of life for Americans.

I am proud to have NIH in Maryland. NIH's impact in Maryland is quite profound. We have excellent research centers and private companies that exist and grow because of the unique synergy between the Federal labs in Maryland, like NIH, and the ingenuity of the private sector. Yet the benefits of investing in NIH are not limited to Maryland. NIH funds research at universities across the country. Patients across the country, their loved ones, and those who someday may be diagnosed with diseases all benefit from these critical investments.

We cannot afford to lessen our commitment to medical research. I thank Senator SPECTER, Senator HARKIN and

Senator FEINSTEIN for their leadership on this critical issue. I urge my colleagues to join me in supporting this important bipartisan amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, we have two more amendments to be offered by the Senator from Pennsylvania, Senator SANTORUM, and the Senator from Ohio, Senator DEWINE. We ask they come to the floor now. If there are objections to the amendment which has just been offered on the National Institutes of Health, we ask Senators to come to the floor so we can wrap up the debate, move on these votes, and move to final passage.

We are within the very short distance of the goal line, but we need those other Senators to come to the floor. Last Wednesday we were talking about going to third reading. That might be a subject to revisit.

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

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

Mr. ENSIGN. I ask unanimous consent that Senator COLLINS be added as a cosponsor to amendment No. 1621.

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

Mr. ENSIGN. 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. SPECTER. 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. SPECTER. Mr. President, we have decided to accept the amendment of the Senator from Nevada, Mr. ENSIGN. Does the ranking member concur in that?

Mr. HARKIN. We have no objections on this side.

Mr. SPECTER. I urge the adoption of the amendment.

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

Mr. ENSIGN. I ask unanimous consent that the yeas and nays be vitiated.

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

The question is on agreeing to amendment No. 1621.

The amendment (No. 1621) was agreed to.

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

Mr. SPECTER. 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 Alaska.

Mr. STEVENS. While we are waiting momentarily, I want to take this opportunity to recognize the staff of the Labor, Health and Human Services, and Education Subcommittee for all their efforts, hard work, and dedication on this very difficult bill.

First let me thank Senator HARKIN's staff: Ellen Murray, Erik Fatemi, and Adrienne Hallet. They have worked shoulder to shoulder in a bipartisan fashion with our staff to put together this fine bill. It is a testament to their hard work, skill, dedication, and partnership.

I also commend and thank our subcommittee staff: Jim Sourwine, Mark Laisch, Sudip Parikh, Candice Rogers, and Carol Geagley. The staff deserves our gratitude for working diligently for many months, late nights, and weekends to put together this very important bill. I know every year both of these staffs reach across the aisle to work together to forge compromises on many contentious issues. I think we should all thank them and salute them.

Lastly, I will take a moment to give special praise to our subcommittee staff director Bettilou Taylor. Senator SPECTER and I often refer to Bettilou as "Senator Taylor." She has one of the toughest jobs in the Senate. This is the largest bill this year. It probably is the largest domestic appropriations bill in the history of the United States to appropriate taxpayer money for Federal purposes. This is a very complex bill with difficult issues. Bettilou does it with a great deal of skill and grace. She is, in every sense of the word, a consummate professional. I thank her and I hope all Members will thank her for her outstanding work for the Senate and for the American people.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished President pro tempore and chairman of the full committee for those comments. I associate myself with them. It has been an outstanding and extraordinary staff. Ellen Murray for Senator HARKIN and Bettilou Taylor on the majority side are—exemplary is not a high enough characterization.

While I am at it, I thank my distinguished ranking member, Senator HARKIN, for his extraordinary contribution to the public good. He and I have worked as the chairman and ranking and reversed the roles, and we call it a seamless transfer of the gavel. I take this occasion to thank him for his work.

I note Senator NICKLES is in Chamber now, so I yield for a moment to my colleague, Senator HARKIN.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I thank the chairman for yielding and I, too, thank Senator STEVENS for his kind and generous remarks regarding the subcommittee and especially applaud him for all the glowing terms he used about our staff on both sides of the aisle. They are just

outstanding staff. They work very hard on this bill every year. But they have not worked any harder in any year than this year because, as Chairman STEVENS said, this is a very large bill and a very complicated bill. It covers just about everything from soup to nuts in our society.

They have done a great job. I, too, compliment our respective staffs and thank them for all their hard work. I want to repay in kind the kind words Senator SPECTER just said. We have had a back and forth chairmanship/ranking member now going back 13 years. It has been a seamless transfer of the gavel. We worked very closely together all these years to increase funding for NIH, to meet our commitments in education, to meet our commitments in health care.

This bill, I have often said, is the bill that really defines America. I have often said that we always have a Defense Appropriations Committee bill. The Defense Appropriations Committee bill is the bill that defends America. This bill that funds the Department of Education that our colleague from Tennessee headed—I remember when he was Secretary of Education—and the Department of Health and Human Services, the Department of Labor, NIH, libraries—everything, I always said this is the bill that defines America. It defines who we are as a people and how much we are going to invest in our human resources in this country.

So I thank Senator SPECTER for his dynamic leadership of this subcommittee, for his vision, for his hard work in making sure we have a bill that is—not perfect. Obviously, I don't think anyone here has gotten everything they want out of this bill; that is true. But it is a true compromise, and that is what should define what we do here in the Senate, is compromise between the various interests we represent and the various States. I think that is truly what this bill does this year, and I thank Senator SPECTER for his great leadership getting this bill together.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I regret I am going to make a budget point of order because the amendment that is pending busts the budget, and it busts the budget by \$1.5 billion.

First, I congratulate Senator SPECTER for the work he has done up to this point. He saved the taxpayers a lot of money. There have been a lot of amendments. I will just mention those. We have totaled those, the total for 2004. Senator SPECTER has made points of order, all of which were sustained, that saved \$24.481 billion in 2004—over a 10-year period, \$352 billion—by basically staying with the budget.

This amendment breaks the budget. This amendment breaks the budget deal that the chairman of the Appropriations Committee negotiated with the President of the United States. It

breaks the budget that we passed overwhelmingly—that we passed after a lot of hard work.

Are we going to have a budget or not have a budget? This amendment says we are going to add \$1.5 billion for NIH and declare it an emergency; i.e., we don't expect it to count on the budget. In other words, we don't want the budget to apply.

If we follow that analogy, it is like some of the other amendments that were offered. Several people offered amendments that just said let's take money from 2004 and put it in 2003 and therefore we will have money for 2004. It was a sham. We defeated all those. If we do not defeat this amendment, the budget is a sham. We will just say something is an emergency that is not an emergency.

We appropriate money to NIH. We have done so. I happen to be a supporter of NIH. I have supported increasing money substantially to NIH over the years.

Looking back, in 1990 we spent actually \$7.5 billion on NIH. In 2004, under the budget that we have, without this amendment we are spending right at \$28 billion. That is three and a half times what we spent in 1990.

In 1998, when we said we were going to double it, we did. In 1998, we were spending \$13.6 billion for NIH, and the budget we have before us is almost \$28 billion—more than double since 1998. Those are enormous growth rates, maybe exceeding almost any other Government program.

Maybe we need to slow that rate of growth down just a little bit because now we don't have big surpluses. When we were doubling the program, we had some surpluses. Now we have a big deficit. Maybe we should do a little bit better job of oversight.

I noticed there was a report. I remember, on "CBS News" the headline was "NIH Microbiologist Gets Paid \$100,000 By Taxpayers To Do Nothing."

It was reported in the Washington Post. I ask unanimous consent to have that printed in the RECORD, an article that was in the Post on July 4.

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

[From the Washington Post, July 4, 2003]

NIH SCIENTIST SAYS HE'S PAID TO DO NOTHING; AGENCY DENIES ADMINISTRATOR'S "SURREAL SITUATION" OF COLLECTING \$100,000 SALARY FOR NO WORK

(By Tania Branigan)

Every weekday at 6:30 a.m., Edward McSweegan climbs into his Volkswagen Passat for the hour-long commute to the National Institutes of Health. He has an office in Bethesda, a job title—health scientist administrator—and an annual salary of about \$100,000.

What McSweegan says he does not have—and has not had for the last seven years—is any real work. He was hired by the National Institute of Allergy and Infectious Diseases in 1988, but says his bosses transferred the research grants he administered to other workers eight years later, leaving him with occasional tasks more suitable for a typist or "gofer."

NIH officials denied the allegations earlier this week, but said they would reexamine the issue after Sen. Charles E. Grassley (R-Iowa) raised the issue in a letter to Health and Human Services Secretary Tommy G. Thompson.

Grassley, who as chairman of the Senate Finance Committee has supported budget increases for the NIH, learned of McSweegan's case when CBS News contacted him for a story on the scientist. In the report that aired on "CBS Evening News" on June 26, McSweegan said he had been paid to do nothing for the past seven years.

McSweegan used to be NIH's program officer for Lyme disease but was removed from the post in June 1995 after a dispute over his repeated criticism of a politically influential support group for sufferers and his allegations that NIH had been too accommodating of the group. He had publicly described the Lyme Disease Foundation as "wacko" because he disagreed with its theories about the disease. The dispute led to his suspension without pay for two weeks for insubordination and conduct unbecoming of a federal employee.

In spring 1996, his responsibilities for an unrelated program were also removed. He maintains they have never been replaced.

In an interview Monday, Grassley accused NIH of "an absolute management vacuum" and said it is "ludicrous" that the administrator is being paid to do nothing.

"We want to make sure we get the most bang for our buck, the most research for our dollars," the senator added.

John Burklow, a spokesman for NIH, said McSweegan has always been assigned duties appropriate to his position and pay level.

"The claim that he is being compensated for doing nothing is completely inaccurate," Burklow said.

According to NIH, McSweegan is director of the U.S.-Indo Vaccine Action Program, and has traveled to countries such as Russia representing the agency. He has also "produced reports and other work products."

But McSweegan said he has never been told he was director of the program and knew of no such title. Three other people ran the project, and his work for it—such as arranging coffee for lunches and forwarding messages—was "the kind of work you would get an . . . to do."

He added that the Office of Global Health Affairs had organized and paid for his trip to Russia, and that his only reports had been brief accounts of meetings.

McSweegan said he struggles to fill his eight-hour workdays by reading, exercising and writing fiction. He has self-published a bioterrorism thriller and a science fiction novel, and is working on a third book.

But he says his six-page job description is the ultimate work of creating writing and describes his position as "a bizarre, surreal situation—part Orwell, part Kafka and part Dilbert."

"It's not my idea, said McSweegan, 47. "I have pointed it out repeatedly over the years. I suppose they are just waiting for me to get bored and frustrated and quit. But I haven't been inclined to do that, because my wife has a real job and we have compelling family reasons for staying in the area.

"I just expect to do this for maybe four more years until my wife retires," he said. "It would be nice to get a real job doing real work."

Mr. NICKLES. Basically, the headline is "NIH Scientist Says He's Paid To Do Nothing; Agency Denies Administrator's 'Surreal Situation' Of Collecting \$100,000 Salary For No Work." The story goes on. I remember reading it, and I thought, whoa, somebody is not paying attention.

Please don't get me wrong. I know NIH does a lot of great work and I am supportive of that. But right now we have to live within a budget. If the committee wanted to—the committee has \$127 billion in discretionary spending—they could have given NIH more money. They had control over that \$127 billion. They could have shifted it around to where NIH would get more.

What the committee elected to do was: We will short fund NIH and we will give a lot more money for a lot of other things, and then we will try to run the gamut because we know NIH has a lot of support.

I think the committee needs to go back and say: Wait a minute, the budget is \$127 billion. It happens to be the largest budget of any that we have before any committee, with the exception of Defense. If you added all the mandatories to it, it is bigger than Defense. It is a total of \$460-some billion.

I urge my colleagues, if they want to get more money for NIH, let's have the committee go back and reallocate out of the \$127 billion they have under the budget. But let's live with the budget. Let's not declare something that is funded every year by appropriations an emergency; i.e., when we declare an emergency, it doesn't count on the budget. If we are going to use the emergency game as a way of violating the budget, let's just not have a budget.

We passed the budget through both Houses. We said you had to have 60 votes in the Senate to declare an emergency. Our colleagues who are supporting this amendment I have great belief sincerely support NIH, but they underfunded it in their committee in relationship to other things and now they want to say let's just declare an emergency and get around it so we will have more money.

I don't think they should get away with that. That is violating the agreement, the budget we passed. It violates the agreement we made with the President of the United States. So I urge my colleagues to support me in my effort to sustain the budget.

Mr. President, I will be making a budget point of order.

Mr. CONRAD. Will the Senator yield?

Mr. NICKLES. I will be happy to yield to my colleague, but I am not quite finished.

Pursuant to section 502(c)(5) of House Concurrent Resolution 95, the fiscal year 2004 budget resolution, I raise a point of order against the emergency designation provision contained in the amendment.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Part of what the Senator said I agree with. We should have been able to assign more money under our allocation process to this subcommittee. We are not able to do so. However, the Senator from Oklahoma was incorrect when he said we did not give them more money. Through the agreement with the administration, we did bring back money from the allocation process for education. We increased that amount, by virtue of what

we did, by \$2.2 billion. We took \$3 billion out of Defense and allocated it to several subcommittees, including \$800 million to this subcommittee. But very clearly, this subcommittee is short of money.

There are a great many problems that we face. This bill is going to conference, and we don't know how we are going to work out some of the items in this bill. There are several allocations we have made under our process that the House has not made. I take the position that this emergency is necessary to get this item to conference to see how we can allocate it. Obviously, we are not going to bring a bill out of conference that the President will veto. If the President tells us he is going to veto it because of these emergency designations, assuming the House would agree to it—we don't know if the House will agree to it—but I do know this bill is very short of money.

The demands on our society are now so great that all of the things from SARS, to the things the CDC is doing, and all the things NIH is doing—this is a bill that just absolutely demands funding.

I take the position that it is not inconsistent with the comments I made to the President—that I would not support emergencies unless there was a true emergency. I think this is a true emergency.

But in any event, if the Senate will vote as the managers of this bill have requested, we will take the bill to conference at \$1.5 billion more than the maximum amount I could possibly allocate and meet the other demands of our other 12 subcommittees.

I say to the Senator from Oklahoma that I don't think I am breaking my word at all. I hope the Senate will support us in taking this bill to conference with the most money we can possibly find to put in it and go to conference with the House.

There are a series of items in here to which we know the House will object. I believe by the time we come out, this emergency will not be needed. If it is needed, I will personally visit with the President of the United States about it, and we will see what he decides. If the President still takes the position that we should not include the money on an emergency basis, I will at that time oppose it.

But right now, I urge the Senate to waive this point of order. If it is the first one waived this year, this is the one to waive. This is the one necessary to do so.

I don't think it is inconsistent with my position.

I will tell Senator NICKLES, the chairman of the Budget Committee, that I think with the constraints we are operating under this year in view of the problems we have, being at war, and at the same time conducting all of these enormous projects that we are facing in terms of the health and welfare of our country, including education—this, as I said before, is the largest bill we

have—this bill is underfunded. But it is not underfunded because of what we did; it is underfunded because of what the Budget Committee did.

This is the one chance to overrule the Budget Committee. I intend to support Senator SPECTER, and I intend to support this emergency declaration.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I remind my friend and colleague from Alaska—he is my friend—we had an agreement on \$784 billion. The Senator from Alaska has an initial \$5 billion on top of that. The agreement was \$784 billion. The Senator from Alaska got \$3 billion from defense for other items; then an additional \$2.2 billion on top of that. A deal is a deal. If people do not want to waive the Budget Act, we don't have to have a budget.

I tell my colleagues that if the VA-HUD bill wants to bust the budget by declaring an emergency, we can bust the budget all day long. Why have a budget? They want to bust the budget by another \$1.5 billion. I am sure every other committee would love to. Why have a budget if you are just going to say: Wait a minute; for an appropriated item we don't have enough money. We want more, and we will declare an emergency. It doesn't count. Now this year you will go to conference with the House with different figures.

We are going to have the same figures so we can finish the bills on time.

I am just disappointed in the statement of my colleague from Alaska. I believe a deal is a deal and a budget is a budget. It takes 60 votes to waive the budget. If our colleagues elect to waive it, I guess that will be their choice.

This Senator hopes that we will not do it. The NIH gets an additional \$1 billion this year. Maybe that is not enough, as some would like, but the committee had \$127 billion to allocate. They could have allocated that in any way they wanted. They had great discretion. We give great discretion to the chairman of the subcommittee and the ranking member of the subcommittee to allocate the \$127 billion. Yet it looks as if, well, the NIH didn't do as well as many other accounts. Maybe that was on purpose. I don't know. I do know the total exceeds the budget that we passed. It exceeds the agreement we made with the President of the United States. It would say that \$1.5 billion is an emergency for NIH. This is normally an appropriated item. There is nothing emergency whatsoever.

I urge my colleagues to sustain the budget point of order and not to waive the budget.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I appreciate the comments of the Senator from Oklahoma. Up my way, we say, "Wait until the last dog is hung."

The agreement we made with the President will be kept. In the final analysis, it was not based on the allocations we made under our allocation process. It was based on the total.

We have 13 bills to consider. We will see to it that we keep our agreement with the President. As a matter of fact, he has the veto pen. He will see to it that we keep it.

But there is a problem of getting bills done and taking to the conference the things that the Senate wants considered in conference.

I join with the Senator from Pennsylvania and the Senator from Iowa in wanting this money considered in conference. If it is not approved in conference, then we will not have approval.

I think there will be other items that the Senate will want to take out, and part of this money will come back in the final bill.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I yield to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise to support the position of the chairman of the Budget Committee.

The deficit for next year is now calculated to be over \$530 billion. That does not count the \$160 billion that is going to be taken—every penny—from the Social Security trust fund surplus. Now we are talking about an operating deficit of \$697 billion. And we are acting as though nothing has changed. Something has changed. This country is digging a deep hole.

I agree that NIH is underfunded. I would love to support additional money for NIH. But it is not there. It is not in this budget. It wasn't in the budget which I offered my colleagues and which the vast majority of Members on our side voted for. If we are going to be declaring emergencies on appropriated accounts where there is nothing that wasn't intended, there was nothing unanticipated, then we could just take the whole budget process and throw it out the window and abandon all discipline.

This is a mistake, I say to my colleagues. It is a mistake tonight to declare an emergency where no emergency exists.

I urge my colleagues to support the chairman of the Budget Committee.

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

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this is the most spirited debate of the entire bill, and we have had some spirited debates.

I thank the Senator from Oklahoma for his compliments.

I haven't gotten around to totaling the savings. But I was pleased to hear that we saved some \$24-plus billion. Over a 10-year period, it is in the high of \$300 billion.

I am pleased to note that I believe there is a very big difference between the National Institutes of Health and anybody else who wants to declare an emergency. Simply stated, NIH deals with life and death.

At any rate, we have saved more than \$24 billion this year—a vast sum over 10 years.

I ask my colleagues to support this amendment, and I move to waive the Budget Act.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I rise in support of the Senator from Oklahoma. And this is a spirited debate.

I guess I rise in large part because of the agreement, as I understand it, that has gotten us to the point we are today; that is, to be able to progress on the appropriations bills with an overall sum that was set with a budget that was specifically designed and agreed to, which this amendment, as I interpret it, blows away.

Although I, as a physician and as someone who values what the NIH does tremendously—indeed, it is my life, or has been my life—the idea that we add \$1 billion as an emergency at this point in time is inconsistent with the agreements we made up to this date.

Again, I would like to see that money invested and the NIH properly use that money well. If \$1 billion is not put in, the NIH will be able to continue to do its responsible role, and fulfill that role, in a way that, to me, means this is not emergency money.

Thus, I will support the chairman of the Budget Committee, the Senator from Oklahoma, in the vote which we are about to take.

Mr. STEVENS. Will the Senator yield?

The PRESIDING OFFICER. Is there a sufficient second to the request for the yeas and nays?

There is a sufficient second.

The Senator from Alaska.

Mr. STEVENS. Leader, I state categorically I did not make an agreement on any particular bill. We made an agreement that the bottom line would not exceed the amount that the Senator from Oklahoma stated. We have a series of bills going to conference and we will keep that commitment.

But with due respect, I made no commitment on any particular bill, to the President or to anyone else.

Mr. FRIST. Mr. President, to reach this total sum, we established a budget that we have been able to adhere to today, to which we have all agreed. My interpretation of this amendment, describing it as an emergency, blows away that budget which leads to the total.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, emergency, like beauty, sometimes is in the eye of the beholder. Quite frankly, to this Senator, every single penny we put into NIH is an emergency. If you do not believe me, go out and talk to a family with a child that just came down with juvenile diabetes and see if you do not think what we spend at NIH is an emergency.

Talk to a woman who has just discovered she has breast cancer and is facing

an uncertain future. Tell her that funding of NIH is not an emergency. Talk to someone who has suffered an injury who is now quadriplegic. They are looking for help to once again be whole again through some of the great research being done through NIH. Tell them this is not an emergency. Go out and talk to a family who has a loved one who has just come down with Alzheimer's disease not knowing what the future is going to be. A mother, father, grandparents, looking forward to the debilitating effects of Alzheimer's disease. Tell them that funding for NIH is not an emergency.

Whether or not this is an emergency is in the eye of the beholder. Think of the millions of Americans who have been afflicted with illness, disease, and injury who look to NIH for the treatments and cures; think about whether or not every single penny we spend on NIH is an emergency.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I wanted an opportunity as a cosponsor of the amendment to say a few words and to add my support to that of the chairman of the Appropriations Committee and the chairman and ranking member of the subcommittee.

We stand at a very unusual time. Because of the human genome and the advances in molecular biology, it is now possible to develop and target drugs to specific ailments and therefore to break frontiers, to cross barriers and make uncharted progress. What we began exactly 5 years ago under the leadership of the Senator from Pennsylvania and the Senator from Iowa was essentially to double the funding of NIH over 5 years, to be able to take advantage of the new horizon in front of us.

I serve with President and Mrs. Bush, senior, as vice chairman of the National Dialogue on Cancer. Senator SAM BROWNBACK has just come aboard. And in the Senate Cancer Coalition which Senator BROWNBACK and I co-chair, we have heard miraculous testimony, for example, from Dr. Brian Drucker, the inventor of the drug Gleevec which is used to treat patients with chronic myeloid leukemia. Gleevec is one of a new generation of targeted cancer drugs that just kill bad cancer cells, leaving good cells unaffected. There is much less toxicity with this drug. Individuals do not lose their hair, they are not nauseated, and it has been shown to produce a 90-percent remission rate. That is where we are at this point in time. The sponsors of this amendment want to continue that advance.

I say to my colleagues on this side, we all voted for a host of amendments. They all cost money. This is the big one. This is the one that will really make a difference for the health of Americans. If this amount is not added to the budget, the number of new and competing non-biodefense research

grants will drop, from 9,902 in fiscal year 2003 to 9,827 in fiscal year 2004.

NIH says the optimum number percent of approval for these research grants is about 40 percent. Through the increases we have made over the last 5 years, the grant approval rate is now about 30 percent. All this amendment does is allow us to keep even with that rate. Unfortunately, it takes \$1.5 billion to do that.

The suffering out there is enormous. Because of advances, we can find new cures and new drugs with better prevention and better rehabilitation. That is what I believe the American people want to spend these dollars on.

I have faith in what the chairman of the Appropriations Committee said. Actually, I have never in the 10 years I have been here on a dollar matter heard him make a misstatement. I have no reason not to believe what he is saying. It may be true in absolute terms that this is not an emergency and the original plans were to take this money in a different way. For some reason that changed. The need is there. And the results will be there. I am absolutely convinced of it.

Senator BROWNBACK and I, as co-chairs of the Senate Cancer Coalition, hold hearings. We hear from people. We hear from scientists. We hear from advocates. Yet more than 575 health, research, and disease advocacy organizations support this amendment. That is no coincidence. It is because people know now that because of the advances in molecular biology, because of the human genome, we are on the brink of new discoveries. We want those discoveries to continue.

This is not pie in the sky. This is real. Every dollar spent will yield health dividends for people. I hope we will pass this amendment.

I yield the floor.

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. MCCONNELL. I announce that the Senator from Oregon (Mr. SMITH) is absent because of a death in the family.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

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

The yeas and nays resulted—yeas 52, nays 43, as follows:

[Rollcall Vote No. 346 Leg.]

YEAS—52

Akaka	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Harkin	Nelson (FL)
Boxer	Hatch	Nelson (NE)
Brownback	Hollings	Reed
Campbell	Hutchison	Reid
Cantwell	Inouye	Roberts
Clinton	Jeffords	Rockefeller
Coleman	Johnson	Sarbanes
Collins	Kennedy	Schumer
Corzine	Kohl	Shelby
Daschle	Landrieu	Snowe
Dayton	Lautenberg	Specter
DeWine	Leahy	Stabenow
Dole	Levin	Stevens
Domenici	Lincoln	Wyden
Dorgan	Mikulski	
Durbin	Miller	

NAYS—43

Alexander	Breaux	Cochran
Allard	Bunning	Conrad
Allen	Burns	Cornyn
Baucus	Byrd	Craig
Bayh	Carper	Crapo
Bingaman	Chafee	Dodd
Bond	Chambliss	Ensign

Enzi	Kyl	Sessions
Fitzgerald	Lott	Sununu
Frist	Lugar	Talent
Graham (SC)	McCain	Thomas
Grassley	McConnell	Voinovich
Gregg	Nickles	Warner
Hagel	Pryor	
Inhofe	Santorum	

NOT VOTING—5

Edwards	Kerry	Smith
Graham (FL)	Lieberman	

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The emergency designation is stricken. The question is on agreeing to the amendment.

The Senator from Oklahoma. Mr. NICKLES. Amendment No. 1522 by the Senator from Pennsylvania increases spending by \$1.5 billion. This additional spending would cause the underlying bill to exceed the subcommittee's section 302(b) allocation.

Therefore, I raise a point of order against the amendment pursuant to section 302 of the Budget Act.

The PRESIDING OFFICER. The Senator has raised a point of order.

Mr. REID. 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. REID. 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 from Pennsylvania.

Mr. SPECTER. Mr. President, I now send a series—

The PRESIDING OFFICER. If the Senator will suspend, a point of order was raised against the amendment. The point of order is sustained. The amendment falls.

NOTICE

Incomplete record of Senate proceedings. Except for concluding business which follows, today's Senate proceedings will be continued in the next issue of the Record.

ORDERS FOR THURSDAY, SEPTEMBER 11, 2003

Mr. MCCONNELL. Mr. President, I ask unanimous consent that at 1 p.m. on Thursday, September 11, the Senate proceed to the consideration of Calendar No. 269, S.J. Res. 17; I further ask that on Thursday there be 3 hours of debate equally divided between the two leaders or their designees with all other statutory limitations remaining in order.

I further ask unanimous consent that following the use or yielding back of the debate time during Thursday's session, the joint resolution be temporarily set aside and the Senate resume consideration of the resolution at 4:30 on Monday, September 15; provided further that there be 60 minutes remaining for debate equally divided; and that following that time the resolution be read a third time and a vote occur on final passage of the resolution with no further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that following the FCC resolution on Thursday, the Senate proceed to the consideration of Calendar No. 218, H.R. 2754, the Energy and Water appropriations bill.

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

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it adjourn until 8:30 a.m. Thursday, September 11; I further ask that following the prayer and pledge the morning hour be deemed expired, the Journal of proceedings be approved to date, the

time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 11:45; that the Senate observe 4 moments of silence in observance of the anniversary of the September 11, 2001 tragedy at the following times: 8:46 a.m.; 9:03 a.m.; 9:38 a.m.; and 10:06 a.m.

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

Mr. MCCONNELL. For the information of all Senators, tomorrow the Senate will reconvene at 8:30 to observe the anniversary of the September 11 tragedy. As earlier ordered, there will be four moments of silence which will be denoted by the ringing of ceremonial bells outside the Senate Chamber. There will be other events throughout the day as a remembrance of this day and all Senators are invited to anticipate.

As announced by the majority leader, no rollcall votes will occur on Thursday or Friday. However, the Senate will conduct business on those days. Tomorrow, the Senate will consider the FCC resolution as well as the energy and water appropriations legislation. Any votes ordered will be sequenced to begin on Monday beginning at 5:30.

ADJOURNMENT UNTIL TOMORROW

The PRESIDING OFFICER. If there is no further business, the Senate stands adjourned until tomorrow morning, Thursday, September 11, at 8:30 a.m.

Thereupon, the Senate, at 8:54 p.m. adjourned until Thursday, September 11, 2003, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 10, 2003:

FEDERAL RESERVE SYSTEM

BEN S. BERNANKE, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 2004. (REAPPOINTMENT)

ROGER WALTON FERGUSON, JR., OF MASSACHUSETTS, TO BE VICE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOUR YEARS. (REAPPOINTMENT)

IN THE COAST GUARD

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT AS PERMANENT COMMISSIONED REGULAR OFFICERS IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

To be lieutenant

CHRISTINA M. SCHULTZ, 9048
JAMES W. TEDTAOTAO, 4726
KURT M. VAN HAUTER, 7239

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 271:

To be captain

DANIEL B ABEL, 5450
ELMO L ALEXANDER, 8886
THOMAS F ATKIN, 5472
VINCENT B ATKINS, 1599
RICHARD D BELISLE, 9675
LANCE O BENTON, 1371
ANDREW J BERGHORN, 1585
MATHEW D BLIVEN, 8630
MARK E BUTT, 6553
DAVID R CALLAHAN, 1130
KARL H CALVO, 4094
MARK M CAMPBELL, 1740
STEVEN E CARLSON, 5792
TIMOTHY M CLOSE, 9356
MICHAEL C COSENZA, 0878
THOMAS M CULLEN, 7101
MATTHEW E CUTTS, 7079
MARK J DANDREA, 8913
ROBERT L DESH, 8514
WILLIAM T DEVEAUX, 6480
CHARLEY L DIAZ, 4339
WILLIAM J DIEHL, 3394
DAVID DURHAM, 4098
DAVID C ELY, 7442
TODD GENTILE, 1479
TERRY D GILBREATH, 2506
DAVID H GORDNER, 4509
EUGENE GRAY, 7974
EDWARD W GREINER, 8762
RICHARD T GROMLICH, 9232
DAVID M GUNDERSEN, 8844
GREGORY R HAACK, 4486
MICHAEL A HAMEL, 2718
MARK R HIGGINS, 3308

EVAN Q KAHLER, 5178
 JOHN F KAPLAN, 0134
 BRIAN D KELLEY, 0764
 MICHAEL R KELLEY, 4586
 MICHAEL E KENDALL, 7389
 SCOTT P LAROCHELLE, 9920
 JOHN J MACALUSO, 5958
 DANIEL R MACLEOD, 4548
 TIMOTHY F MANN, 4848
 BRIAN J MARVIN, 5184
 CHARLES A MATHIEU, 1414
 JOANNE MCCAFFREY, 6860
 JAMES L MCDONALD, 4181
 JAMES B MCPHERSON, 5581
 STEPHEN P METRUCK, 9405
 FRED M MIDGETTE, 4269
 JOSEPH E MIHELIC, 0130
 ROBERT G MUELLER, 7923
 RICHARD K MURPHY, 6485
 PATRICK J NEMETH, 8387
 KEVIN M ODAY, 5619
 JOHN C ODELL, 4901
 MARK P O'MALLEY, 3040
 MICHAEL N PARKS, 1681
 FRANK M PASKEWICH, 7648
 RAYMOND J PETOW, 7573
 JAMES E RENDON, 3900
 ANTHONY S REYNOLDS, 9343
 LEONARD L RITTER, 4436
 MARK A ROSE, 7289
 DOUGLAS G RUSSELL, 4252
 PAMELA A RUSSELL, 0842
 BRYAN D SCHRÖDER, 2588
 KARL L SCHULTZ, 7603
 JOSEPH A SERVIDIO, 1826
 JOSEPH C SINNETT, 8403
 LIAM J SLEIN, 5138
 SANDRA L STOSZ, 2910
 LINCOLN D STROH, 6703
 MICHAEL E SULLIVAN, 4088
 STEVEN C TAYLOR, 6120
 GILBERT E TEAL, 7579
 MICHAEL A TEKESKY, 1649
 EDWIN B THIEDEMAN, 5508
 BRUCE L TONEY, 0225
 FREDERICK W TUCHER, 6347
 THOMAS D WADE, 6948
 ARTHUR C WALSH, 5114
 PAUL E WIEDENHOEFT, 6119

THE FOLLOWING NAMED OFFICERS OF THE COAST GUARD PERMANENT COMMISSIONED TEACHING STAFF FOR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 188:

To be captain

MICHAEL A. ALFULTIS, 6408
 JONATHAN C. RUSSELL, 7266
 VINCENT WILCZYNSKI, 6471

To be commander

MELINDA D. MCGURER, 1040
 KURT A. SEBASTIAN, 9421

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

TYRONE C. * ABERO, 7480
 DAVID S. ABRAHAMS, 9904
 THOMAS M. * ACKLEN JR., 3250
 DOUGLAS * ACOBA JR., 3836
 MICHAEL D. * ACORD, 3267
 MARCUS P. ACOSTA, 1971
 MICHAEL A. ADAMS, 5702
 MICHAEL C. * ADAMS, 1198
 ROY H. ADAMS III, 6594
 ARTHUR A. ADDLEMAN, 1023
 MICHAEL A. * ADELBERG, 2624
 KEVIN D. * ADMIRAL, 0010
 LAWRENCE N. * AIELLO, 5488
 TERRY J. * AIKEN, 1690
 ANDREW G. * AJAMIAN, 6487
 DEMETRIUS C. * ALEXANDER, 8799
 RICHARD W. * ALEXANDER II, 3282
 TOM ALEXANDER JR., 1088
 EDWARD W. ALLEN II, 3387
 GEORGE K. * ALLEN, 6136
 JEFFREY R. * ALLEN, 1119
 KENNETH S. ALLEN, 6752
 RANDY S. ALLISON, 7699
 DANA C. ALLMOND, 7907
 MICHAEL W. * AL SBROOK, 3385
 ANTON D. * ALSTON, 8232
 JONATHAN K. ALT, 1666
 JOHN E. * AMADEO, 1635
 JASON L. AMERINE, 6345
 PAUL M. AMRHEIN, 1617
 ERIC C. * ANDERSON, 4621
 ERIK N. ANDERSON, 2737
 JEFFREY F. ANDERSON, 0086
 JOSEPH S. * ANDERSON, 4912
 MICHELLE I. * ANDERSON, 7303
 THOMAS E. * ANDERSON, 2772
 VERNON E. ANDERSON, 1438
 WESLEY J. ANDERSON, 0054
 CORT W. ANDREWS, 5387
 MICHAEL V. * ANGELL, 7897
 JOSEPH M. * ANGELLO, 6365
 WENCESLAO G. * ANGULO, 0077
 STEVEN R. ANSLEY JR., 7402
 BRIAN P. APGAR, 8378
 RICHARD T. APPELHANS, 9444
 AUSTIN T. APPLETON, 0735
 NEVILLE M. * ARCHER, 7781
 BRENDAN J. * ARCURI, 5499
 CHARLES S. ARMSTRONG, 2949
 RYAN D. ARNE, 7655
 KRIS A. * ARNOLD, 2980
 REYNOLD R. ARREDONDO, 7407
 JOSEPH * ASBERRY, 4238
 GREGORY N. * ASH JR., 8900
 THOMAS J. ATKINS, 1248
 MARY M. * AUSTIN, 8794
 DOUGLAS W. * AYDELOTT, 0923
 SHANNON W. * AYERS, 0994
 TORO J. * AYMAT, 1651
 KENNETH J. BABCOCK, 8788
 EVERETT K. * BABER, 4070
 GEORGE R. * BACON, 7754
 PATRICK J. * BADAR, 3117
 ROBERT S. * BAE, 5012
 BENJAMIN S. * BAHOQUE, 5066
 SCOTT J. BAIER, 8783
 CURTISS M. BAILEY JR., 5500
 JAMES J. BAILEY, 4483
 MATTHEW J. * BAILEY, 2445
 LAWRENCE J. * BAKER JR., 2139
 RONALD L. * BAKER, 5481
 SABRINA * BAKER, 0929
 ANDRE J. BALDANZA, 9373
 TROY B. * BALDRIDGE, 3939
 KEVIN C. * BALISKY, 8547
 ALLANA J. BALKAM, 6435
 ANDRE P. * BALYOZ, 8713
 JOSEPH D. BARBER III, 6999
 BRADLEY D. BARKER, 9662
 PAUL E. * BARNES, 4086
 CHRISTOPHER M. * BARNWELL, 6106
 GILBERTO J. BARRERA, 8559
 NESTOR L. * BARRETO, 4516
 RICHARD * BARTOSZUK, 7065
 DARRELL D. BASCOM, 3705
 STEVEN P. * BASILICI, 6377
 STEVEN G. BASSO, 0520
 ARCHIE P. * BATES III, 3311
 PABLO BATISTAHERNANDEZ, 3645
 LARRY J. * BAUGUENESS JR., 5501
 CRAIG S. BAUMCARTNER, 4304
 HASHEM * BAYATPOOR, 8887
 GEORDIE E. * BEAL, 1199
 SCOTT T. BEALL, 6031
 CYNTHIA S. BEARD, 9184
 GREGORY B. BEAUDOIN, 1827
 TIMOTHY M. * BECK, 0216
 JOHNNY A. * BECKWITH, 7934
 CHRISTOPHER L. BELCHER, 1494
 GREGORY R. * BELL, 7528
 RICHARD C. BELL JR., 4449
 TREA VOR J. BELL ANDI, 8084
 BRUCE C. * BENNARD, 7275
 WILLIAM J. * BENNER, 6805
 TIMOTHY J. * BENNETT, 9510
 TYRONE * BENNETT, 2817
 CHARLES E. BENSON, 3515
 MICHAEL J. BENSON, 4614
 STEVEN R. * BERGER, 6366
 CHARLES K. BERGMAN, 3013
 CRAIG D. * BERGWALL, 3374
 RICHARD D. * BERRY, 4568
 CRAIG S. BESAW, 9067
 KEITH E. * BESHIERSE, 8017
 JOHN A. BEST, 3843
 MICHAEL J. BEST, 6593
 WILLIAM H. BESTERMANN, 7651
 VIVIAN * BETHEA, 8545
 ERIC S. BETTS, 7384
 STEVEN J. * BETTS, 3124
 KURT L. BEURMANN, 1785
 BRUCE F. BEYERS, 5468
 OLIVIA M. * BIERSMAN, 1509
 DANIEL L. BILLQUIST, 3864
 SCOTT A. * BIRD, 5316
 ALAN D. BIENIEKS, 3560
 JOHN W. BITTNER, 3421
 KIM T. BIVIN, 9917
 WALTER T. * BLAKE, 4387
 MICHAEL P. * BLANDFORD, 9073
 JEFFREY D. BLANEY, 7589
 CHARLES H. * BLUMENFELD III, 7619
 SEAN D. * BLUNDON, 8556
 GREGORY G. BOBECK, 7765
 KENNETH D. * BOGGS, 3785
 BRAD J. * BOHAN, 4924
 GLENN R. BOLLINGER III, 8109
 GEORGE M. * BOND, 6999
 JOHN J. BONIN, 9551
 KRISTA L. BONINO, 1745
 JOE D. * BOOKARD, 4606
 REX A. BOONE, 2221
 EDWARD F. * BOROWIEC JR., 3574
 JONATHAN A. BOSTON, 5202
 SCOTT A. BOVEE, 3108
 JOHN K. * BOWMAN, 3796
 ROGER L. * BOWMAN, 3219
 MARK P. * BOYLAN, 1493
 EDWARD * BOYLE, 0379
 DELORES G. * BRADDOCK, 0063
 STEVEN R. BRADDOM, 9080
 JAMES M. * BRAMBLETT, 7048
 JOHN D. * BRANCH, 3429
 SCHAWN L. BRANCH, 1013
 KURT R. * BRANNSTROM, 9703
 MICHAEL R. BRAUN, 3531
 JOHN E. * BRENNAN, 3425
 MICHAEL L. * BRETL, 4133
 GARY T. BRETT, 4690
 DAVID B. * BRICKER, 1907

ANDREW P. BRICKSON, 8687
 KEVIN M. * BRILL, 7587
 MARK E. * BROCK, 9387
 ROBERT A. BROGAN, 9248
 MATTHEW W. * BROOKE, 4856
 COURTNEY R. BROOKS, 5389
 HARRY D. * BROOKS, 0026
 MICHAEL S. * BROOKS, 6843
 STEPHEN M. BROOKS, 6663
 WINSTON P. BROOKS, 7427
 SID W. * BROOKSHIRE, 4148
 CARL A. BROSKY, 1916
 MICHAEL W. BROUGH, 3729
 BRIAN W. * BROWN, 3852
 DOUGLAS E. * BROWN, 8355
 EDMOND M. * BROWN, 8043
 JAMES L. * BROWN, 3082
 JASON M. * BROWN, 4844
 JOEL A. * BROWN III, 3312
 JOHN C. BROWN, 7898
 JUANITA R. * BROWN, 8713
 MARK D. * BROWN, 0168
 MATTHEW J. BROWN, 0183
 RICHARD T. * BROWN, 2223
 ROBERT M. * BROWN, 3163
 RONNIE F. BROWN, 4203
 SCOTT A. * BROWN, 9371
 THOMAS J. BROWN, 2395
 WILLIAM P. * BROWN, 4294
 DAVID G. * BRUMLOW, 6776
 AMY L. BRUNERDEHNERT, 8059
 TRENT D. * BRUYERE, 3042
 TODD A. * BRYER, 8805
 ANGELA R. * BUCHANAN, 5307
 SEAN P. BUCHHOLTZ, 8492
 JOHN M. BUCK, 8815
 PATRICK D. BUCKLEY, 1967
 GUY H. * BUICE, 6223
 JAY P. BULLOCK, 5743
 GREGORY N. BUNN, 1715
 JEFFREY A. * BUONO, 6998
 JOSEPH A. * BURGER, 2052
 DANIEL S. * BURGESS, 6431
 THOMAS F. * BURKETT, 1991
 KEVIN H. * BURKETT, 1153
 KENNETH W. BURKMAN, 1404
 DARRIEL A. BURLESON, 6477
 KYLE C. * BURLEY, 2301
 ROBERT M. BURMASTER, 5455
 CHRISTOPHER A. BURNS, 1244
 FERDINAND BURNS III, 9089
 LAWRENCE M. BURNS, 2031
 MARK A. * BURNS, 0752
 JOSHUA R. BURRIS, 8686
 LAURA L. * BURTON, 0840
 MATTHEW V. * BURTON, 7662
 BARRY C. * BUSBY, 8748
 MICHAEL D. * BUSH, 0688
 JEREMY D. * BUSHYAGER, 0528
 ADAM W. BUTLER, 5755
 KEVIN P. * BUTLER, 0214
 MARTY T. * BUTTS, 6876
 PHUC BUU, 4015
 CHRIS A. BYLER, 3598
 FRANKLIN D. * BYRD II, 7376
 TYRONE L. * BYRD, 1548
 MICHAEL S. CAHILL, 2563
 WILLIAM J. CAIN JR., 3273
 JASON T. * CALDWELL, 8424
 JOHN P. CALHOUN, 2622
 STEVEN D. * CALHOUN, 8793
 SAMUEL L. CALKINS, 7939
 EDWIN J. CALLAHAN, 7507
 CHAD A. * CALLIS, 7294
 KIRK V. * CALLOWAY, 7120
 CHAD A. * CALVARESI, 1534
 LANCE K. CALVERT, 7510
 ULISES V. CALVO, 3325
 ANTHONY D. * CAMPBELL, 0603
 JOSEPH W. CAMPBELL, 5989
 SHAWN K. CAMPBELL, 3984
 DANIEL * CANALES, 1965
 PETER J. * CANONICO, 6636
 CAMERON M. CANTLON, 7305
 CHRISTOPHER A. * CAPOZZI, 0862
 REBECCA A. * CAPPS, 3742
 DOUGLAS J. * CARBONE, 9547
 MICHAEL A. * CARDENAS, 4652
 LONNIE * CARLSON, 7338
 TEMA K. * CARR, 0181
 DANIEL S. * CARRERA, 1188
 JASON A. CARRICO, 6999
 CLARENCE L. * CARROLL III, 8556
 PAUL L. * CARROLL, 4206
 STEVEN M. CARROLL, 8026
 DON C. * CARTER, 9435
 JEFFERY A. CARTER, 6216
 CARL L. * CASEY, 8313
 MICHAEL J. CATHEY, 4705
 WATSON G. CAUDILL III, 8529
 ANDREW F. * CEMPA, 9437
 EDWARD P. CHAMBERLAIN, 9671
 TIMOTHY W. CHAMBERS, 7198
 SCOTT T. CHANCELLOR, 7604
 DANIEL L. CHANDLER, 2169
 MATTHEW H. CHANTINY, 4334
 JASON A. CHARLAND, 9881
 MELODY J. * CHARLES, 9643
 MARK R. * CHEADLE, 7002
 MARY R. CHEYNE, 1813
 MICHAEL L. * CHISHOLM, 4190
 DARRELL C. CHUGG, 0464
 MICHAEL R. CHUPAK, 9715
 MICHAEL A. CHIZEK, 8143
 MICHAEL N. CLANCY, 4931
 BRETT M. * CLARK, 3558
 JOSEPH M. CLARK, 8029

PHILIP R. CLARK, 1822
 TERRY L. * CLARK, 0714
 ADRIENNE L. CLARKE, 0598
 BRIAN P. * CLARKE, 0827
 DONALD J. CLARKSON, 7497
 JON A. * CLAUSEN, 4439
 RICHARD P. * CLIFTON, 7747
 TODD C. * CLINE, 4849
 PATRICK M. * CLUNE, 0013
 SHAY V. * COATES, 1521
 MATTHEW J. CODY, 5500
 ROSS M. COFFEY, 9703
 JAMES W. * COFFIN, 3222
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