

piece of legislation as an amendment at an appropriate time. I hope the Congress will agree at that time that we ought not ever again have a court decision that says a student caught with a gun in school cannot be expelled because the student's rights were abridged when the security guard noticed the bulge in his jacket and searched the student. What an outrageous piece of judgment by a judge who apparently didn't have any judgment.

Ending where I began, my heart breaks for those families, those children, that teacher, and for all of those who suffered that tragedy in Arkansas. I don't know what the cause of all of this is. It is the third such tragedy on schoolyards or in our schools in not too long a period of time. I hope as a country we can think through and find ways to prevent other tragedies from occurring.

But I do know this. As a country we ought to have one voice saying in every circumstance all around this country that it is never appropriate to bring a gun to school; that doing so imposes on you a certain sanction in every school district in this country, and that is a 1-year expulsion. That is now law. And I hope the next law will come from the amendment I will offer in this Senate at a later time saying, if you bring a gun to school, the school authorities have a right not only to search you and withdraw the gun but also to expel you without being afraid they have somehow abridged some one's rights. No student has a right to bring a gun to school.

Mr. President, I yield the floor and make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

SUPPLEMENTAL APPROPRIATIONS FOR NATURAL DISASTERS AND OVERSEAS PEACEKEEPING EFFORTS FOR FISCAL YEAR 1998

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2162

(Purpose: To authorize the Secretary of Agriculture to extend the term of marketing assistance loans)

Mr. BAUCUS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside, and the clerk will report.

The legislative clerk read as follows:

The Senator from Montana (Mr. BAUCUS), for himself and Mr. BURNS, proposes an amendment numbered 2162.

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

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

The amendment is as follows:

On page 59, between lines 7 and 8, insert the following:

SEC. . EXTENSION OF MARKETING ASSISTANCE LOANS.

Section 133 of the Agricultural Market Transition Act (7 U.S.C. 7233) is amended by striking subsection (c) and inserting the following:

“(c) EXTENSION.—The Secretary may extend the term of a marketing assistance loan made to producers on a farm for any loan commodity until September 30, 1998.”

Mr. BAUCUS. Mr. President, might I inquire, is there a time agreement on this amendment?

The PRESIDING OFFICER. There are 30 minutes evenly divided.

Mr. BAUCUS. I thank the Chair.

Mr. President, this amendment is very simple. It is to give the Secretary of Agriculture the authority to extend the marketing assisting loans until September 30 of this year.

Why are we doing this? Why am I offering this amendment? It is very simple. The northern tier U.S. farmers are suffering dire economic consequences for a lot of reasons. No. 1, the price of grain, particularly wheat and barley, is very low. We have had very depressed prices for a lot of years. Second, a lot of grain from Canada is shipped down to northern tier States. More grain trucks are coming, it is anticipated, and I believe, frankly, that Canada is beginning to fudge on an agreement it reached with the United States several years ago. Prior to that time, Canada shipped about 2.5 million metric tons of wheat to the United States. We brought the Canadians to the negotiating table, and Canada agreed to limit its shipment to the United States to 1.5 metric tons. That was several years ago. It is clear to me that Canada is at least fudging that agreement and is increasing shipments of grain to the United States.

After that, with the problems we have in dealing with Canada with respect to trade in agriculture, we lost one of the main levers. We had section 22 to say to Canada, “You are disrupting our markets.” That was the purpose of section 22 of the Agriculture Price Stabilization Act, not too many years ago. But we negotiated that away in the last GATT round. In return, all countries promised to reduce their subsidies, particularly their export subsidies. But Canada still retained the Canadian Wheat Board. Not only Canada but other countries—Australia—have their wheat boards, which is a monopolistic control over that country's billing and selling of grain, particularly wheat.

After that, Americans placed limits on exports that other countries don't have. For example, I cite the various countries. The total amount is about 10 percent. Our exports are limited by the sanctions that we imposed preventing exports to certain countries. Canada doesn't have those sanctions, Argentina doesn't, the European Community doesn't. We are limiting our farmers.

A couple of years ago, we passed the Freedom to Farm Act. You recall under that act we basically decoupled agricultural price support payments from production. From that point on, farmers had more freedom in the production of their crops, the crops they could choose.

At that time, too, the price of wheat was very high. As I recall, it was around \$6 a bushel, almost as high as \$7 a bushel. Now it is down, in many cases, below \$3 a bushel. At that time, farmers realized that they had a bit of a Hobson's choice here: On the one hand, support Freedom to Farm—at that time, corn was high and the price support payments were decoupled but were quite high at the time even though they had been coming down gradually—so now it is not much less. Farmers could either vote for that—support Freedom to Farm—or keep the present program. Most farmers decided they would gamble on Freedom to Farm, basically because prices were good at the time.

But in exchange, American farmers expected—in fact, they were promised—that the United States would fight vigorously to open up foreign markets—fight vigorously to open up foreign markets. I might say, I do not think anybody in this Chamber thinks the U.S. has fought very vigorously to open up foreign markets to the sale of wheat and other grains. We have talked about it. There has been a lot of talk about it but not a lot of action.

So all I am saying is, in exchange for the U.S. Government's failure to fight to open up markets for American products, particularly wheat now—exports of wheat—at the very least, we can extend the loan provisions of the current law 5 months, to September 30, 1998.

It just seems to me, because the farmers now are suffering so severely, bankers are starting to call in loans, bankers are not giving farmers additional operating capital—at the very least, we can extend the marketing assistance loan period for 5 more months to the end of 1998, to give farmers a chance, a little longer into 1998, before their loan is called and they have to pay back their loan at the current loan rate.

What you are going to hear is this. You are going to hear: “Oh, gosh, there we go. We are opening up the Farm Act, Freedom to Farm.” That is not true. In no way does this amendment open up or revisit the Freedom to Farm Act.

We are also going to hear this sets a bad precedent—here we are, after passing Freedom to Farm, where the Government is coming in.

But I say that, first, our goal here is not to be rigidly consistent and mechanically steel-trap logical and just rigidly sticking to something. Rather, our charge here, our obligation, is to do what is right. I think it is right just merely to extend marketing assistance loans to the end of the year. We are not going back from Freedom to Farm; not any other change.

I might say, too, it has absolutely zero effect on the budget, and that is because it is not scored. It is not scored because the loan is extended only to the end of September of this year. So this has no budget effect. It helps farmers by letting them decide when they want to sell their grain. If they have held it so far, they can sell at a later date.

In addition, we are handcuffing farmers because of the limitations we have placed on the export of a lot of our products; that is, 10 percent of our exports are sanctioned; we cannot go to various countries. And on top of that, our Government has not fought vigorously enough to open up markets in other countries.

One example is China. China does not take any Pacific Northwest wheat—none, not one kernel—because they have come up with this phony argument that it has a fungus. It is a phony argument. Anybody who looks at the question knows it is phony, yet they do not buy any. How hard has our Government worked to say, "Hey, you have to play fair. President Jiang Zemin came to the United States. The least you can do is open up your markets a little bit." Our Government has not worked nearly as hard as I think it should.

Let me just finish by saying it is a very small matter in terms of what we are doing here on the supplemental appropriations bill. We are not opening up Freedom to Farm. It has zero budget effect. We are just saying give farmers, particularly northern tier farmers, a little bit of a break for the next several months. And the break is only a longer period within which they have to decide whether to sell their grain on the market or not. That is all it is.

I think it is a very fair amendment and should be adopted.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we are operating on a time agreement, I think, and it is 30 minutes equally divided.

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. Mr. President, 15 minutes is under the control of the manager of the bill, is it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. I am prepared to yield such time as he may consume to the chairman of the Agriculture Committee, who I know is on the floor, and he is here to discuss the amendment—such time as he may wish to the distinguished Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the distinguished manager.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, I rise today in opposition to the amendment of the Senator from Montana, Senator BAUCUS. I do so because 2 years ago the Freedom to Farm legislation that the Senator mentioned was passed. That bill has offered, in my judgment, a

great deal of opportunity to farmers manage their own land, to make their own marketing decisions.

But the Senator is correct: There are rules of the game that were negotiated at that time. This amendment reopens the farm bill and is primarily aimed at helping one crop, wheat, and the various States in the country's northern tier.

The issue before Senators is marketing assistance loans. They allow a farmer to use the year's crop of grain or cotton as collateral for a loan from the Federal Government. The term of the loan is 9 months. At the end of that period, the farmer can either repay the loan or, if the market price of the crop is less than the amount owed on the loan, he can repay the loan at the lower price or forfeit the commodity. Because the loan is a nonrecourse loan, the Government cannot seek any further payment on the loan.

Simply stated, a wheat farmer at the time of harvest could have sold the grain for the market price at that time. He could have priced the grain before the time of harvest, and in this particular case, if the farmer in Montana had done so, he would have done well. The futures price was high. Even the price at the time of harvest was higher than it is presently.

In any event, farmers could place the grain under loan—that is, they store it and they take out a loan. If they have good luck within that 9-month period and the price goes up, they can take the higher price. If the price goes down or does not show any appreciation, they can simply take the loan money and the Government is out that money. That is the nature of this business. The loan is a marketing tool.

I do not want to overemphasize the gravity of this particular instance. The Senator from Montana has pointed out correctly, this is not going to break the bank, and, as a matter of fact, scoring for the amendment shows its effect is estimated at zero. But, in fact, the amendment as I see it does not do a great deal for a wheat farmer in Montana or any other State at this point. Each one of us here can estimate what the price of wheat may be between now and the end of September, but as a new crop comes on, it is unlikely that that price is going to show great appreciation. In short, extending the period of difficulty by a few more months probably does not make a whole lot of difference in the price farmers will ultimately receive.

It does make a difference, I believe, in setting a precedent with regard to the Freedom to Farm Act. The precedent is that, under other circumstances, other Senators from other States with other crops will come in and point out that things have not gone well for them. They may claim it was a foreign country, or the weather, or whatever, but, in any event, they will ask for a change in the loan or some other policy in the farm bill. In essence, they will attempt disaster re-

lief under the guise of technical changes in the farm bill. In my judgment, that is not a good way to proceed.

In fairness to Senators from all States, all crops have come together for some rules of the game that are working well. It seems to me very important we work together to make certain that they work better. In due course, we may discuss other remedies that may be more effective. I would like to suggest, for example, to the distinguished Senator from Montana that it is important to all Senators that wheat exports from this country grow. As a matter of fact, it is important that corn exports and soybean exports and rice and cotton and a number of other crops all increase.

I suggest that we might work with the President on fast-track authority. That would be very, very helpful. I suggest we work with the President to think through our World Trade Organization stance for next year, when multilateral reductions in tariff and non-tariff barriers might occur and should occur, and that the emphasis we place on agriculture in negotiations now with the European Union be enhanced substantially, and that the President's pledge in the Miami summit to move toward free trade in the hemisphere be given a boost as the President prepares to travel to the South American continent.

In short, there are a lot of things we must do as a country to boost our exports. But specifically regarding the problem in wheat—and it is a substantial one for the States that have been stressed, as the Senator from Montana has pointed out—we could work with the President in terms of allocations for Public Law 480. That is an act which is on the books. We can work to increase export credit guarantees for overseas purchases of U.S. wheat. We can work together with the President, the Secretary of Agriculture, and Senators who are engaged in this, and I would like to be one of them, because I believe an increase in wheat exports is tremendously important and it is timely that we do it now as opposed to hereafter.

I suggest USDA comply with the FAIR Act's requirements that high-value U.S. products such as wheat flour be a higher proportion of export programs. We could be helpful in that respect.

And, finally, as I have suggested already, we must work now on our export goals with the Trade Representative and the WTO, as well as for each of the bilateral negotiations we must engage in because we do not have fast-track authority. These efforts are likely to be much more powerful in raising the price of wheat without doing violence to the farm bill—as a matter of fact, utilizing the farm bill and all its resources.

Mr. President, I reserve the remainder of my time and yield to others.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, how much time do we have remaining on this side?

The PRESIDING OFFICER. The Senator has 6 minutes 44 seconds.

Mr. BAUCUS. Six minutes 44 seconds. I have two strong supporters here. I see my colleague from Montana on the floor. I yield to my colleague, since I have only 6 minutes, 3 minutes.

Mr. BURNS. Mr. President, I thank my colleague. I appreciate the courtesy. It won't take me very long to sum up why we think this is important.

I agree with everything that the chairman of the Ag Committee has said. The problem is, we have not gotten the administration to implement those tools they have at hand to help us out. They have not confronted our Canadian neighbors to live within their quotas. When you start talking about putting together a farm bill—and I think the Senator from Indiana would agree—it is hard to write farm legislation that is not flawed. Because of the diversification in our agriculture, that is tough to do.

Flexibility in crops in Montana has not come, for the simple reason that we have a short growing season and soil that is unlike that in Indiana or Missouri or Iowa or Nebraska or wherever.

A fellow walked up to me a while ago and said, "The President is in Africa, and he is making a lot of friends."

If I had his checkbook, I could be making a lot of friends. I think he ought to be offering food—wheat, principally—and those things that help people most in nations where they are suffering from malnutrition and hunger. I hope this doesn't set a precedent, that this stays with us this year.

But I will tell you what it does. It allows a small group of farmers from North Dakota and from Montana to gain financing so they can get a crop in, because we have some who will not be refinanced on their operational loans. That is what it does. That is who we are speaking for today, those people who are caught between a Canadian situation and a total collapse of the financial situation in the Pacific rim, which takes most of our crops. I speak in favor of it. I appreciate the leadership of my colleague, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. I yield time to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. I thank my chairman and thank you, Mr. President.

Mr. ROBERTS. Mr. President, I rise in reluctant opposition to the amendment offered by my colleague, the distinguished Senator from Montana. In doing so, let me say I appreciate the efforts by those supporting this approach to provide their farmers appropriate risk management tools and to do what we can to encourage improved farm prices.

And, I also appreciate the unique and difficult times that farmers face where there is great risk, great opportunity and productivity, but great risk as well. My colleagues who are privileged to serve the hard working and productive producers in our northern tier states are going through a difficult time—Asian economic problems have already resulted in at least a 3.5 percent reduction in agriculture trade. This is why we just considered and passed the bill funding the International Monetary Fund with appropriate reforms. Prices at the country elevator in Montana and, for that matter in Dodge City, Kansas, have declined as a result. Add in severe weather and unfair trading practices across the border and you can see the relevance of the effort by my colleagues.

But, with all due respect to their intent, I feel compelled to remind colleagues of the law of unintended effects. Under the banner of providing a so called safety net by extending the loan program what will actually happen?

Is the goal to see increased prices? Today, approximately 20 percent of the nation's wheat crop is under loan, about 191 million bushels. The loan program expires this spring. This amendment would extend that loan to September 30.

Extending the loan rate will not create additional marketing opportunity. Rather it will eliminate to some degree, the incentive for farmers to market their wheat. Extending the loan is an incentive for farmers to hold on to the grain they have under loan for an additional six months. Now, this would not create a big problem except for the fact that we will harvest another wheat crop before September 30. And, all indications are we can expect another bumper crop. We will then have farmers holding a portion of last year's crop while adding a new crop to the market—grain from two crops—not one—on the market. We will have excess supply and my judgment is that will drive prices down even further and we will have just the opposite effect of what is intended.

And, at the same time we are holding our grain under loan and off the world market, other countries such as the EU, Australia and Argentina will again return to the business of taking our market share. This is a repeat of the situation the current farm bill tried to correct. Our current share of the world wheat market is just over 30 percent, the EU 15.4 percent, and Australia 14.8 percent. This amendment could well be called the EU and Australia Market Share Recovery Act.

It is also the first step in putting the government back in the grain business in the form of a reserve and I can still hear the advice of the former chairman of the House Agriculture Committee, Boage of Texas who warned repeatedly, grain reserves are nothing more than government price controls.

The Senator's amendment really takes us back to the age old debate in

farm program policy as to whether the loan rate should be a market clearing device or income protection. I don't think it can be both. Under the current farm bill, the loan rate is a marketing clearing device and hopefully a price floor. The transition payments now being paid to farmers represent income protection.

What am I talking about? Well, the price of wheat today at the Dodge City elevator is about \$3.10. If you add in the transition payment farmers in Kansas, North Dakota, Montana, Texas, North Carolina are now receiving, approximately 65 cents a bushel, that means the farmer is receiving around \$3.75 a bushel. Now, I agree with my colleagues that is certainly not the \$4.50 price we were getting months back or even higher on the futures market. We hope to see price improvement and soon.

But, let me point out with 20-20 hindsight, that this loan extension is primarily aimed, at least I hope it is aimed at last year's crop, the grain that farmers have not sold and that farmers did have an opportunity to sell at those previous prices.

Let me mention another possible unintended effect. Will not keeping grain under loan work at cross purposes to our goal of stating to the world and all of our customers that we will be a reliable supplier? Does not encouraging longer loan terms and keeping grain in storage tell our customers they should go elsewhere? Should that be the signal we send just hours after this body agreed the United States remain active and competitive in international trade by approving funding for the IMF with appropriate reforms?

Should we not be pushing for lower trade barriers and conducting a full court press to export our grain, our commodities, to sell wheat? My predecessor in the House, the Honorable and respected Keith Sebelius put it in language every farmer understands: "We need to sell it, not smell it."

What should we do? We should encourage the President, when he comes back from Africa, not to toss in the towel on fast track trading authority, to immediately sit down with Agriculture Secretary Dan Glickman to explore and aggressively seek bi-lateral trade agreements. There are 370 million hungry people in Latin and Central America alone eager to begin trade negotiations—well sell them bulk commodities, they move to sustainable agriculture and quit tearing up rain forests and it's a win, win, win situation.

We should continue the good work of Secretary Glickman and Assistant Secretary Schumacher to fully utilize the GSM export credit program in Asia. Restore the markets that have led to the price decline, don't drive them away. Secretary Glickman has committed \$2 billion under the GSM program to assist South Korea and it has resulted in over \$600 million in sales of agriculture products. The \$2 billion figure is not a ceiling, it is a floor we can

and must use more! We can use the Export Enhancement Program. The Administration recommended severe cuts in the very program that could not be of help.

My colleagues, we need to sell the grain, we have the export tools to accomplish that. What happens when this loan extension results in lower prices, we have a bumper crop, our competitors seize the opportunity to steal our market share, and we are faced with this decision again in September? We may be buying time with this amendment but we are also buying into market distortion and problems down the road.

Let us instead convince and support the Administration to aggressively use the export programs we have in place to answer this problem. Let us work on crop insurance reform. Let us recommit to the promises we made during the farm bill debate in regard to tax policy changes, a farmer IRA, regulatory reform, an aggressive and consistent export program.

Again, I commend my colleagues for their concern, for their long record of support for our farmers and ranchers and I look forward to working with them in the future. But, in terms of this amendment, its just that the trail you are recommending leads right into a box canyon.

With that, I reluctantly oppose the Senator's amendment and hope he can work with us and perhaps even withdraw the amendment. I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I yield 2½ minutes to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I thank the Senator for the time.

I am a little bit surprised, because I think this is the most modest of proposals. This clearly is a baby step in the right direction. In fact, it does not conflict at all with the Freedom to Farm bill. It complements it. Those who say that the farmers should get their price from the marketplace need to give the farmers the tools to hold that grain and access the marketplace when it is beneficial to farmers. That is what eventually will allow this farm law to succeed if ever it succeeds. So I think this complements the Freedom to Farm bill.

I think this is the smallest, most modest of steps, but it is in the right direction. I wish that it would be accepted. It has no cost to the Treasury. It would be of some help to some producers at a very critical time.

Let me say, we have heard some about trade here. You have heard me speak about this many times. Regrettably, this country is a 98-pound weakling when it comes to trade. We have sand kicked in our face every day on trade. I would like to fix all that.

The Senator from Montana mentioned Canada. If durum wheat were

blood, Canada would long ago have bled to death. With all of that grain coming here, we have an avalanche of Canadian grain glutting our markets. That situation, together with problems with Japan, China and Mexico and a range of other trade problems have undercut the market for our agricultural products. The Senator from Montana has proposed the most modest of steps. Let us extend these commodity loans. In my judgment, these loan rates are far too low in any event. Despite that, let us at least extend the term of these commodity loans to give individual farmers a better opportunity to market when it is in their interest to do so. That way they have some say as to when they go into this marketplace.

As you know, this marketplace is full of big shots and little interests. And guess who wins in the marketplace? If the farmer is forced to market at the wrong time, just after harvest, they get the lowest price.

Freedom to Farm can only work if we give farmers the capability of holding that grain with a decent loan for a long enough period so that when farmers go to the marketplace, it is on their time, it is when they find the market has some strength, when they find they can go to the market and get some reward for themselves, not just on the miller's time, not just on the grocery manufacturers' time, not just on the traders' time.

If the Senator insists on a vote on this, I hope we win. I support fully what he is trying to do. If he does not, I hope we come back and try this again, because I think there needs to be a way for all of us, including the chairman of the committee, for whom I have great respect, to work together on this issue.

I yield back the remainder of my time.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 1 minute 46 seconds remaining.

Mr. BAUCUS. I thank the Chair.

Mr. President, I can't but be bemused by this debate, because the Senator from North Dakota said this isn't just a trivial step. In fact, the Senator from Indiana, the very distinguished chairman of the committee, quietly admitted that he doesn't think it is going to do much, and if that is the case, I don't know why we don't just do it.

It is also true one of the tenets of Freedom to Farm is more flexibility. I remind my colleagues that we in the North do not have a lot of flexibility, because of our weather and soil conditions, and so forth. There is not near the flexibility in planting different kinds of crops that farmers in other parts of the country might have.

A major answer to this problem, obviously, is a greater effort to knock down trade barriers. That is clear. A

greater answer to this problem, too, is much more executive branch and congressional effort to make sure that other countries are not taking unfair advantage of American producers.

Mr. President, I will withdraw the amendment, but in so doing, I would like the assurance of the Senator from Kansas and the Senator from Indiana of efforts that we can undertake on a bipartisan basis to actually do something about this.

We talk a lot about knocking down trade barriers; we talk a lot about GSM programs; we talk a lot about P.L.-480; we talk a lot about NAFTA; we talk a lot about fast track, and so forth. But it is time to do something about this.

I will not press for a vote, but I do urge my friends and colleagues to make the effort, to be sure, again, on a bipartisan basis and with the White House, that we can finally stand up for our producers and work harder and more effectively together than we have thus far. One example is appropriations, whether it is EEP or whatever it is. We can authorize programs, but we also have to have appropriations. I would like to ask my friends if they could respond.

The PRESIDING OFFICER. Time has expired.

The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am happy to yield such time as he may consume to the chairman of the Agriculture Committee, Senator LUGAR.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I appreciate the spirit of the distinguished Senator from Montana, a distinguished member of the Agriculture Committee. I pledge for my part the resources of the committee to work with the Senator from this day hence to see if we can increase wheat exports specifically, and exports generally from our country.

I have outlined a number of areas for work, and the distinguished Senator from Kansas has mentioned others, as has the Senator from Montana. There is urgency to our work. That ought to be clear from this debate.

I pledge to work with the Senator. I hope that our committee will be successful, and we will try to establish benchmarks to see if we make headway. I look forward to working with the Senator on a report of how we did.

Mr. ROBERTS. Will the distinguished chairman yield?

Mr. COCHRAN. I am happy—

Mr. LUGAR. Of course.

Mr. ROBERTS. Will either of the distinguished chairmen yield?

I thank the Senator from Indiana for yielding. I would just like to pledge my full cooperation.

The PRESIDING OFFICER. All time has expired.

Mr. BAUCUS. Mr. President, the amendment is withdrawn.

The PRESIDING OFFICER. The amendment has been withdrawn.

The amendment (No. 2162) was withdrawn.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. I am not seeking recognition. What is the pending business, Mr. President?

The PRESIDING OFFICER. Amendment No. 2120, the amendment offered by the Senator from Oklahoma, Mr. NICKLES.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I appreciate the cooperation of the Senator from Indiana, the chairman of the Ag Committee. I remind folks that in the appropriations, and through the leadership of my friend from Mississippi, the EEP is funded.

We have appropriated that money every year to be used as a tool in the market, so it is not that we have not done our work here in this Senate as far as the agriculture producers are concerned. I think the administration, both through the International Trade Representative and the Ag Department, has to start taking a look at the tools or the weapons they have in their arsenal in order to help these folks.

This is not going to help our farmers who need money to get back in the field to plant their spring crops, but I will tell you that we are going to work very, very hard to make sure it is there next year and this administration uses the tools it has at its disposal.

I appreciate the time, and I yield the floor. And noting no other Senator choosing to use time, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NICKLES. 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. 2120

Mr. NICKLES. Mr. President, I understand that the so-called amendment that has my name on it, the Nickles amendment, to delete \$16 million that is in the bill right now to add an additional 65 HCFA employees, is the pending business.

We debated that significantly yesterday. I am happy to vote on it. I am ready to vote on it. I know Senator KENNEDY had a different idea. I do not know what his intentions are, but this Senator is ready to vote, ready to have a time limit, ready to move forward. I think it is important we do so, and do so rather quickly and move on to other business. I know we have the Mexican certification process. So I just make mention of that.

I see my colleague from Massachusetts is here, so hopefully we will be able to vote on my amendment. If he has an alternative, we are happy to vote on that as well.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, if the Senate votes to deny the administration's request for additional funding to fulfill the responsibilities bestowed by Congress under the Kassebaum-Kennedy legislation, tens of millions of Americans will be denied the protection of a law we passed unanimously, not once but twice. Supporting the Nickles amendment is like saying, "We'll give you a car, but not the keys."

What good does it do to pass a law that we are not willing to enforce? This amendment will effectively reduce, in a very important and significant way, the enforcement and the protections that were included in the legislation.

Every Senator in the 104th Congress voted for the Kassebaum-Kennedy legislation—not a single vote against it on passage or on the conference bill. And every Senator went back to his or her State to take credit for the good work that they had done to hail the promise of accessible and portable health insurance.

But now we have this proposal to effectively break the promise by denying the enforcement agency, in this instance HCFA, the staff and the resources they need to make that promise a reality.

So let us be very clear. This really isn't about the budget. This is not about wasteful spending or an ever-expanding government. The HCFA request is fully paid for by a transfer from another HCFA budget, and it is a justified, targeted response to the situation before us, which has been outlined in the GAO report.

Yesterday, questions were raised about whether this request affected more than the five States that have yet to act and whether the request affected HCFA's ability to enforce the legislation that created the mental health parity and the banned so-called drive-by deliveries.

But HCFA Administrator Nancy-Ann Min DeParle answered these questions following our debate yesterday in a letter she sent to clarify the situation. She writes that this money is needed to implement not only Kassebaum-Kennedy, but also the mental health and drive-by delivery bills. The fact is that there are many gaps beyond just the five State references that were included in the GAO report.

I have, Mr. President, in my hand, the National Association of Insurance Commissioners' report as of December 3, 1997, that indicates that 30 States have yet to enact the legislation to implement the law on the mental health parity. Thirty States have not implemented those particular protections on mental health.

We had a strong vote here on the Domenici-Wellstone amendment. And we now see that there are effectively 30 States that have not implemented the mental health parity law. If HCFA is not given the resources to enforce it in those states that fail to act, then the persons with severe mental illness who live in those states will not benefit

from the parity provisions we voted to give them.

The Senator from Oklahoma continues to insist that this is a short-term problem and that the only real problem that we are faced with in implementing HIPAA is just in five States. And this, as I mentioned, is wrong. The duration of the problem is not yet known. We have already mentioned that 30 states require federal enforcement for mental health parity. We know on the drive-by delivery issue, which we also passed in a bipartisan way in 1996, was to be implemented with the same kind of enforcement mechanisms—and there are eight States, according to the National Association of Insurance Commissioners—that have not enacted legislation to conform with or implement the federal bill to ban drive-by deliveries.

The request in the bill under consideration today will be used to make sure that women in these eight States are going to have the similar kind of protections as the women in 42 other States. It will be used to ensure that the mental health parity provisions are enforced in the 30 states that have not yet come into compliance. And there are many others. Oklahoma is one of 11 states that have not passed laws to guarantee renewability in the individual market, thereby needing federal enforcement of this key HIPAA provision. These are all in addition to the five States that have been referenced by the Senator from Oklahoma. And there are more.

There are very, very important needs, Mr. President.

Now, the supplemental request will simply allow HCFA to move forward with what Congress asked of them. Some of my colleagues have suggested that HCFA should have asked for this increase last year. But we all know that if they had asked last year, they would have been told that it was premature and to wait for State action. Some have suggested that they wait for the regular budget for next year, but such a delay is unnecessary and an insult to the American public.

Each year, HCFA staffing levels are revisited during the appropriations process. If Congress finds in the future that the States are fully compliant and HCFA no longer needs to fulfill this function, I am confident that the Appropriations Committee will adjust accordingly. They do so.

HCFA's duties have significantly increased in the past two years. Among other things, they have chief responsibility for providing guidance to states to implement the new Children's Health Insurance Program, for cracking down on fraud and abuse, and for implementing of the various and important changes in Medicare and Medicaid resulting from the Balanced Budget Act. All of those are being implemented virtually at the same time as the Kassebaum-Kennedy bill—including the provisions on mental

health and maternity protections—is being implemented. And the proposal that came to the floor of the Senate did not increase the budget but reallocated resources within the agency. They aren't asking for more money, just a transfer to allow them to hire people to do the jobs we asked of them. And the Nickles amendment seeks to gut these efforts by striking this proposal.

Mr. President, it is unconscionable to deny the American public the rights we voted to give them almost 2 years ago. They have waited long enough. The Kassebaum-Kennedy bill bans some of the worst abuses by health insurers, abuses that affect millions of people a year. Prior to its enactment, more than half of all insurance policies imposed unlimited exclusions for preexisting conditions. Prior to its enactment, insurance companies could refuse to insure—redline—entire small businesses because one employee was in poor health. Prior to its enactment, 25 percent of American workers were afraid to change jobs and to start new businesses for fear of losing health insurance coverage. Prior to its enactment, people could be dropped from coverage if they had the misfortune to become sick, even if they had faithfully paid their premiums for years.

The General Accounting Office stated that as many as 25 million people would benefit from these protections. These are the protections that are in the Kassebaum-Kennedy legislation. All we are saying is, let's make sure, now that we have passed them and told families that they will have those protections, let's make sure that we are making good on that promise. We have the personnel to be able to do that, and it has been included in this legislation.

Reference is made: Why don't they shift around personnel? They have a lot of people in that agency; certainly they could shift around personnel. The fact is, in this particular area, as I mentioned, are specialists in a particular area in the insurance industry. This is not something that HCFA has a background and experience in. These are protections because of many of the abuses. Therefore, they need certain types of personnel and individuals that have some very specialized skills in this area to be able to do the job. That is what is being called for. That is the case that is being made. If they do not have it, what we will find is, people will be left confused, things will be uncertain, people who thought they had various rights will not have those rights guaranteed.

Patchwork enforcement and concerted efforts by unscrupulous insurers to violate the law raised serious concerns during the earlier implementation period. While the provisions affecting the group market appear to be going well—that is about 80 percent of the legislation which is going well—the GAO has identified many concerns in the individual market provisions.

Our legislation specifically deferred to the States in recognition of their

longstanding and experienced role as regulators of health insurance. We gave States more than a year to design their own legislation based on the Federal law. Federal regulation was only a backup if States failed to act. Most States have passed implementing or conforming legislation. There are significant gaps. In every State that has failed to act in whole or in part, the responsibility for assuring compliance, responding to complaints, and informing the public has fallen on the Health Care Financing Administration. HCFA is just over 20 people working on this issue in its headquarters, and a handful more spread across the regions. Most State insurance departments have hundreds of people. California, for example, has more than 1,000 people on staff to handle these issues; HCFA has 1 person in San Francisco.

GAO explicitly and repeatedly expressed concerns that HCFA's current resources are inadequate to effectively enforce the bill. The NAIC—which is the National Association of Insurance Commissioners, the commissioners in each of the 50 States; this is their national organization—in testimony before the Ways and Means Committee last fall said, "The Federal Government has new and significant responsibilities to protect consumers in these States. Fulfilling these responsibilities requires significant Federal resources."

The legislation that passed over 20 months ago was being implemented in January of this year, but the States were taking the steps in the previous 18 months to comply with the legislation, with it being implemented in January of this year. In February, we had the GAO report that pointed out the failure of some of the States to take the steps to provide the protections and said additional kinds of resources were going to be necessary. This is really a response to that particular reality.

The GAO found that many companies were engaging in price gouging, with premiums being charged to consumers exercising their rights to buy individual policies when they lost their job-based coverage as much as 600 percent above standard rates. They found other carriers continue to illegally impose preexisting condition exclusions. We cannot deal with that; nor do we intend to. That ought to be an issue for another time. It ought to be addressed in terms of that kind of abuse. We are not talking about that issue. But we are talking about the implementation of these other protections, to make sure, for example, if you are moving from a group to individual, that there is going to be available insurance in those States that are going to cover the individuals that have preexisting conditions, and also what they call renewability, to make sure that those individuals are going to be able to be renewed if they pay under the terms of their premiums—that it takes that kind of an action to ensure coverage or otherwise people are going to be out-

side of the coverage. That is an area where a number of States have not taken action.

Some companies or agents illegally fail to disclose to consumers they have a right to buy a policy. Others have refused to pay commissions to agents who refer eligible individuals. Others tell agents not to refer any eligibles for coverage. Some carriers put all the eligibles with health problems in a single insurance product, driving up the rates to unaffordable levels, while selling regular policies to healthy eligibles.

The Senate should not be voting for a free ride for failure to comply with these protections which most States have complied with. It should not be an accomplice to denying families the kind of protections for preexisting conditions that they were promised by unanimous votes just 2 years ago. The need for the additional staff goes beyond enforcement. The GAO found wide gaps in consumer knowledge, gaps that prevented consumers from exercising their rights under the laws. HHS wants to launch a vigorous effort to address this problem, but according to the GAO, because of the resource constraints, the agency is unable to put much effort into consumer education.

Now, the point that has been raised by the Senator from Oklahoma that this is not an emergency situation—for millions of Americans, the failure to enforce the legislation is an emergency. Every family who is illegally denied health insurance faces an emergency. Every child that goes without timely medical care because this bill is not enforced faces an emergency, and every family that is bankrupted by medical costs because this bill is not enforced faces an emergency. This may not be an emergency for abusive insurance companies, but it is an emergency for families all over this country. For some, it is a matter of life and death.

But don't take my word for it. Since our debate yesterday, more than 20 organizations have sent letters, which are at the desk, urging that we defeat the Nickles amendment. Leading organizations representing persons with disabilities, the mental health communities, women with breast cancer, and consumers generally have written asking opposition to this unwarranted attack on the law. More are coming. The Senate should reject this amendment. We need to toughen the Kassebaum bill, not weaken its enforcement. This is a test as to whether the Senate wants to really ensure that those provisions in the bill that will guarantee the protection on the preexisting condition will actually be protected.

I yield the floor.

Mr. NICKLES. Mr. President, I appreciate my colleague's comments. I appreciate his coming to the floor. I think it is important that we have the discussion. We had a significant discussion on this amendment yesterday. I will make a few comments. I understand one other Senator wishes to speak on it, or if the Senator has any additional Senators.

I mentioned yesterday that HCFA, the Health Care Finance Administration, has over 4,000 employees. That is a lot. Now, the Health and Human Services Department has 58,500 employees. Now, if they need to move a few employees around, they can do it if there is an emergency. There is not really an emergency. Frankly, compliance with HCFA, the so-called Kassebaum-Kennedy bill, which deals with portability, also deals with moving from group to individual plans. Most States have complied. The State of Massachusetts has not complied. But I don't think that we should presume the State of Massachusetts doesn't care about their employees or about their people in their State. The State of California hasn't, the State of Missouri hasn't, the State of Michigan hasn't, but every one of those States has pretty advanced policies dealing with health care.

Now, some would presume because they haven't enacted legislation exactly as we told them to do, that we now need to have Federal regulators go in and run their insurance departments. I do not think that is the case. The Senator from Massachusetts says California has over 1,000 regulators. You cannot do this with 65. You could not do this with 650. You would have to hire thousands if we were going to have the Federal Government come in and regulate State insurance. So that is really something we should not be doing, it would be a serious mistake to do.

Some people have a real tendency to say if we have any problem, let's go in and have Federal regulators come in and take over. I think that would be a mistake. As I mentioned before, there are over 4,000. Surely they can borrow a few if this is such a critical need.

A couple people said, "This is needed to enforce the mental parity issue that was passed also as part of the Kassebaum-Kennedy." It is not. I tell my colleagues, this GAO report that was alluded to by my friend from Massachusetts does not mention mental parity once—not once. I might mention, the request for the supplement from the director of HCFA did not mention mental parity. It was not in their request. What their request was: "Hey, we want to help these five States." I am saying they can help those five States. They already have 26 employees. They can use additional employees already in the system. We don't need to give them an additional \$16 million or \$6 million for these 65 employees that cost \$93,000 each. That is a lot to pay for somebody in the State of Mississippi or Oklahoma. Our States are in compliance, I might mention; the State of Massachusetts is not in compliance.

I might also mention two things. The way the Senator pays for this is robbing Medicare. All of us that have been dealing with the appropriations and so on, we know we have discretionary accounts and we have mandatory ac-

counts. Medicare is one of the mandatory accounts. It is paid for. The HI Trust Fund—Hospital Insurance Trust Fund—is paid for by payroll tax; 2.9 percent of all payroll goes into the Hospital Insurance Trust Fund. That ought to be plenty of money. President Clinton had a big increase in 1993, and it is on all income now. It used to be just on the Social Security base up to \$68,000. Now it is on all income.

Guess what. It is still going broke. It is paying out more this year than is coming in. The fund is going broke. Does it make real sense for us to be taking money out of that fund that is dedicated for senior citizens—take money out of the fund to hire more bureaucrats at HCFA? They already have over 4,000, and this says let's hire another 65. The President's budget for next year says he wants another 215. Well, we will wrestle with that in next year's annual appropriations process and let the committees review and discuss it.

This is an emergency supplemental. This is supposed to be helping communities that are devastated by floods and bad weather and to pay for our forces that had to be on call in Iraq and in Bosnia. What is urgent about this? This is a law that passed. This is a law that became effective—frankly, we passed the law 20 months ago; it only became effective January 1.

The reason California has not passed a law—California passed a law, but Governor Wilson vetoed it because there are other things in the law he did not think were very good. In Missouri, the Missouri legislature passed a law to be in compliance, but the Governor vetoed it because he had a disagreement. In almost all cases, the five States are not saying, "Federal Government, we want you to regulate us and take over our insurance." It is because they had a disagreement between the legislative bodies. It is not, they don't want to cover it. It is not, they don't want to give the benefits that we have provided. I think these States do. My guess is, the State of Massachusetts wants to. But for some reason legislatively it has not happened. It may be, again, because there is a different party as Governor, as in the legislative body.

Sometimes you get some impasses. The solution is not to send an army of HCFA bureaucrats to go in and try to take over regulation of insurance within those five States. That would be a serious mistake.

So I mention, Mr. President, let's pass this amendment, let's save \$16 million, let's not raid the hospital insurance fund. That is the wrong thing to do, a serious mistake. So I urge my colleagues to support the amendment.

I ask for the regular order.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, what is the parliamentary situation? Are we on the Nickles amendment?

The PRESIDING OFFICER. Yes, we are following the regular order.

Mr. WELLSTONE. Mr. President, I wanted to start out by reading from a letter to Senator KENNEDY from Nancy-Ann Min DeParle:

Dear Senator KENNEDY: I am writing to request your assistance in securing funding for HCFA to implement the insurance reform provisions of HIPAA. The \$6 million and 65 FTEs that we have requested for this purpose will allow us to implement the HIPAA provisions, as well as those enacted subsequently in the Newborns' and Mothers' Health Protection Act and the Mental Health Parity Act in those states that have not fully implemented HIPAA.

We had this discussion yesterday. But as we approach a possible vote on this amendment, let me say one more time—and I have a letter here from Laurie Flynn, executive director, which Senator KENNEDY offered during other parts of this debate. I want to focus on the mental health parity. Laurie Flynn, executive director, a very strong advocate for people struggling with mental illness, concludes her letter by saying:

Consequently, on behalf of NAMI's 172,000 members nationwide, I am writing to express my strong appreciation of your leadership in advocating for adequate funding to support HCFA's enforcement responsibilities under HIPAA.

Mr. President, there are still some 30 States, or thereabouts, that are not yet in compliance. Again, in the last Congress, we passed the Mental Health Parity Act. This was an enormous step forward. We said to a lot of women and men and to their families that we are going to rise above the stigma, we are going to make sure that there is coverage for you, at least when it comes to lifetime and annual caps; we are not going to have any discrimination, and we are going to treat your illness the way a physical illness is treated. We know that much of this is biochemical. We know that pharmacological treatment with family and community support can make all the difference in the world. Hopes were raised, expectations were built up.

Now, what we are talking about is making sure—I say again to my colleague what I said yesterday—that this is enforced, that this is implemented. I am very worried that without this additional womanpower and manpower, we are not going to be able to actually enforce this law of the land; we are not going to be able to have this implemented around the country.

My colleague from Oklahoma keeps talking about bureaucrats. I go back to what I said yesterday. We are always talking about bureaucrats. We can also be talking about men and women in public service who have a job to do. In this particular case, the job is to make sure that the law of the land is implemented. It is to make sure that there isn't discrimination against people struggling with mental illness, that there isn't discrimination against their families, and that we make sure that States or insurance companies or plans

are in compliance. I think that is what this debate is all about.

Now, Senator KENNEDY has letters from all sorts of organizations, consumer groups, people struggling with disabilities, and on and on and on—I am sure he read from them—which are basically saying the same thing.

One more time, I simply want to say that the Kennedy-Kassebaum bill really was important to millions of people around the country, to millions of families. People now had every reason to believe that because they had a bout with cancer or with diabetes or other kinds of illnesses, they weren't going to be denied coverage because of a "preexisting condition"; they would be able to move from one company to another and not lose their plan. It was now the law of the land that insurance companies could not discriminate against them in that way. This additional request—yes, it is an emergency request because it is an emergency to these families—is to make sure that, in fact, people are able to have the assurance that they won't be able to be discriminated against and to make sure that families that are struggling with mental illness won't have to be faced with that discrimination. This is the right place to make sure that we put the funding into this. I say to colleagues, I think for all colleagues who supported this legislation, it would be a huge mistake and I think it is just wrong to turn around now and deny some of the necessary funding for the actual implementation of these laws.

Either we are serious about ending this discrimination, either we are serious about making sure insurance companies can't deny people this coverage, or we are not. I think this vote on whether or not HCFA will have the resources, which means there will be women and men that will be able to enforce this around the country, is a vote on whether or not we are going to live up to the legislation that we passed. We can't give with one hand and take away with another. So I hope that my colleagues will vote against this Nickles amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, let me make a couple of quick comments. The initial request that came from HCFA for the \$16 million supplemental did not include anything dealing with mental parity; not a word, not a letter, nothing. It didn't include it. The GAO report didn't include it.

A couple of reasons. Here are the mental parity regulations. If I may have the attention of my colleague from Minnesota for a second. This is a copy of the regs that came in on mental health. Guess when they were announced. December 16, 1997, which was about 3 months ago. How in the world can somebody know 30 States aren't complying? The regs just came out. I heard comments that some States

aren't complying with the newborns regulations, the 48 hours. Guess what. Those regs aren't out. The law became effective January 1, and there are no regulations. Yet they want to hire an army of new federal employees. HCFA didn't ask for an army of people to go out and comply with these regulations.

My colleague alluded to a letter that Senator KENNEDY worked hard on, which he probably got late last night, from Nancy Ann Min DeParle, the Administrator of HCFA. I want to read what she says, if I can get my colleague's attention for just a second. I want to read the part of the letter he forgot to read. He left out just a little bit. In the second paragraph of the letter she sent to Senator KENNEDY—not to the managers of the bill; she didn't send it to the authorizers of the committee—it might have been written by Senator KENNEDY; I'm not sure. But this part certainly wasn't written by Senator KENNEDY:

Moreover, we understand that as many as 30 States may not have standards that comply with Mental Health Parity Act and as many of 10 States may not have standards that comply with the Newborns' and Mothers' Health Protection Act.

This is what I want you to pay attention to:

We don't have precise numbers because States are not required to notify HCFA about their intention to implement these two laws.

HCFA doesn't have control over these two laws. These States aren't told to tell HCFA about compliance with these two laws. Those laws are going to be managed by the Department of Labor. That is not in HCFA's jurisdiction. These 65 people will not spend 1 minute of time on mental parity or the 24 hours or 48 hours for newborns. Some people are trying to create an issue that is not real.

The issue is, very frankly, are we going to spend \$16 million to expand the bureaucracy of HCFA? They already have over 4,000 employees and 58,500 at HHS. I have said time and time again, if they need to borrow some of those employees, they can do so. People say, no, we want to expand the base, hire more people, have more intrusion. I have a final comment—

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

Mr. NICKLES. Not just yet. I will make a final comment, because this is of interest. Yesterday and today, we have spent several hours debating \$16 million. I am trying to save for taxpayers, and basically save it for Medicare, that \$16 million that should stay in Medicare. We should not be raiding the Medicare trust funds to pay for an expansion to hire more Federal employees. We are spending several hours on that. I tell my colleague from Texas and my other colleagues, I spent an hour opposing an expansion of \$1.9 billion, and I lost. So this Senate expanded the cost of this bill from \$3.3 billion to \$5.1 billion, and we did it in an hour. Maybe some people are kind of

proud of that. I am not proud of it. Yet, to try to cut \$16 million, we have spent several hours.

Some people fight very, very hard to expand Government. I think that is a mistake. I think it is a mistake in this bill. It should not be in this bill. When my colleague read the letters, he didn't read all of the letters. It says that HCFA doesn't have enforcement authority over these two bills, and it doesn't have anything to do with the legislation that is before us. I happen to have enough confidence in the State of Massachusetts, the State of California, the State of Michigan, the State of Missouri, and Rhode Island. They care about their people just as much as we do in Washington, DC. Hiring another army of bureaucrats to go in and tell them what to do will not, in my opinion, improve the quality of health care in those States.

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

Mr. NICKLES. I am happy to yield for a question.

Mr. WELLSTONE. First of all, does the Senator understand that the National Association of Insurance Commissioners lists the following 30 States: Alabama, California, Colorado, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Maryland, Massachusetts, Michigan, Mississippi, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Utah, Virginia, Washington, Wisconsin, and Wyoming, as States that are not in compliance and have not yet enacted the Mental Health Parity law? Is the Senator aware of that from the National Association of Insurance Commissioners?

Mr. NICKLES. I will be happy to answer the Senator's question. The regulations I was waving around a moment ago—this thing—came out on December 16, 3 months ago. I doubt that all the States have had time to review these regulations. Maybe some of them have, and maybe some of them haven't. So how would anyone know whether all the States are in compliance with that? On the newborns law my colleague alluded to, which is not enforced by HCFA, the regs aren't out yet. So how could anyone know whether or not there is compliance?

Now, the 65 people that HCFA was requesting in the supplemental were not to enforce either the mental parity or the 48 hours for newborns. It was not in the request, not in their letter, not in the GAO study.

I think my colleague makes an interesting diversion in trying to say that they should be doing this, too. But frankly, that is not their responsibility. It is the responsibility of the Department of Labor. It is not in this bill and it would not be helped by passing this supplemental, even as originally requested.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I think we are having an interesting and enlightening conversation. I agree with the Senator from Oklahoma. But I want to go back one more level below this to talk about the real issue here.

Our dear colleague from Minnesota talks about how much he and the administration care about this program and about how they want to try to see this done, provide this \$16 million. But they didn't care enough about it to cut \$16 million out of another discretionary program to pay for it. They didn't care enough about it to reduce discretionary spending in the Federal budget by 0.003 percent to pay for it. They cared so much about it that they weren't willing to take 65 bureaucrats from the 4,000 people they already have working in the Health Care Finance Administration to do this work. They didn't do any of those things.

What they did is they cut Medicare and they reduced peer review, which is looking at the practice of doctors who are providing medical care to my mother and to other people's parents. We take money from peer review and the oversight of doctors practicing medicine under Medicare—we take money away from Medicare to fund more bureaucrats at HCFA. That is what this amendment is about. This is robbing Medicare to pay for bureaucrats at HCFA.

Now, first of all, I know the public doesn't care about these things, but I don't understand how the Appropriations Committee is cutting Medicare. The last time I looked, Medicare was under the jurisdiction of the Finance Committee. I am chairman of the subcommittee that has jurisdiction over Medicare. What we have here is an extraordinary shell game, which the President started and which this committee has continued to perpetuate.

Here is the shell game in English that anybody can understand. The President wants to hire 65 more bureaucrats. He already has 4,000 bureaucrats working for HCFA. They want 65 more bureaucrats to do work that has absolutely nothing to do with Medicare in shape, form, or fashion. And they want 65 more bureaucrats. But they are unwilling to cut another discretionary program to pay for it. They want these 65 bureaucrats, but they are unwilling to take them away from the current work that the 4,000 are doing. It is not important enough to move 65 of them to do it. It is not important enough to cut any other discretionary program of the Government to do it. But it is apparently important enough to reduce physician oversight of the practice of medicine on 39 million elderly and disabled Americans who qualify for Medicare.

This is another blatant effort to rob Medicare, a program that is going broke, a program that will be a \$1.1 trillion drain on the Federal Treasury over the next 10 years, a program where we are going to have to raise the payroll tax from 2.9 cents for every dol-

lar you make to 13 cents for every dollar you make to pay for it over the next 30 years.

So what they are doing is using Medicare as a piggy bank to hire bureaucrats. Let me say that this is outrageous, and I believe that if the American people knew about this, they would be outraged.

Our colleague from Minnesota said, but we need these 65 bureaucrats for this important function. Look, I am not going to argue whether it is important or not. Our dear colleague here has pointed out that the issues raised wouldn't even be dealt with by those 65 bureaucrats. But that is not the point here. If it is all that important, cut a program to pay for it. If it is all that important, do what every American working family does every day: They decide that buying medicine, or buying a book, or sending their child to special training is important, so they cut spending they would have spent on vacation, or something less important, to pay for it.

My argument is not against the spending of this money. It is not even against these 65 bureaucrats, although I do not believe the world will come to an end if we do not have them. My point is, if they are all that important, cut money from a program, another discretionary account, that is of less importance.

Is there nothing in the \$550 billion every year spent by the Federal Government on discretionary spending that is less important than this? If there isn't, we probably ought not to be doing it. If there are programs that are less important, I suggest you find them and cut them. But this is a rotten shell game, to be cutting Medicare and reducing peer review oversight over the treatment of 39 million senior and disabled citizens in order to fund more bureaucrats.

What are we doing, cutting Medicare to fund discretionary programs? Whoever heard of cutting Medicare to fund HCFA bureaucrats? I think it is an absolute outrage. What all this shows is, despite all of our flowery rhetoric—put Social Security first, put Medicare first—we are all for doing that, but when it gets right down to it, this provision that Senator NICKLES is trying to strike is a provision that says, put bureaucrats before Medicare, cut oversight of patient treatment for 39 million senior and disabled citizens in this country so that we can fund the hiring of 65 more bureaucrats.

That is a position that you can take. I happen to say that the answer to it is no—clear-cut, unequivocally, no. We ought not to be cutting Medicare to increase the number of bureaucrats working at HCFA. And that is exactly what this proposal does.

If somebody can make the case that we don't need as much oversight of physicians who are treating my mother and everybody else's mother, then we ought to take the savings and we ought to use it to save Medicare. But there

are two problems here: No. 1, nobody has made that case; I am not convinced of it. And, No. 2, if we are going to save the money, it ought to go to Medicare, where the money is coming from; it ought not to be used to hire bureaucrats.

So we are going to vote at some point on the Nickles amendment. I know our colleagues are threatening to hold up this bill. But let me say, this is not my bill. This is a bill that spends \$5 billion that we do not have. This is a bill that raises the deficit by \$5 billion. This is a bill that puts Social Security last. This is a bill that takes \$5 billion away from our efforts to save Social Security. And if we are going to hold this bill up so that we can steal money from Medicare, let it be held up. If this bill never passes under those circumstances, that will suit me just fine. I am not going to have to explain why it does not pass, because I am not holding it up.

But if somebody is going to threaten me that I am not going to raise the deficit by \$5 billion unless you let me steal \$16 million from Medicare, I am not imperiled by that threat. No. 1, I think it is outrageous that we are not offsetting this \$5 billion so that it is not being added to the deficit. I think that is fundamentally wrong.

So I am not hot for this bill, to begin with. But secondly, your ransom is simply too high. It is absolutely unacceptable to say we are not going to spend the \$5 billion and raise the deficit by \$5 billion and steal the money from Social Security unless you let us steal \$16 million from Medicare. That ransom is too high.

And maybe our colleagues can look people in the face and say, "We had to cut oversight of medical practice for senior citizens in Medicare so that we can hire 65 bureaucrats at HCFA." Maybe they feel comfortable doing it. I would like them to try to explain it to my 85-year-old mother. I don't think she would be convinced.

But, in any case, we every once in a while have acts of piracy. People say, "If you do not give me this money, or you do not do this, I am not going to let you do what you want to do." But what our colleagues are saying is, "We won't raise the deficit by \$5 billion unless we can take \$16 million away from Medicare." A, I am not for raising the deficit by \$5 billion; B, I am not for taking the \$16 million away from Medicare. So I don't feel threatened.

Finally, let me say to our dear colleague from Oklahoma, who yesterday tried to prevent us from raising the deficit by \$1.8 billion—and it was an hour well spent, but I don't think we have to apologize for spending hours trying to save \$16 million—there are a lot of people in Oklahoma and Texas who work a lifetime, and their children work a lifetime, and their grandchildren work a lifetime, never to make \$16 million.

So I think this is time well spent. Do not take this money out of Medicare.

Do not take this money out of Medicare to hire 65 new bureaucrats. That, I think, is a clear issue. And if our colleagues want to debate forever, I would love for the American people to hear this debate. I don't believe they can sustain that case.

This was a slick idea by the President, to do it when nobody knew it was in here. I didn't know this was in this bill, and I am on the Finance Committee, and I am chairman of the subcommittee that oversees Medicare. I didn't know it was in this bill until we discovered it.

So it was a slick idea until people discovered it. Piracy normally works until somebody discovers it is occurring. And then they send out the sheriff, and the sheriff stops it. We are the sheriff.

So if you want to stop, if you do not want to raise the deficit by \$5 billion, if you do not get the \$16 million, it doesn't break my heart. Go right ahead.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have seen many smokescreens on the Senate floor before. But I just heard one of the largest smokescreens ever from those who just tried to cut Medicare by some \$270 billion in order to give tax breaks to the wealthiest individuals and corporations. We defended that position here on the floor of the U.S. Senate not long ago. Now what we are talking about at this time is an administrative cost. This isn't going to affect one single dollar in terms of benefits or in terms of health care costs for senior citizens.

So before we all cry crocodile tears at the suggestions of my good friend from Texas, maybe he would spend an equal amount of time discussing his justification for his proposal to seek major cuts in the Medicare program to fund tax breaks for wealthy individuals. That may be suitable for another time.

I do not suggest that the Republicans who are Members of the Appropriations Committee that supported and reported out the provision that is in the current bill are Republicans that have a distaste for Medicare or want to ignore our nation's senior citizens. This proposal was reported out of the Republican Appropriations Committee. That is how it got here on the floor. And you have not heard the Senator from Massachusetts charging that they have hurt the Medicare system.

Mr. President, fortunately, our good colleagues in the Senate know the facts on this situation. Basically, what you are talking about is transferring \$16 million in administrative costs to enforce a law to protect millions of American citizens. We are talking about women with breast cancer or others with preexisting conditions who are turned down for insurance every

single day; we are talking about children with disabilities who are locked out of the private health insurance system; we are talking about small businesses who are refused health insurance because one employee is in poor health. And many others. Without enforcement, the stick to ensure compliance by the insurance companies, these protections are simply not there. They are not there.

We have a GAO report that says HCFA needs help, and we have the insurance commissioners of the States that say HCFA needs the help—Republicans and Democrats alike—as do the various organizations that speak for the elderly, and the disabled, and the mentally ill, and the cancer patients, and the consumers. Are they all wrong? Are all 30 of these organizations all wrong? They don't want to throw out the Medicare system, as the Senator from Texas says. Of course, not. They understand what this is all about. These are organizations that have been fighting for Medicare since they were formed. They have unimpeachable credentials in terms of protecting Medicare.

So, Mr. President, we are back to where we were in this debate and discussion. These funds are needed. HCFA asked in their request of the Appropriations Committee, which was approved, and later in the letter that they sent up to the Congress, to me following my inquiry after yesterday's debate, reiterating the request and clarifying that the requested funds were also needed to enforce the mental health parity and drive-by delivery provisions. And this \$6 million of appropriated funds that otherwise would be used administratively is going to be used to ensure that the promises made in the Kassebaum-Kennedy bill and in the Mothers Health Protection Act and the Mental Health Parity Act are not merely illusory.

The Senator from Oklahoma says that states have not complied because the regulations came out in December. The irony is not lost on me—blame HCFA for not issuing regulations and then deny them the necessary resources to fulfill their responsibilities. But states have had more than a year to comply with this relatively straightforward law. They didn't need to wait for regulations to act. And many of the States did act prior to the regulations. Nonetheless, 30 States did not.

This request is needed to prevent the kind of discrimination that is being committed against millions of Americans that have preexisting conditions. It is needed to ensure that mothers that live in the eight States that still allow drive-by deliveries, and that those who are afflicted with mental health problems have the same level of protection as those in their neighboring states.

Mr. President, this is really what this debate is all about. We have had a GAO report that made recommendations that we take this action. The

States have been, over the period of the last 18 months, getting themselves effectively in shape for the implementation of this legislation, which started in January. But the GAO report said there are a number of very important areas that need attention if this bill is really going to do what the Congress has said is going to be done.

We are responding to that particular need, and that is what the committee responded to, Republicans and Democrats alike. The idea of suggesting that the members of the Appropriations Committee that reported this out are somehow less interested in the protection of Medicare is preposterous. It is preposterous on its face and the Senator knows that.

I am prepared to take some parliamentary action, but I see others here on the floor who want to address this, so therefore I withhold.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I shall be brief. I appreciate the remarks of my colleague from Texas. I was going to respond in a similar fashion. I will not go over what my colleague from Massachusetts has said. I do not always agree with what the Senator from Texas says, but I like the way he says it. He makes his points in a kind of hard-hitting way, but also with some humor. I think they connect well with people.

But I look at this in a very different way. I would like to thank the appropriators for responding to a very real problem. I do not think the appropriators in any way, shape, or form, Democrats or Republicans, are attempting to raid the Medicare trust fund. I think the appropriators, both Democrats and Republicans, understood that the legislation we passed last year was very important. It was very important in making sure people were not denied coverage because of preexisting conditions—many people. That is why my colleague from Massachusetts could read letters from organizations representing people who have struggled with cancer, senior citizen organizations, people struggling with mental illness, the disabilities community.

People, I say to my colleagues, have to live with this fear. It is horrible. It is bad enough to be ill. It is another thing to have to worry that you are not going to be able to even get any coverage. We have passed legislation to say the insurance companies are not going to be able to discriminate against you, but we have not been able to implement it as fully as we want to.

And on the mental health parity again, I would just say, this is from the National Association of Insurance Commissioners. I heard my colleague from Oklahoma speak about it several times. He heard me speak about it several times. I am sure HCFA wishes they mentioned the Mental Health Parity Act. On the regulations, I wish they got them out earlier. I don't think they

have enough people to get regulations out. They have a huge, mammoth mandate. But the fact of the matter is, one more time, colleagues, the National Association of Insurance Commissioners reports that 30 States have not yet enacted the mental health parity legislation. Minnesota, I am proud to say, is a State that has enacted this legislation.

So ultimately this is about whether or not the U.S. Senate supports the appropriators. The appropriators came up with something that was balanced and reasonable. The appropriators understand, and I think what they have proposed represents this understanding, that we have a contract with people in the country. People believe they are going to have some protection. You know, it is hard going against these insurance companies. Can't we make sure there are a few more women and men—I don't just use the word "bureaucrats" with a sneer—who are out there to enforce this law? Can't we make sure there is protection for people? Can't we side with the citizens in this country?

I know the insurance companies would love for HCFA not to be able to have the manpower and manpower to enforce this legislation. But I think we should be on the side of the vast majority of people in this country and not on the side of large insurance companies. I think that is what this vote is about, and I urge my colleagues to vote against the Nickles amendment.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I will try to be brief. I hope we are getting ready to vote on this. I want to go back, since so much has been said, and review exactly where we are. Here is where we are:

The President wanted \$16 million to, in part, hire 65 new bureaucrats at HCFA. Here are the choices the President had: He could have cut another program in HCFA and used it to pay to hire the 65 new bureaucrats. We have \$550 billion of discretionary programs in the Federal budget and he could have cut \$16 million out of any one or combination of those. Or he could have cut each one of them by 0.003 percent. But the President could not find in a discretionary budget of \$550 billion a single program that could be cut. He could not find anything that was less important than hiring these new 65 bureaucrats. So what he did is he cut Medicare and slipped the provision into the supplemental and it is now before us.

Where did he cut Medicare? We have a program where we hire doctors who go in, on a selective sample basis, and look at procedures that are being provided to Medicare patients. Someone goes in and does a procedure on my mother, where they insert a balloon and open her artery and save her life and save a lot of money. And then we have Medicare that goes in to look and see, did they do it well? Did they do it in the most efficient way? Are they

practicing good medicine which the Government is paying for?

What the President said is, let's cut the amount of money that we are spending for this oversight of medical practice where 39 million people who qualify for Medicare under the President's provision will have less oversight of their medical treatment they receive. That is what the President proposed to do, cut Medicare by reducing the oversight of the medical practice that we are paying for and take that money from Medicare and hire 65 bureaucrats in HCFA to perform functions that have absolutely nothing to do with Medicare.

There are two debates going on. To some extent the Senator from Oklahoma and the Senator from Minnesota are arguing about whether we need to hire these 65 bureaucrats at all. We already have 4,000 of them in the same agency but not a one of them is doing something less important than this. I am not getting involved in that debate. Maybe the Senator from Minnesota and the Senator from Massachusetts are right. Maybe we just have to have 65 new bureaucrats at HCFA.

But my point is, if you really need them that badly, take money away from another HCFA program. Don't cut Medicare, don't take oversight of medical practice on our senior citizens, don't take that money to spend it on a program that has nothing to do with Medicare.

Our colleague from Massachusetts is still chafing that at one time we actually debated cutting taxes around here. I long to get those days back, myself, and I am not the least bit shy about them. I don't remember anybody ever proposing cutting Medicare to pay for them, but I guess if you are against tax cuts they have to be evil; and whatever, whatever is being done to get them, that in itself must be evil.

But here is my point. We are getting ready to go into a series of issues this year where our Democrat colleagues are going to be taking money away from Medicare. So, if they don't like being criticized for it, they better get used to it. We are going to have a tobacco settlement on the floor of the U.S. Senate, and we are going to have it on the floor of the Senate this spring or summer. There is going to be a debate about what to use that money for.

We are providing money for education. We are going to raise the price of cigarettes, which everybody says is the most effective way to get teenagers not to smoke. But the question is going to come down to where should the money be used? We are going to hear this same debate again. I say the Senate Budget Committee says that 14 percent of the cost of Medicare comes from people smoking; \$30 billion a year in costs are imposed on Medicare by people smoking, and the whole logic of the tobacco settlement, the reason that the tobacco companies have agreed to pay the States and to pay the Federal Government, is to compensate

the taxpayer for costs imposed on the taxpayer by people smoking.

In the Federal Government, those costs have been imposed on Medicare. So the Budget Committee has said, and I hope the Senate says, take the money from the tobacco settlement and use it to pay for Medicare to save Medicare and, in fact, if people were not smoking we would have \$30 billion a year less in costs, and compensating Medicare for that is what the whole settlement is about.

Many of our colleagues on the other side see the settlement as this giant piggy bank which can be used to fund seven or eight different Government programs. So we are going to have this debate again, only then they are going to take the money away from Medicare to fund building schools and hiring teachers—the list goes on and on. I am not saying any of those are bad things, just as I am not saying that hiring 65 new bureaucrats is a bad thing. I suspect it is, but I am not saying that. All I am saying is, don't take the money away from Medicare to do it. This provision should have never been put in this bill. It desperately needs to be taken out, and I believe when we do vote we will take it out. And I appreciate the Senator from Oklahoma offering the amendment, and I enjoyed getting an opportunity to come over and talk about it.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 2163

Mr. STEVENS. Mr. President, if the Senator will just defer for a moment, I have an amendment that has been cleared on both sides. It has just been cleared as part of the managers' package. I ask unanimous consent it be in order to send it to the desk and have its immediate consideration at this time.

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

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. D'AMATO, proposes an amendment numbered 2163.

The amendment follows:

On page 38, after line 18, add the following new section:

"SEC. . The Secretary of Transportation and the Secretary of the Interior shall report to the House and Senate Committees on Appropriations and the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure not later than April 20, 1998, on the proposed use by the New York City Police Department for air and sea rescue and public safety purposes of the facility that is to be vacated by the U.S. Coast Guard at Floyd Bennett Field located in the City of New York."

Mr. D'AMATO. Mr. President, I would like to thank the Chairman of the Appropriations Committee, Senator STEVENS, for offering this amendment on my behalf.

My amendment is simple. It asks the Secretary of Transportation and the Secretary of Interior to report to the

House and Senate on the proposed use by the New York City Police Department of the U.S. Coast Guard's facility at Floyd Bennett Field.

Between early May and early June, the Coast Guard will be moving its air-sea rescue helicopter operation from Floyd Bennett Field in Brooklyn to Atlantic City. An auxiliary helicopter contingent will be established at Gabreski Airport in Westhampton, New York for the peak summer months to guarantee a maximum Coast Guard coverage for the shores of Long Island and New York City.

The New York City Police Department wants to move their own search and rescue helicopters into the facility that the Coast Guard is leaving. The Police Department currently uses another hangar for its search and rescue operations at Floyd Bennett Field, but that hangar is old and run-down. For the Police Department to stay in that facility would require some \$5.7 million worth of upgrades at their own cost.

When the Coast Guard leaves, there is a genuine concern that their hangar will go unused for search and rescue operations. It is a larger, more modern facility, well-suited for the purposes of air-sea rescue and emergency response activities. The Police Department merely wants to adequately fill the gap in coverage when the Coast Guard moves on.

When the Coast Guard leaves, it is likely that the brunt of emergency response calls will fall upon the Police Department. I believe it is a natural fit for the New York City Police Department to take over the Coast Guard's facility so that they may be able to continue and even expand their crucial life-saving and protection role.

Before the City can even utilize this facility, though, plans to allow this to happen will need to be worked out between the parent agency of the Coast Guard—the Department of Transportation—and the Department of Interior, which will likely take over the land once the Coast Guard leaves. However, action must occur quickly; the Coast Guard will be leaving in less than two months.

Protecting people's lives must be paramount. My amendment is a public safety issue that will help address that purpose. I thank my colleagues on both sides for recognizing the timeliness and importance of this matter and for accepting this amendment.

Mr. STEVENS. Mr. President, this amendment of the Senator from New York requires a report on an area that is being vacated by the Coast Guard in New York. The report is coming to relevant committees of Congress. I urge its immediate adoption.

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

The amendment (No. 2163) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. I thank the Senator.

AMENDMENT NO. 2120

The PRESIDING OFFICER. The question recurs on the Nickles amendment, No. 2120.

Mr. KENNEDY. Mr. President, we will have a good opportunity to debate. I am glad to hear my friend from Texas indicate his support for effective tobacco legislation. We will have, hopefully, a good opportunity to debate that.

I was listening to the Senator speak so eloquently. I was remembering that in checking my facts, the Republican Contract With America provided a \$270 billion cut in Medicare, with a \$250 billion tax break for the wealthiest individuals. So we have debated this at other times, if we want to discuss who truly cares about Medicare. That is not what we are about here today. We have explained what the issue is before us.

Mr. President, I want to mention the various groups and organizations that strongly oppose the Nickles amendment. The National Breast Cancer Coalition urges support of funding to implement the Kassebaum-Kennedy law and is opposed to the Nickles proposal; the National Alliance for the Mentally Ill also opposes the Nickles proposal; they are joined by Consortium for Citizens With Disabilities, a group that includes The ARC, the National Association for Protection and Advocacy, Easter Seals, the Paralyzed Veterans of America—and a long list of additional organizations. I will have that printed in the RECORD.

The Disability Rights Education and Defense Fund opposes the Nickles amendment; Families USA Foundation, the voice for health care for consumers; the Consumers Union; the National Mental Health Association; the American Psychological Association; the American Psychiatric Association; and the American Managed Behavioral Healthcare Association. They are very powerful statements about the importance of assuring that the Kassebaum-Kennedy protections are going to be implemented, and they understand that the reallocation of these funds to do so is the way to go.

I ask unanimous consent that all these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL BREAST CANCER COALITION,
Washington, DC, March 25, 1998.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC 20510.

DEAR SENATOR KENNEDY: On behalf of the National Breast Cancer Coalition, I am writing to urge you defeat the Nickles' amendment. The implementation of the Kennedy/Kassenbaum law is critical to members of the breast cancer community who are among the most vulnerable to abuses in the current health insurance system. The Kennedy/Kassenbaum law is meaningless without adequate resources for implementation and enforcement.

The National Breast Cancer Coalition, a grassroots advocacy organization made up of

over 400 organizations and hundreds of thousands of individuals, has been working since 1991 toward the eradication of this disease through advocacy and action. In addition to increasing the federal funds available for research into breast cancer, NBCC is dedicated to making certain that all women have access to the quality care and treatment they need, regardless of their economic circumstances. Adequate implementation of the Health Insurance Portability and Accountability Act is critical toward this end.

Sincerely,

FRAN VISCO,
President.

NATIONAL ALLIANCE
FOR THE MENTALLY ILL,
Arlington, VA, March 25, 1998.

Sen. EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KENNEDY: As you know, the National Alliance for the Mentally Ill (NAMI) has been a leading voice in advocating for parity coverage in health insurance policies for people who suffer from schizophrenia, manic-depressive illness or other severe mental illnesses. Enactment of the Domenici-Wellstone Mental Health Parity Act of 1996 was a significant but incomplete step towards ending pervasive discrimination against people with these severe brain disorders in health insurance and other aspects of their lives.

Because of the importance we attach to parity and other protections for vulnerable consumers in health care, we have been concerned that the Health Care Financing Administration (HCFA) may not have sufficient resources to carry out adequately its important role in enforcing mental health parity and other consumer protections embedded in the Health Insurance Portability and Accountability Act (HIPAA). Consequently, on behalf of NAMI's 172,000 members nationwide, I am writing to express my strong appreciation of your leadership in advocating for adequate funding to support HCFA's enforcement responsibilities under HIPAA. We stand ready to work with you and HCFA to ensure that the mental health parity provisions and other consumer protections contained in HIPAA are aggressively and effectively enforced.

Please do not hesitate to call upon us if we can provide further assistance to you on this important effort.

Sincerely,

LAURIE M. FLYNN,
Executive Director.

CONSORTIUM FOR
CITIZENS WITH DISABILITIES
March 25, 1998.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: The Consortium for Citizens with Disabilities, which represents almost 100 national disability organizations, strongly opposes the Nickles' Amendment which would deprive the Health Care Financing Administration (HCFA) of sufficient funds to enforce the Health Insurance Portability and Accountability Act (P.L. 104-191). The HIPAA legislation—also known as the Kassebaum-Kennedy Act—is a stellar example of bipartisan legislation that would benefit individuals of all ages, including people with disabilities.

The provisions in HIPAA related to pre-existing condition exclusions and portability of health insurance are working to open the doors to many individuals with disabilities and their families who could not previously access appropriate health insurance or who were imprisoned by "job lock".

We urge all Senators to oppose the Nickles' Amendment.

Sincerely,

The Arc, National Association of Protection and Advocacy System, National Easter Seal Society, American Association on Mental Retardation, Association for Persons in Supported Employment, LDA, the Learning Disabilities Association of America, RESNA, the Rehabilitation Engineering and Assistive Technology Society of North America, National Alliance for the Mentally Ill, Bazelon Center for Mental Health Law.

NISH, Paralyzed Veterans of America, Inter-National Association of Business, Industry & Rehabilitation, Council for Exceptional Children, National Association of Developmental Disabilities Councils, United Cerebral Palsy Association, American Congress of Community Supports and Employment Services, American Network of Community Options and Resources, National Association of People with AIDS, Center for Disability and Health.

DISABILITY RIGHTS EDUCATION
AND DEFENSE FUND, INC.,
Washington, DC, March 25, 1998.

Sen. EDWARD M. KENNEDY,
Russell Senate Building,
Washington, DC.

DEAR SENATOR KENNEDY: The Disability Rights Education and Defense Fund (DREDF) strongly opposes the Nickles Amendment to S. 1716, the Emergency Supplemental Appropriations Bill.

Passage of the Nickles Amendment would stop the civil rights protections guaranteed by the Health Insurance Portability and Accountability Act (PL 105-191) and the only accountability left would be the fox guarding the chickens.

Without these provisions in HIPAA, the doors to health insurance for millions of people with disabilities will be forever locked.

Please, as you have done so many times before, oppose the Nickles Amendment and open the doors to employment, vote not on the Nickles Amendment.

Sincerely,

PATRISHA WRIGHT,
Director of Governmental Affairs.

FAMILIES USA FOUNDATION,
Washington, DC, March 25, 1998.

Senator KENNEDY,
Russell Senate Building,
Washington, DC 20510-2101.

DEAR SENATOR KENNEDY: Families USA supports the Administration's request for supplemental enforcement money for the "Health Insurance Portability and Accountability Act of 1996."

HIPAA provides needed protection to Americans who otherwise could not purchase health insurance when they change or lose jobs. Approximately one in four Americans are caught in "job lock," afraid to change jobs or start their own businesses because of preexisting conditions that could prevent them from obtaining new health insurance coverage. Americans like these who lose their jobs involuntarily often find themselves in an even more serious predicament: They join the growing number of individuals without health insurance coverage.

Implementing HIPAA requires the Health Care Financing Administration to assume new responsibilities. If HCFA lacks the resources to carry out its duties, HIPAA is meaningless. Without the funds to enforce HIPAA, millions of Americans will be deprived of these important protections. Therefore, we urge the defeat of the Nickles

Amendment to strike the President's request for HIPAA enforcement funds.

Sincerely yours,

RON POLLACK,
Executive Director.

CONSUMERS UNION,
Washington, DC, March 25, 1998.

Hon. EDWARD KENNEDY,
Committee on Labor & Human Resources,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: We are writing in opposition to the Nickles' amendment which would strip \$16 million allocated to enforcement efforts by the Department of Health and Human Services of the Health Insurance Portability and Accountability Act (HIPAA).

As you know, HIPAA was enacted in 1996 to help make health insurance more accessible to people who lose their employment-based coverage. Implementation is still at its early stages. The legislation spells out important functions for the Department of Health and Human Services. In addition, several states (including California) have opted for federal enforcement instead of state enforcement. This necessitates federal funding level to ensure that consumers in these states are protected by the legislation.

Only through adequate funding, will people with pre-existing health conditions be assured they can change jobs without facing new pre-existing condition exclusions from coverage. Only through adequate funding, will people who leave group coverage for the individual market be assured that health insurance will be accessible to them.

Consumers Union urges the Senate to oppose the Nickles' amendment.

Sincerely,

GAIL SHEARER,
Director, Health Policy
Analysis.
ADRIENNE MITCHEM,
Legislative Counsel.

March 26, 1998.

Sen. EDWARD KENNEDY,
Labor & Human Resources Committee,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: The undersigned organizations are writing to express our support for your effort to defeat the floor amendment offered by Senator Don Nickles that would delete \$16 million additional funding for enforcement of the Health Insurance Portability and Accountability Act (HIPAA).

Enforcement of consumer rights and employer responsibilities under HIPAA is vital. Much of the effort expended by the mental health community in 1996 to win passage of insurance reform will be thwarted without effective enforcement. As the Mental Health Parity Act of 1996 was enacted as an amendment to HIPAA, the same personnel at the Health Care Financing Administration are expected to enforce that statute as well.

As the source for the \$16 million is from elsewhere in the budget, passage of the Nickles amendment would not save taxpayers any money, and would mean the Senate missed an opportunity to better ensure relief from discriminatory insurance treatment to many thousands of American families. Thank you for your leadership in opposing this amendment.

AMERICAN PSYCHIATRIC
ASSOCIATION.
AMERICAN PSYCHOLOGICAL
ASSOCIATION.
AMERICAN MANAGED
BEHAVIORAL HEALTHCARE
ASSOCIATION.
NATIONAL MENTAL HEALTH
ASSOCIATION.

AMENDMENT NO. 2164 TO AMENDMENT NO. 2120
(Purpose: To provide amounts for HIPAA enforcement.)

Mr. KENNEDY. Mr. President, on behalf of myself, Senator BOND and Senator WELLSTONE, I send an amendment to the desk and ask for its immediate consideration.

Mr. NICKLES. Reserving the right to object, parliamentary inquiry. I think it requires unanimous consent to set the pending amendment aside, is that correct?

The PRESIDING OFFICER. The pending question is the Nickles amendment.

Mr. KENNEDY. It is an amendment to the bill.

Mr. STEVENS. I did not hear the Senator.

Mr. KENNEDY. This is an amendment to the language proposed to be stricken.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mr. BOND and Mr. WELLSTONE, proposes an amendment numbered 2164 to amendment No. 2120.

The amendment follows:

On page 39, in lieu of the matter proposed to be stricken, insert the following:

HEALTH CARE FINANCING ADMINISTRATION
PROGRAM MANAGEMENT

For an additional amount for Health Care Financing Administration, "Program Management", \$8,000,000.

On page 50, in lieu of the matter proposed to be stricken, insert the following:

GENERAL PROVISION, CHAPTER 11

SEC. 1101. Not to exceed \$75,400,000 may be obligated in fiscal year 1998 for contracts with Utilization and Quality Control Peer Review Organizations pursuant to part B of title XI of the Social Security Act.

Mr. STEVENS. Mr. President, I wonder if the Senators are now ready to enter into a time agreement so we might vote, if we have to, on both. I have just been informed by the majority leader that he will come to the floor and move to go to cloture on the education bill at 5:10.

Mr. KENNEDY. I will be glad to vote. I would like to make 4 or 5 minutes of comments, and then I will be prepared to move ahead with the vote. I would like to get the yeas and nays on the amendment.

Mr. STEVENS. Before the Senator does that, can I get an understanding that the Senator also includes voting on the Nickles amendment following the Kennedy amendment?

Mr. KENNEDY. As amended, hopefully.

Mr. STEVENS. Hopefully.

Mr. KENNEDY. Yes.

Mr. STEVENS. We can have a vote on the Nickles amendment following a vote on the Kennedy amendment to the Nickles amendment.

Mr. KENNEDY. Yes.

Mr. STEVENS. Can we divide the time and tell the membership that there will be a vote at 4:30?

Mr. KENNEDY. That is fine. The Senator understands, if we are successful, then there is not a Nickles amendment, obviously.

Mr. STEVENS. I understand that. The Nickles amendment, as amended, which we would adopt by voice vote. If the amendment is not adopted, we will then vote on the Nickles amendment immediately, is that correct? Can we divide the time somehow so we have some fairness in the time—equally divided and vote at 4:30? I ask unanimous consent that be the case. Is that acceptable?

Mr. KENNEDY. That is acceptable. Can we get the yeas and nays?

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

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. There are 6 minutes to a side, is that correct?

The PRESIDING OFFICER. The Senator is correct, 12 minutes divided equally—6 minutes per side.

Mr. STEVENS. Will the Senator give me some time? Senator SMITH has told me that he is not going to call up his amendment. So these two are the last amendments I know of offered to this bill, and we will then proceed to a unanimous consent request following the final vote here.

The PRESIDING OFFICER. The Senator from Massachusetts has 6 minutes.

Mr. KENNEDY. Mr. President, I appreciate my colleague's concern about the excessive spending. I am offering a compromise to his amendment. The Senator from Oklahoma proposes an amendment to eliminate the HCFA request by striking the entire \$16 million. We have cut that amount in half to \$8 million as a way of trying to find common ground on this issue. It cuts the amount given to HCFA in half. This is less than I want, but it will still make a substantial contribution to enforcing the insurance reform.

The issue is clear: Will the Senate stand with families, with children, with persons suffering severe mental illness, with persons with disabilities, and with expectant mothers to make sure that the protections that were included in the Kassebaum-Kennedy legislation will actually be implemented? Did we really mean it when we passed those important reforms about 2 years ago? I believe that we did mean it. I think those reforms are enormously important protections for millions of our fellow citizens. The States have done a good job. But there are still some areas where those protections are not there.

With these resources, we can guarantee that the law fulfills its promise of protecting our fellow citizens. It will allow us to nip in the bud some of the egregious situations that have been outlined in the GAO report.

This bipartisan amendment provides \$8 million, half of the Administration's request—\$3 million for implementation and enforcement of Kassebaum-Ken-

nedy and \$5 million for the other purposes outlined in the Administration's original \$16 million proposal that was advanced by Senator BOND and others in the Appropriations Committee. I hope that our colleagues will feel that this is a good-faith effort to try to find common ground.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I would ask my colleague from Massachusetts, if I can have the attention of the sponsor of the amendment for a second. Will Senator KENNEDY answer my question: Did you cut both halves? The amendment had two pieces to it, \$10 million and \$6 million. You cut both in half?

Mr. KENNEDY. The Senator is correct.

Mr. NICKLES. I thank my colleague.

I urge my colleagues to vote no on this amendment because we are still raiding Medicare, we are still taking money out of Medicare. I will take a little issue.

My colleagues said, "Oh, those Republicans, just a couple years ago, they were trying to cut \$276 billion out of Medicare to pay for the tax cuts." In the budget deal that passed that the President signed, we had exactly—exactly—the same savings in Medicare over the same number of years that the President signed that he vetoed 2 years before.

One year, last year, he said, "Oh, yes, we saved Medicare for 10 years"—we didn't, in my opinion—but it is the exact same savings in dollars that he vetoed 2 years before. I just make that comment.

What we are doing now is raiding Medicare, raiding the HI fund, taking money from the peer review organizations that are supposed to make the fund work better, make sure it is not abused, get some of the fraud out of the system. We are taking that out so we can hire more bureaucrats.

Now we are only going to hire half as many. Instead of hiring 65, I guess we are going to hire maybe 32 or 33 for an agency that already has over 4,000.

Senator GRAMM mentioned, hey, if they want to, they can borrow some of those 4,000. This administration has been pretty good about borrowing attorneys. They have attorneys from every agency coming in to help with the President's legal defense fund. They do that a lot.

The previous administration had six people in legal counsel. Now they have 24, and one report is 48. So, surely, they could borrow a few people from HCFA with 4,000 employees to help meet this so-called "urgent need."

So, whether we are talking about \$16 million or whether we are talking about \$8 million, I think it is a mistake to expand this bureaucracy, and that is exactly what we would be doing, in-

truding and basically telling the State of Massachusetts—the State of Massachusetts has not complied yet. I don't know why they have not. There may be a good reason.

The State of California has not because the Governor vetoed the bill. I don't know how many armies of bureaucrats we need from the Federal Government to go in and tell the Governor of California he should sign this bill or veto the bill, or the Governor in Missouri or the Governor in Massachusetts. I just don't think that is really what we need.

I will tell my colleagues, if it is ready to regulate these plans, you don't need 65; you need hundreds—you need hundreds—and that wasn't what we passed in Kassebaum-Kennedy. We said we were going to keep State jurisdiction and State control and regulation of health care.

I urge my colleagues to vote against this second-degree amendment that will add, basically, to my amendment \$8 million for a new bureaucracy of HCFA. I don't think we need it, I don't think we can afford it, and I don't think we should be raiding Medicare to pay for it.

I reserve the remainder of my time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. Three minutes 40 seconds.

Mr. KENNEDY. Mr. President, first of all, this is not an add-on. This is an administrative judgment made by HCFA that there was a greater need and priority to use additional resources to implement the Kassebaum bill. We are not adding on the funds. The Senator is right in recognizing that we are trying to accommodate the concerns raised about the number of people and trying to move this process forward, so we have cut out half of the request.

Mr. President, I want to reserve the last 45 seconds.

I want to read a few words of a letter from the National Breast Cancer Coalition:

The Kassebaum-Kennedy bill is meaningless without adequate resources for implementation and enforcement. The National Breast Cancer Coalition is a grassroots advocacy organization made up of over 400 organizations and hundreds of thousands of individuals. Adequate implementation of the Health Insurance Portability and Accountability Act is critical to this end.

Critical to this end. Those are the words of the National Cancer Breast Coalition, which represents some 400 different grassroots organizations. We have the same kind of statements made by all of the various groups affecting the disability community, all supporting the position which we have taken and which we have advocated.

Mr. President, I believe that it is important to make sure that those protections for individuals who have pre-existing conditions or disabilities should be protected.

This amendment, which pares down the original request, goes halfway on this issue, but is still able to provide some of the necessary protections we have debated today. I hope that the Kennedy-Bond-Wellstone amendment will be accepted.

Mr. GRAMM. Mr. President, how much time do we have left?

The PRESIDING OFFICER. The Senator from Oklahoma controls 3 minutes 48 seconds.

Mr. GRAMM. Mr. President, let me first say that what we have before us is an effort to take \$8 million out of Medicare, money that is now being spent to monitor the quality of health care provided to 39 million Medicare beneficiaries.

This amendment will cut Medicare in order to hire, it was initially 65 bureaucrats, now I guess it is 32½ at \$92,000 a year to implement programs that have absolutely nothing to do with Medicare.

My argument is not with the program that the Senator is for. I don't have any doubt that all those groups who wrote those letters are for this program, but I don't believe they want to cut Medicare to pay for it.

The problem the Senator has is that HCFA and the Department of Health and Human Services, which has one of the biggest budgets in the Federal Government, cannot come up with \$8 million to hire these 32½ bureaucrats, despite the fact that it is so important. So they have said, "We won't take any one of our 4,000 people doing other things to do this work; it is not that important; we won't cut any program anywhere else to do it; it is not that important; but we will take it out of Medicare and reduce the oversight of physician practice on 39 million senior citizens in America to pay for it."

I don't think we should take the money away from Medicare to hire 32½ bureaucrats. I think it is wrong, and I think if they don't want it enough to take the money away from other programs in HCFA, it suggests to me they don't want it very much.

So I hope our colleagues will not start raiding Medicare to pay for the ongoing programs of HCFA and to hire bureaucrats at the expense of Medicare. I think it is fundamentally wrong.

I think if you put the question before the American people, that 90 percent of the American people would agree with Senator NICKLES' argument. I am not saying that hiring the bureaucrats is bad or what they would do is bad. I am just simply saying take the money away from something other than Medicare, and in order for us to guarantee that is the case, we have to defeat this amendment, and I am hopeful that we will.

I yield the remainder of my time.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Massachusetts controls 1 minute.

Mr. KENNEDY. I yield myself that time.

This does not take one dime out of Medicare—not one dime. The disabled have a greater dependency on Medicare than any other group in our society. They are more dependent upon it than anyone else, and they support our position. That ought to speak to where the priorities are. They understand the importance—the importance—of implementing the Kassebaum-Kennedy bill and providing the protections for families in this country. That is what our amendment will do.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, in a moment I am going to move to table the amendment. But let me make a couple comments.

My colleague from Massachusetts is entitled to his own opinion but not entitled to his own facts. And the facts are that to pay for this, it takes money out of the HI Trust Fund that is used to pay for peer review organizations. So it is cutting money out of Medicare to pay for this.

I read the letters by some of the support groups—some of which I consider supporters of mine—that have said, "Let's oppose this amendment. We want more money for HCFA bureaucrats or HCFA enforcement." But they did not know the money was coming out of Medicare. I read almost every one of them. Not one said, "Let's transfer the money from the HI Trust Fund to pay for more employees at the Health Care Financing Administration." And so it is coming from Medicare. It is coming from oversight on peer review organizations. We should not do that.

So, Mr. President, I move to table the Kennedy amendment and ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table Kennedy amendment No. 2164, which is a substitute amendment to language proposed to be stricken by the Nickles amendment No. 2120. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 45 Leg.]

YEAS—51

Abraham	Enzi	Kempthorne
Allard	Faircloth	Kyl
Ashcroft	Frist	Lott
Bennett	Gorton	Lugar
Brownback	Gramm	Mack
Burns	Grams	McCain
Campbell	Grassley	McConnell
Coats	Gregg	Murkowski
Cochran	Hagel	Nickles
Collins	Hatch	Roberts
Coverdell	Helms	Roth
Craig	Hutchinson	Santorum
DeWine	Hutchison	Sessions
Domenici	Inhofe	Shelby

Smith (NH)
Smith (OR)
Snowe

Specter
Stevens
Thomas

Thompson
Thurmond
Warner

NAYS—49

Akaka
Baucus
Biden
Bingaman
Bond
Boxer
Breaux
Bryan
Bumpers
Byrd
Chafee
Cleland
Conrad
D'Amato
Daschle
Dodd
Dorgan

Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg

Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

The motion to lay on the table the amendment (No. 2164) was agreed to.

Mr. NICKLES. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the Nickles amendment.

Mr. NICKLES. Mr. President, I ask unanimous consent to vitiate the yeas and nays.

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

The question is on agreeing to the Nickles amendment No. 2120.

The amendment (No. 2120) was agreed to.

Mr. GRAMM. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

CDBG EMERGENCY FUNDS FOR DISASTER AREAS

Mr. BOND. Mr. President, yesterday, the Senate approved an amendment to S. 1768 that would provide \$260 million for emergency Community Development Block Grant funding for disaster relief, long-term recovery, and mitigation in communities affected by Presidentially-declared disasters in FY 1998.

This funding is designed to complement the funding currently provided through the traditional emergency disaster programs under the Federal Emergency Management Agency, the Small Business Administration and the Army Corps of Engineers. Contrary to the apparent belief or desire of some Members and constituents, CDBG funding is not intended or designed to be the primary source of federal funding for natural disasters.

In particular, the emergency CDBG program has become a catch-all program and a slush fund for natural disasters that is seen by some as an entitlement. This is wrong. We need to change how we view and respond to disasters—we need to develop policies that are based on state/federal partnerships and are designed to prevent and prepare for disasters.

I say this because it is good policy, but also because we cannot keep dipping into the different funds which support the many important programs

under the VA/HUD Appropriations Subcommittee. For example, over the last 3 and one-half years, the Congress has offset the cost of emergencies out of HUD section 8 housing assistance at a cost of some \$10 billion. Last year alone, the Congress used \$3.6 billion in excess section 8 reserves to pay for disaster relief. Well, the bill has come due. For this year, all available section 8 reserve funds are already committed as part of the FY 1999 Budget to renew expiring section 8 housing contracts. Without these funds, many elderly and disabled persons and families will be without housing.

In addition, natural disasters are not going to go away and the cost of disasters likely will continue to escalate. In the last 5 years, we have appropriated a staggering \$18 billion to FEMA for disaster relief, compared to \$6.7 billion in the prior 5-year period.

As I have already noted, I have many concerns about using CDBG funds for emergency disaster purposes, especially since the Department of Housing and Urban Development has failed to provide adequate data and accountability concerning the use of these emergency CDBG funds in the past.

Nevertheless, while I continue to have reservations, the emergency CDBG legislation in the emergency supplement is intended to ensure that emergency CDBG funds are used appropriately and where needed. In particular, this legislation is designed to ensure that the funds go to disaster relief activities that are identified by the Director of FEMA as unmet needs that have not or will not be addressed by other federal disaster assistance programs.

In addition, to ensure accountability, states must provide a 25 percent match for these emergency CDBG funds and HUD must publish a notice of program requirements and provide an accounting of the CDBG funds by the type of activity, the amount of funding, an identification of the ultimate recipient, and the use of any waivers. I also want to make it clear that I intend to monitor fully the use of these emergency CDBG funds.

I expect these emergency CDBG funds to be used fairly, equitably and to the benefit of the American taxpayer, especially, as required by the CDBG program, to the benefit of low- and moderate-income Americans.

I also want to make clear that these emergency CDBG funds are not intended as a substitute for the state/local cost-share for dams and levees. The purposes of a state/local cost-share are to ensure accountability, local investment and to underline the importance of the federal/state partnership. Using CDBG funds as a state/local cost share in levee and dam projects defeats these purposes and undermines state and local responsibility. As a result, the VA/HUD FY 1998 appropriations bill limited the amount of CDBG funds to \$100,000 for the state/local cost-share of the Corps of Engineers projects, including levees. That standard still applies.

Mr. JEFFORDS. Mr. President, 2 months ago I informed the Senate about an ice storm that hit sections of the northeast in early January with such force and destruction it was named the ice storm of the century. I am pleased to support S.1768, the Emergency Supplemental Appropriations of 1998, to help bring much needed relief to citizens in not only the Northeast, but other areas of the country who have suffered from natural disaster.

Mr. President, for two days straight, freezing rain, snow and sleet battered the Champlain Valley of Vermont, upstate New York, parts of New Hampshire and Maine and the Province of Quebec. Tens of thousands of trees buckled and shattered under the stress and weight of several inches of ice that coated their branches. Power lines were ripped down by falling branches and the weight of the ice—leaving hundreds of thousands of people without electricity for days and even weeks. Roads were covered with ice and rivers swelled and overflowed from heavy rain. The crippling ice storm brought activity in the area to a grinding halt.

Just a few days after the storm, Senator LEAHY and I visited the hardest hit areas of Vermont. The storm's damage was the worst I have ever seen. In the Burlington area twenty to twenty-five percent of the trees were toppled or must be chopped down. Another twenty-five percent were damaged. The storm also destroyed sugarbushes and dropped trees across hiking trails and snowmobile trails.

Mr. President, local and State emergency officials acted quickly to help their fellow Vermonters and assess the damage. Vermonters rallied, with the help of the National Guard, to help themselves and their neighbors. As the temperatures dropped below zero, days after the storm, with thousands still without power, volunteer firefighters, police officers, national guard troops and every able bodied citizen came together working day and night to help feed, heat, and care for the people in their community. The organized and volunteer responses to this disaster were incredible. Stories of Vermonters helping Vermonters were commonly told throughout the disaster counties and state.

Hardest hit were dairy farmers. Already struggling to make ends meet due to low milk prices, the ice storm left farms without power to milk their cows. During the first few days of the storm the majority of the milk had to be dumped. Milk became non-marketable because it could not be sufficiently cooled or it could not be transported to the processing plants. Farms without generators missed milkings all together or significantly altered the milking schedules. As a result, cows became infected with mastitis and reduced production. In addition, cows became infected with respiratory illnesses due to poor air circulation in the barns. Even farms with generators were affected. Since the power was out

for such a long duration the generators could not provide adequate wattage to precisely run the milking systems, resulting in mastitis and loss production.

The major impact on dairy farms as a result of the ice storm was non-marketable milk and production loss. The loss of even one milk check for many of the farms will have an adverse impact on their business. Current milk prices are not sufficient to offset such losses.

Mr. President, I am pleased that my colleagues on the Appropriations Committee have worked with me and others in the disaster areas to recognize and respond to the needs of the affected regions. The 1998 Emergency Supplemental Appropriations will bring much needed relief to Vermont's most severely affected areas. Dairy farmers will be compensated for production loss and loss of livestock. Maple producers will be helped by replacing taps and tubing. Land owners will be aided in clearing debris and replanting trees destroyed by the storm.

Mr. President, the citizens and trees of Vermont, as well as upstate New York, Maine and New Hampshire have suffered from this storm. Local and State assistance will help communities and individuals get back on their feet, but Federal relief will ensure that the disaster areas are not overwhelmed by the recovery.

Ms. SNOWE. Mr. President, I rise today to express my support for the disaster supplemental bill. I want to thank Chairman STEVENS, Ranking Member BYRD and the Committee for their efforts to provide funding to fill the gaps in federal disaster assistance that are essential to ensuring that Maine and the other Northeast states fully recover from the January, 1998 Ice Storm.

Maine is no stranger to the cruelty of winter. But the Ice Storm that swept across the State in early January was like nothing anyone had ever seen before. It left the state covered with three inches of ice, closing schools, businesses and roads and leaving more than 80 percent of the state in darkness.

For the last two months I have worked with my colleague Senator COLLINS, my friends from Vermont, Senators JEFFORDS and LEAHY and the two gentlemen from New York, Senators D'AMATO and MOYNIHAN, in an effort to ensure that the unmet needs of our states are addressed.

Working in conjunction with our states, we identified areas where FEMA was unable to provide the assistance needed, and we have worked with the Administration and the Committee to fill those gaps. I am pleased that the bill before us today provides funding to ensure that Maine, Vermont, New Hampshire and New York will have money available to help ensure a full recovery from the devastation of the Great Ice Storm of 1998.

Our forests were left in shambles as the weight of the ice broke off entire

limbs and felled mature trees, leaving the forest floor in a mass of confusion. This bill will provide \$48 million to the US Forest Service in order to help the states and private land owners assess the damage and develop plans for clean up and for ensuring a healthy future for the forests. In addition to general clean up, some of the trees which were felled must be harvested as soon as possible in order to retain any value, others may sit on the forest floor for a while. Maine's forest products industry is vital to the economy, and this supplemental funding will help ensure as quick a recovery as possible from the havoc wrecked by the Ice Storm.

In addition, funding is provided to help Maine's maple syrup producers. Not only did the storm do immense damage to the trees, but it also tore out the tubes which were waiting to catch the flow of sap. There is approximately \$4 million, which requires a cost share, to assist this industry in recovery efforts that will be hampered for a number of several years by the severe damage done to the trees.

The supplemental also provides assistance to Maine's dairy farmers. The ice knocked out power to more than 80 percent of the state and thousands of people were without power for up to two weeks. The lack of electricity made it impossible for many dairy farmers to milk their cows—and for those that could, the lack of electricity meant they had to dump their milk because it could not be stored at the proper temperature.

Maine's dairy farmers are family farmers. It is as much a way of life as it is a business, and the storm put a big dent in their finances. This bill provides \$4 million to help take care of livestock losses. I also supported an amendment offered by my good friends from New York, Senator D'AMATO and from Vermont, Senator JEFFORDS, that added \$10 million for milk production loss. Not only were farmers forced to dump milk, but their inability to milk impacts the production level of milk. It will take several months for these cows to return to their full production level.

I wish to reiterate my appreciation for the support that the Appropriations Committee, lead by Chairman STEVENS, has shown for the needs of the northeast states hit by the Ice Storm. His leadership has been instrumental in ensuring that Maine will be able to make a quick and full recovery from the devastation of the Ice Storm of 1998. I urge my colleagues to join me in supporting this bill.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am authorized to state that the minority leader, Mr. DASCHLE, the leader, and I will not call up relevant amendments.

And I announce we have completed the list. There are no more amendments in order on the supplemental appropriations.

The bill is ready for third reading.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. STEVENS. Mr. President, I now have a unanimous consent request. I ask unanimous consent that the bill now be placed back on the calendar until such time as the Senate receives from the House the House companion bill. I further ask unanimous consent that once the Senate receives the House companion bill, the Senate proceed to its immediate consideration, and all after the enacting clause be stricken, the text of S. 1768, as amended, be inserted, and the bill be read for the third time and passed, the motion to reconsider be laid upon the table, and S. 1768 be placed back on the calendar.

I further ask unanimous consent that when the Senate receives the House companion bill to the IMF supplemental appropriations bill, the Senate proceed to its immediate consideration, and all after the enacting clause be stricken, and the text of the IMF title in this bill be inserted, and the bill be advanced to third reading and passed, and the motion to reconsider be laid upon the table, all without further action or debate.

Finally, I ask unanimous consent that in both cases the Senate insist on its amendment, request a conference with the House on the disagreeing votes, and the Chair be authorized to appoint conferees on the part of the Senate, all occurring without further action or debate.

Mr. WELLSTONE. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. We are going to have a final rollcall vote on the bill; is that correct?

Mr. STEVENS. We do not have the bill here. And this enables us to go to conference on either bill immediately. The final vote on this bill will occur in a conference report in each instance.

Mr. WELLSTONE. Well, Mr. President, I shall not object as long as we will have a rollcall vote on—

Mr. STEVENS. A rollcall vote on the conference report. That is the commitment we have made.

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

Mr. STEVENS. Let me thank all Members for their cooperation and assistance in connection with this bill. I, again, say that these are vital subjects to our democracy, and it is imperative that we proceed as rapidly as possible. And I appreciate the Senate giving us the authority to move immediately, when we receive either bill from the House, to go to conference with the House.

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

Mr. STEVENS. I do.

Mr. BYRD. Mr. President, I thank the Senator for the very high degree of leadership that he has demonstrated in managing this bill. It was a difficult bill with a great number of amendments. And he has remained on the floor, worked hard, and demonstrated his characteristic fairness and objectivity throughout the work on the bill.

I thank him on behalf of the Senators and express our collective appreciation and, may I say, our admiration.

Mr. STEVENS. That comment, coming from the distinguished Senator from West Virginia, is an honor. I want to assure the Senate we would not have been able to move on this bill without the cooperation of Senator BYRD and the minority staff.

I will come back later with the thanks to all concerned on this matter, but I am grateful to my good friend.

The PRESIDING OFFICER (Mr. COATS). The Senator from the great State of Mississippi, Senator THURMOND.

Mr. THURMOND. I wish to commend the able Senator from Alaska for the magnificent manner in which he handled this bill. It was a complex bill, and he did a wonderful job. I congratulate him.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

Mr. COVERDELL. Mr. President, on behalf of the leader, as most Members have been aware, the two leaders have been working toward an agreement with respect to the Coverdell A+ education bill going on a week now—13 days, to be exact. The leader regrets to inform the Senate that we will not be able to reach an agreement which would have provided for an orderly procedure to consider the bill, education-related amendments only.

Therefore, the leader notifies the Senate that the cloture vote will occur at 5:30 p.m. today and the Senate will now resume the bill for debate for 30 minutes equally divided.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Georgia.