

written the flesh on the bones that will tell us what kind of program this is.

Senator MURRAY does not know how much or how it is paid for. The President's plan actually estimates \$12 billion over 7 years—\$12 billion. If that is the plan, I wonder why the sponsors—and there are more than one—don't look through the budget and find \$12 billion to spend. I wonder why they don't say maybe we are going to increase taxes to pay for it. Is the era of balanced budgets gone? Are we going to come up with a program we don't know how to pay for and try to let somebody think it is a real, vital, operative set of words called a "reserve fund" that will get anything done about classroom size?

Frankly, I am very grateful that to this point in our history we have not asked the Federal Government to do this kind of thing. I am very grateful because, as a matter of fact, everything they get into of this type ends up with more bureaucracy, more redtape, more mandates on the States than do most programs that truly produce beneficial results.

But I am also thankful we are not in it because the States and school districts see the problem. They do not come up to the floor of the Senate when the problem is getting solved. They start solving it. They didn't start solving this problem when we were already down to about 16.8, they started solving it when it was 25. So it is obvious to me that there is a reason for this amendment being subject to a point of order. That point of order should be sustained.

I am not going to second-degree amendments which should fall by a point of order, because I believe that is what we should do to them: One by one, every one that is subject to that, like this one is, we ought to quickly not waive the budget process and not waive the rules of the Senate and say the program just doesn't fit. Having said that, I will have 2½ minutes later. Let me conclude.

Mr. President, I do want to say to the distinguished Senator, Senator MURRAY, I, too, was a schoolteacher—not with the great prowess and experience that she had, but I taught one of those subjects we are all worried about, mathematics. I taught that. I didn't take political science; I took chemistry and math. I don't know how that prepared me to be a Senator, but I did teach algebra and arithmetic. Frankly, it is hard work. Frankly, believe it or not, I believe I taught every single child in my class who knew how to add and subtract—I believe I taught them algebra.

Frankly—God forbid—I have to tell you, I had 44 students in each class. I am not suggesting we do that. I am delighted to see this green line. In fact, for some of our children—and our States are on to this, too—with great disabilities, we are going to have to do better than this. And they are, they are. They are doing better than this.

Let me just close by suggesting that if this program which is encapsulated in these reserve language words is as important as my good friend contends, then it would seem to me we ought to find some other program in the U.S. Government's litany of programs—which is still around 2,600 and growing—we ought to find some programs we could terminate or cut to pay for it. As a matter of fact, the entitlement programs of America, while somewhat under control, are a burgeoning part of the American budget. Essentially, if you want a real reserve fund, you ought to be able to find something in this enormous number of billions of dollars of entitlement programs that is a little less important than the program the distinguished Senator says is so important.

Frankly, I do not in any way contend that we know that classroom size is the answer to every issue. I don't want to get into a debate on that. We will just accept the Senator's language and words about how important it is. But there is a growing dispute, nonetheless, between competent schools of academics and education, as to whether the current problem in the American schools is as much related to classroom size as one of the other groups says. There is one group of experts who say it is not as important as some other things.

The reason I say that is because that is exactly the kind of thing we should not be resolving up here. It is right at the State legislatures, it is right in the offices of superintendents and boards of education, and it is not right in Washington with another Washington-based program.

I see that the time for recessing has arrived. I will be asking Senators to concur with me that this amendment should fall because it is subject to a point of order under our rules, and in this case the rules make great sense, for to vote on a program like this as if it did something, as if there was real money in it, as if there was a way to find real money—our processes are pretty good when they say that kind of amendment, for whatever reason, is subject to a point of order in the Senate.

I yield the floor.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask for 5 minutes off the budget time on the Democratic side.

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

Mr. DOMENICI. Time is up. I understand there is an order to go into recess.

The PRESIDING OFFICER. Under the previous order, we were to be in recess at 12:30.

Mr. DOMENICI. I ask for the regular order. I will be glad to give her some additional time when the amendment comes up again. I think we are supposed to go into recess right now.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2:15 p.m.

Thereupon, at 12:31 p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

# CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEARS 1999, 2000, 2001, 2002, AND 2003

The Senate continued with the consideration of the concurrent resolution.

AMENDMENT NO. 2165

The PRESIDING OFFICER. Under the previous agreement, there are 5 minutes of debate equally divided on the amendment that is pending.

Who yields time?

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Thank you, Mr. President.

Mr. President, the amendment that we will vote on shortly simply puts in place a deficit-neutral reserve fund for class-size improvement, especially in the early grades. And, it would use as an offset anything we designate over the coming year in available mandatory savings or revenues, except for tobacco revenues.

I know that the chairman is going to say that this reserve fund has no money and it has not set up any specific policy on class size reduction. He is absolutely right. It is exactly what he has done in his budget with the tobacco reserve fund and with the tax cut fund. I have learned from him that if we want priorities within our budget, this is the way we go about it.

Education is a priority. As I pointed out this morning, 2 percent of our budget goes to education. At a time when parents and families and communities and States are struggling with this issue. Parents say to us that they want their children's class sizes reduced. I have talked to parents, I have talked to students, teachers, principals. Down the road, they say, this is going to make an important difference in our children's education.

I think the most important thing to remember is what every parent says to their child when they come home on the first day of school. They ask two questions: Who is your teacher? and how many students are in your classroom? because they know that the best qualified teacher, the best trained teacher will make a difference for their child, and they know that the number of students who are in that classroom will make a difference in their child's ability to learn and be productive and get the skills they need to grow up and get a job and be a positive member of our economy and society in the future.

Budgets are not just about today. Yes, we have a balanced budget before

us today. But, more importantly, we have to ask "will it be balanced in the future?" The only way for our budget to be balanced in the future is for us to make sure that our students, who are in school today, have adequate resources available. To make sure they get the skills they need to contribute to the economy, so that we have a strong budget in the future.

Mr. President, I ask unanimous consent to add Senator DODD and Senator KENNEDY as original cosponsors of this amendment, as well as Senator DASCHLE.

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

Mrs. MURRAY. Mr. President, we will vote on this shortly. I believe it is one of the most important issues that is before us, and I urge its adoption.

Mr. President, I ask unanimous consent that material regarding class size reduction be printed in the RECORD.

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

#### WHY IS CLASS SIZE REDUCTION SO IMPORTANT?

##### WHAT STUDENTS SAY

Christopher Shim, 17 years old, Mercer Island High School: "In elementary school, I actually feel I was pretty lucky. I was able to get personal time with the teacher, even though we had 30-35 students in my elementary classrooms."

Chris continues: "In high school, I have 40 people in my calculus class. This means anytime I have a question, there are 10 people in line."

Ahmad Javid (A.J.) Aaf, 15 years old, Tahoma High School, Maple Valley, Washington: "Kids need more attention—personal attention for students is important."

Antonella Novi, 18 years old, Anacortes High School, Anacortes, Washington: "In elementary school or high school, class size is really important. Because interpersonal relationships among students are important, and being able to talk to the teacher is important. Closeness leads to comfort—if you ask teachers about school, then you can ask teachers about things outside the classroom. It's easier to go to teachers you know."

Antonella continues: "In high school civics class, there is only one teacher, teaching two classes of 40 students each. It's harder to get through the curriculum, and to get answers to your questions."

"When I was younger, I went to school in California. We were in one school building when I started, but by the time I left, the building was surrounded by portables."

"I always got my questions answered by the teachers. I spoke up; I asked questions. But there were lots of kids who were quiet, who didn't get the attention they needed from teacher."

"In smaller classes it's easier to relate to your peers. You get to know each other better. In large classes, if you don't like talking in front of large groups, you're out of luck."

Devone Van Dyne (female), 16 years old, University High School, Spokane, Washington: "Class size is really, important. For example, my high school chemistry class has almost 40 students. It's hard to get individual help; lectures alone don't work. If there were fewer students, we could get the kind of help we need."

"I have trouble keeping up—it's easier to fall behind in a large class. You don't feel the same investment. I have to make sure and find the time outside class to meet with the teacher."

Amber Casali, 16 years old, and Rebecca Dean 15 years old, Shorecrest High School, Seattle, Washington: "In elementary school, the benefits of having smaller class size include getting more attention from teachers. You can do more activities, and fewer lectures. You can plan, and work more cohesively as a class. Especially for the early grades 1-3, smaller class sizes are very important. It's so important to start early. Students can develop good working skills, and get more attention from the teacher early on, when it counts the most."

#### STATEMENT BY SANDRA FELDMAN, PRESIDENT, AMERICAN FEDERATION OF TEACHERS ON REDUCING CLASS SIZES

Modern schools and more well-trained teachers are the right antidote for the overcrowding that plagues too many American schools. Research shows that youngsters, especially in the early grades, perform better in smaller classes that allow for greater one-on-one instruction. Smaller classes also help teachers maintain discipline. Parents and teachers understand this well, and that's why Senator Murray is absolutely correct in supporting the President's proposal to provide subsidies for school construction and to emphasize teacher recruitment.

Several new studies clearly demonstrate the link between reduced class sizes and improved academic achievement. A sampling:

STAR, the highly reputed Tennessee class-size study, analyzed the achievement levels of K-3 students randomly assigned to classes of 13 to 17. Those in small classes did much better than students in regular classes in math and reading, every year and in all grades. The small classes made the biggest difference in the scores of children in inner-city schools.

SAGE, a Wisconsin program begun in 1996-97, reduces class size for K-3 children in certain high-poverty schools. At the end of the first year, SAGE kids had made significantly greater improvements in reading, language arts, and math than children had in similar schools.

#### THE ASSOCIATION OF WASHINGTON SCHOOL PRINCIPALS

The Association of Washington School Principals (AWSP) is strongly committed to supporting legislation which reduces class size in our public school system. It is increasingly evident that students entering our schools have diverse and unique needs which can only be addressed by principals, teachers, and support personnel who are not overwhelmed by crowded classrooms. Rather, educators must be able to devote attention to each student in smaller, more manageable classes.

Recent studies on reduced class size and their impact on student performance, undertaken in Tennessee (STAR study) and Wisconsin (SAGE study), speak to learner bene-

fits in areas such as reading, language arts, and math. In our own state of Washington, reduction of class size and improved student performance are priorities for both legislators and educators.

AWSP is convinced that class size reduction is essential if our state's, and nation's, efforts towards school improvement are to be successful. We appreciate and support Senator Patty Murray's commitment to this end.

#### WASHINGTON STATE SCHOOL DIRECTORS' ASSOCIATION

"As we pursue our state's goal of improving learning for all of our students," Larry Swift, executive director of the Washington State School Directors' Association, said, "it becomes increasingly important that all of our resources be used efficiently and effectively. The most valuable resource in today's schools is the people who devote their time and effort to make schools successful—the teachers. Reducing the ratio of students to adults is particularly critical for youngsters with a variety of learning challenges that must be overcome if those students are to meet the new, higher learning standards."

"We acknowledge and commend Senator Murray for leading the way to assuring that our students have the learning environment and the human resources necessary for the kind of schools that will provide the opportunities and training they need to become successful," Swift said.

The Washington State School Directors' Association is a statewide organization representing all of the 1,482 locally-elected school board members from the state's 296 school districts. WSSDA serves as an advocate for the state's public schools, provides training and technical assistance for school board members and is very active in the legislative process.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, it is with regret that I, once again, tell the Senate that this is an empty amendment—empty. It states a wish, a hope, and maybe a prayer, and it couches it in language that says we are setting up a reserve.

Reserves normally have something in them. This reserve says maybe at some point in time we will have something to put in this reserve. Maybe we will raise taxes and put the raised taxes in this reserve. Maybe we will cut a mandatory program, take away from some entitlement program and put it in there. Otherwise, it is an empty amendment. To have an empty amendment on a budget resolution ought to violate some rule, and, as a matter of fact, it does. This is subject to a point of order.

I think from time to time we wonder whether points of order really contribute substantively to an argument. This one does. For anybody who thinks this amendment proposes anything real for the classrooms of America—if one wanted to have the Federal Government involved in a program and if one knew what the program was—the truth of the matter is that this is empty and, therefore, is subject to a point of order.

Mr. President, I yield back any time that I have remaining. The pending amendment is not germane to the provisions of the budget resolution pursuant to section 305(b)(2) of the Budget Act. I raise a point of order against the pending amendment.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I move to waive all points of order against the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act with respect to the Murray amendment No. 2165. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arkansas (Mr. HUTCHINSON), is necessarily absent.

I further announce that if present and voting, the Senator from Arkansas (Mr. HUTCHINSON) would vote "no."

Mr. FORD. I announce that the Senator from Maryland (Ms. MIKULSKI) is necessarily absent.

The yeas and nays resulted—yeas 46, nays 52, as follows:

[Rollcall Vote No. 50 Leg.]

#### YEAS—46

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

#### NAYS—52

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

#### NOT VOTING—2

Hutchinson Mikulski

The PRESIDING OFFICER. On this vote, there are 46 yeas and 52 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is therefore sustained, and the amendment falls.

The Senator from New Mexico.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, what is the pending business, I inquire of the distinguished manager through the Chair?

The PRESIDING OFFICER. Under the previous order, debate is to continue until 4 p.m., evenly divided, at which point the Senate will vote with respect to the Senator's amendment.

Mr. DODD. I appreciated that.

The PRESIDING OFFICER. And the amendment of the Senator from New Hampshire.

Mr. DODD. The Senator from New Hampshire, Senator GREGG, had an amendment. I see the manager is here.

The PRESIDING OFFICER. That amendment will be voted on also at that time.

Mr. DODD. The debate on that is over?

Mr. DOMENICI. Well, Senator GREGG, we understand, desires no more time on his amendment, which is his second-degree amendment.

The PRESIDING OFFICER. It is the understanding of the Presiding Officer that the debate is concurrent, but apparently the Senator from New Hampshire did not desire additional time.

Mr. DODD. Parliamentary inquiry. Will the Senator allow me to make that amendment?

Mr. DOMENICI. I ask unanimous consent, if Senator GREGG desires the time, that he be allotted time after the debate on the Dodd amendment. I am not sure the Senator will desire that. The regular order would now prescribe, if that unanimous consent is granted, the next amendment is Senator DODD's amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LAUTENBERG. It is my understanding, therefore, if the unanimous consent is agreed to, that Senator DODD will have as much as an hour on his amendment based on the unanimous consent that was constructed.

The PRESIDING OFFICER. The time between now and 4 p.m. will be equally divided.

Mr. LAUTENBERG. Between the proponents and the opponents?

The PRESIDING OFFICER. The Senator is correct.

Mr. LAUTENBERG. But if there is any opposition, then, of course, that time would be available. But let us assume for a moment that there might not be. Would Senator DODD then have an hour at his disposal?

The PRESIDING OFFICER. Under the unanimous consent request, if it is agreed to, he would be able to secure the time.

Mr. LAUTENBERG. I thank the Senator.

Mr. DOMENICI. And that is a very big assumption.

The PRESIDING OFFICER. There is a unanimous consent request on the floor; is there objection?

Without objection, the unanimous consent request is agreed to.

AMENDMENT NOS. 2186 THROUGH 2188, EN BLOC

Mr. WELLSTONE. If I could ask for 10 seconds to send three amendments to the desk.

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

The PRESIDING OFFICER. Is the Senator from Minnesota seeking consent they be called up and then set aside?

Mr. WELLSTONE. I want to put them in proper sequence.

The PRESIDING OFFICER. Without objection, the clerk will report those amendments.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes amendments numbered 2186 through 2188, en bloc.

Mr. WELLSTONE. I ask unanimous consent reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 2186

(Purpose: To ensure that the provisions in this resolution assume that Pell Grants for needy students should be increased)

At the appropriate place insert the following:

"It is the sense of the Senate that the assumptions underlying the functional levels in this concurrent budget resolution on the budget assume that corporate tax loopholes and corporate welfare should be reduced in order to produce the funds necessary to increase the maximum Pell Grant award to \$4,000."

AMENDMENT NO. 2187

(Purpose: To express the sense of the Senate regarding a report of the Secretary of Health and Human Services evaluating the outcomes of welfare reform)

At the end of title III, insert the following:

**SEC. . SENSE OF THE SENATE REGARDING AN EVALUATION OF THE OUTCOME OF WELFARE REFORM.**

It is the sense of the Senate that the budgetary levels in this resolution assume that—

(1) the Secretary of Health and Human Services will, as part of the annual report to Congress under section 411 of the Social Security Act (42 U.S.C. 611), include data regarding the rate of employment, job retention, and earnings characteristics of former recipients of assistance under the State programs funded under part A of title IV of the Social Security Act (42 U.S.C. 401 et seq.) for each such State program; and

(2) for purposes of the annual report for fiscal year 1997, the information described in paragraph (1) will be transmitted to Congress not later than September 1, 1998.

AMENDMENT NO. 2188

(Purpose: To provide an additional \$40,274,000 for fiscal year FY 1997 for medical care for veterans)

On Page 21, strike lines 7 through 10 and insert the following:

Fiscal Year 1999:

(A) New Budget Authority, \$42,840,274,000.

(B) Outlays, \$43,340,274,000.

On Page 53, after line 22, add the following:

**SEC. 317. SENSE OF THE SENATE ON FUNDING FOR MEDICAL CARE FOR VETERANS.**

It is the sense of the Senate that the assumptions underlying the functional levels

in this concurrent resolution on the budget assume that any additional amounts made available for the Department of Veterans Affairs in fiscal year 1999 as a result of the declarations of additional budget authority and outlays for fiscal year 1999 for Veterans Benefits and Services (budget function 700) by reason of the adoption by the Senate of this amendment be available for medical care for veterans.

AMENDMENT NO. 2173

Mr. DODD. I call up my amendment for immediate consideration.

The PRESIDING OFFICER. The clerk will now report the amendment of Senator DODD.

The legislative clerk read as follows:

Amendment No. 2173 previously proposed by the Senator from Connecticut [Mr. DODD].

Mr. DODD. I ask unanimous consent reading of the amendment be dispensed with.

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

(The text of the amendment is printed in the March 30, 1998, edition of the RECORD.)

PRIVILEGE OF THE FLOOR

Mr. DODD. Mr. President, I ask unanimous consent a member of my staff, Dr. Caryn Blitz, be given floor privileges during consideration of the budget resolution.

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

Mr. DODD. I have some comments to make on my own amendment, but several of my colleagues have other matters to attend to, and I will yield, if I may, whatever time she may consume to the distinguished colleague from California and then to my colleague from Minnesota.

I yield first to my colleague from California.

Mrs. FEINSTEIN. I thank the Senator from Connecticut. I want the Senator to know what a pleasure it is for me to be able to support the Senator's amendment and also to say many, many thanks for his leadership on this issue. I am a member of his task force. He has been absolutely indefatigable in the pursuit of quality child care for the citizens of our country. I am very proud to support this amendment.

Mr. President, if I might begin by asking a quick question through the Chair. I ask the Senator from Connecticut this question: Is he aware of how many children are on the waiting list for child care facilities in the largest State in the Union?

Mr. DODD. I would say to our colleague from California I am aware of this figure. It is 200,000. The reason I know that number is because in 1996 I asked the General Accounting Office to do an assessment to determine the extent to which the child care needs of working families were being met, including whether there were waiting lists for child care. California was one of the States that was surveyed. The report found that California presently has some 200,000 families who are waiting for a quality, affordable, accessible child care slot to open up so they may leave their child in a safe place.

Mrs. FEINSTEIN. I thank the Senator.

Mr. President, on behalf of Senator BOXER and I, I think this one statistic irrefutably points out the need for this amendment. I did not support the welfare reform bill. The reason I didn't support the welfare reform bill was exactly this. The way the bill is weighted, the targets that need to be met in the State of California increase with time. We estimated that we had to develop in California 600,000 additional child care slots a year just to keep up with the need.

What the Senator has just revealed to me indicates that within this first year we already see a waiting list of 200,000. I expect in the next 2 years this waiting list to increase threefold, up to 600,000 families waiting for adequate child care.

If we want Americans to leave welfare behind as a way of life, if we want to see Americans entrepreneurial and working, then we must see there is adequate child care available for the children of these families. A great bulk of the people involved here are single parents with children. They need to earn a living. They have no choice. They must find child care.

This amendment creates in the reserve fund some moneys to be able to help the State create the slots. Let me say how difficult this is in California, an earthquake-prone State, tough building codes, tough individual county and city codes. Therefore, these facilities are expensive to build. This amendment provides an opportunity to try a number of different approaches, including employer-based child care, child care that is shared, chambers of commerce working with schools, working with college districts to provide teachers for these child care facilities. All of this can be done. You cannot do it without money. Therefore, I think this reserve fund is certainly small to begin with but certainly necessary.

It is with great pride that I thank the Senator for his leadership and that both Senator BOXER and I are delighted to support this amendment.

Mr. DODD. I thank both of our colleagues from California, Senator FEINSTEIN and Senator BOXER.

To our colleague from Minnesota, I yield such time as he may desire.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. First, I ask unanimous consent Joseph Goodwin, an intern, be allowed to be on the floor during the duration of this debate.

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

Mr. WELLSTONE. Mr. President, first of all, let me start out on a personal note. I really consider it an honor to work with Senators. I consider it an honor to be here. Every time I come to the floor of the Senate, I still get goose bumps, and I think it is something I never expected to have a chance to do.

Senator DODD is one of the Senators I most love working with because he

has been, over the years, such a strong and such a committed voice for children. I thank him for that.

I think this amendment is extremely important, because all it is really saying is let's hold out a reserve fund for children so when it comes to our commitments here in the Senate, we make the investment.

I will be brief. I have had a chance to travel the country. I have been in a lot of low- and moderate-income communities. I have been in a lot of other communities. Let me just say that the initial travel I did from Appalachia to Letcher County, KY, to Delta, MS, to inner city Baltimore, to public housing in Chicago, to urban and rural Minnesota, everywhere I go people ask the same question: Where is the equal opportunity for our children? Everywhere I go this focus on how we can make sure the children come to school ready to learn is the priority. We just have to do a lot better for our children. We have to do a lot better for all of our children.

My colleague from California talked about the welfare bill. She is absolutely right, there are long waiting lists for affordable child care, even longer now, because of the welfare-to-work provisions.

Above and beyond that, I say that I meet people, they are heroes and heroines of Head Start and child care, they do their very best, and they can make a huge difference for children, but we have long waiting lists all across our country for affordable child care. When you talk to middle-income families—this is not just low-income—working families, they will tell you that the expense may be up to \$10,000 or more per child, and it can be up to a quarter of their income.

This is a huge issue. If there is anything that we could do in the U.S. Senate that would be good for families, that would be good for our country, it would be to make this investment.

I have said this before and I will say it one more time and I will not say it in a shrill way. I say to both colleagues—and I see my colleague from Washington here on the floor, as well—every time there is a discussion of child care, every time we have a discussion about children, I think of Fannie Lou Hammer, the civil rights leader, Mississippi, daughter of a sharecropper, who said in one of her speeches, "I'm sick and tired of being sick and tired." Sometimes I get tired of the symbolic politics. Everyone loves children. Everyone wants to have a photo opportunity next to a child. Everyone says they are for children and education. Every breed of political person says that. But there comes a point in time when if we are really for children we have to dig into our pockets and make the investment.

There is no more important national security issue than to invest in the

health and skills of intellect and character of our children, all of our children. That is what this Dodd amendment speaks to, that is what the position that Democrats are taking speaks to, and I really think that this is where the rubber meets the road. This is where "the differences make a difference."

I am hopeful that colleagues on the other side, many of them good friends, many of whom I think do have this commitment, will support Senator DODD in his amendment. It is just not enough to give speeches. It is just not enough to be talking about how we are for child care and children and education. We have to make the investment. That is what this amendment speaks to.

I yield the floor.

Mr. DODD. I thank my colleague from Minnesota for his eloquent remarks. Let me turn to my colleague from the State of Washington who has been a leader long before she arrived in the Senate on the child care issue as a member of the legislature in Washington.

Mrs. MURRAY. Thank you, Mr. President.

I thank my colleague from Connecticut, Senator DODD, for offering this amendment I offered in the Budget Committee. I can tell you, as a working parent, one of the most critical issues that faces parents every single morning across this country is, will my child have a place to be? I have had the experience, and I guess that many parents across this country have had the experience, of dropping their child off at day care on a Friday and have them say to you, "We will not be here on Monday. We decided to go out of the business." There is nothing worse that can happen to you in a day than to all of a sudden panic and try to find a place to put your child who may be 2, 3, 8, or 10, and you know they need a safe place, you know you need to be at work Monday morning, and there is nowhere for your child.

Mr. President, across this country businesses are recognizing this critical issue because they know they need their employees to be productive. A productive employee is not sitting at work worrying about whether their child is safe or taken care of; a productive employee is one who knows their child is all right. This amendment simply puts in place a placeholder so that this Congress will address the issue that is discussed at almost every kitchen table of every family across this country.

I thank my colleague from Connecticut for being a leader on this issue for so many years.

Mr. DODD. I thank our colleague from Washington as well. As I mentioned, her experience goes back to her years of public service and her years as a parent.

I was looking at the clock as she spoke. It is almost 3 o'clock. This would not apply to all parts of the

country, but certainly on the east coast right now there are as many as 5 million children who have no safe place to go after leaving school. We know that for parents who have no choice but to be in the workplace, when school lets out, and before they get home from work at 5 o'clock or 6 o'clock, there is a great sense of anxiety about where their child is? They worry: Who is watching my child? What is my child doing?

We know from police chiefs all over the country, that juvenile delinquency rises, not after 11 p.m. at night, but between 3 o'clock and 8 o'clock in the evening.

My hope is to raise some legislative ideas which would allow us to at least deal with after-school care, with infant care, with the quality of child care. But, I am being told by the budget resolution I cannot do that; I cannot bring up my idea on after-school care on child care in this Congress because it is subject to a point of order. I don't think it is fair. I don't think it is right. I think it is harmful to children and working families.

My colleague from Massachusetts cares about this issue very, very much. I know he has some comments he would like to share as well.

Mr. KERRY. Mr. President, I thank my colleague from Connecticut for the time. I also thank him particularly for his longstanding leadership in the Congress on this issue. There has been no more persevering or more eloquent voice on the subject of children than Senator DODD.

This is really the most important work we can do in America today: pay attention to our children. All across this country, on a daily basis, we pick up a newspaper and read a headline about trouble that comes from children who are not structured in their lives in the course of a day, who don't have the care they ought to have at the earliest stages of their lives. Every bit of pediatric, psychological, psychiatric, early child development evidence that we have in this country indicates that the first years of a child's life are absolutely the most important in the development of that child. You could literally have a brain that is 25 or 30 percent larger, based on the appropriate nurturing, attention, problem-solving, love, and focus that children get in the earlier stages. Why? Because that is when the brain connections are being made. We know this scientifically beyond any doubt whatsoever.

In Boston the other day, I was in the Castle Square Early Child Development Center. There are 67 kids there. They are getting a nurturing, caring, structured environment which, while their parents are out at work, is precisely what we required in the welfare bill. Precisely what most Americans want most other Americans to be sharing along with them is the burden of work in America. So while they are out doing it, where are their kids? For the 67 kids in the Castle Square Early

Child Development Center, there are 500 on the waiting list—500 kids who will never cross the threshold of that center by the time they reach 6 years of age and are supposed to go to school and be ready to learn. The truth is that in too many schools in America today, when kids are 6 years old and they go to school, there are among them children who cannot recognize numbers, who cannot recognize colors or shapes or forms or even perform the most simple kinds of problem-solving.

Now, I know our Republican friends speak a lot about values and about the nature of parenting and the importance of it. But the fact is that, in America today, one-third of our children are born out of wedlock. They start with a single parent. In too many cases, that single parent is out in the workplace trying to make ends meet, and the child has nobody at home. I was in a middle school the other day in Boston, with kids age 10 to 14, 35 kids in a class. I asked them, "When you go home at 2 o'clock in the afternoon, how many of you go to a house, apartment house, or whatever, where there is no adult present until around 6 o'clock in the evening?" Fully 50 percent of the hands in that room went up, Mr. President. Whose fault is that, theirs or ours? It is ours.

What the Senator from Connecticut is trying to say is, let us at least have the vision of trying to set aside a reserve fund that will permit us to be able to come down the road and say that we are going to help America do this. Out of 3 million children in the United States of America that are eligible for early Head Start, only 30,000 get it. Out of 1.6 million kids in America that are eligible for Head Start itself, only about 800,000 get it.

Now, Mr. President, if we don't want to come back here and decide how many prisons we are going to build and how many drug abuse programs we need and how we are going to cope with the trauma in our streets or deal with countries that can outcompete us in the marketplace because our kids don't have the skills for the new world of globalization and technology, this is the business of America that we should be paying attention to. I think it's unconscionable that we can have a reserve fund for tax cuts but not a reserve fund for children. I can't think of anything more important in the business of the Senate than to at least say let's avoid the parliamentary chicanery of a point of order on behalf of our children. A point of order can deprive our kids of the opportunity to have child care, because I will tell you, Mr. President, there is a majority in the Senate prepared to vote for it—a majority. To steal from the majority of those Senators the right to be able to give those children that child care is to take it away from those children itself for the sake of parliamentary process and not for a future vision of this country.

I thank my colleague profoundly for his willingness to bring this to the floor of the Senate.

Mr. DODD. Mr. President, I thank my colleague from Massachusetts. And I'd like to recognize him for his significant contribution to the issue of child care, particularly to early child development. We've all learned a great deal over the past year about brain development and the critical period in children's growth from the ages of zero to 3. My colleague from Massachusetts has been instrumental in focusing attention on the needs of children during the earliest years. I am particularly grateful that he is here today to comment on this amendment.

I ask unanimous consent that Senators MURRAY, KERRY of Massachusetts, DASCHLE, KENNEDY, LAUTENBERG, LANDRIEU, DURBIN, WELLSTONE, KOHL and HARKIN be listed as cosponsors of this amendment.

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

Mr. LAUTENBERG. Mr. President, I want to express my strong support for the Dodd amendment. This amendment would provide a reserve fund to improve the affordability, availability, and quality of child care. It also would support families' choices in caring for their children.

As you know, Mr. President, child care remains a pressing national problem. More families need it. Not enough families can afford it. And there aren't enough qualified professionals to provide it.

Families with children under 5 and with incomes under \$14,400 a year today spend one-quarter of their incomes on child care. Yet only 1 of every 10 children eligible for child care assistance receives it. Most modest-income families are getting crushed by the costs of child care.

Compounding matters, the quality of much child care remains seriously deficient. And a major reason is the high rate of turnover among child care providers. More than one-third of them leave their jobs each year, largely because of low wages.

Mr. President, this amendment would help address these problems by providing a mechanism for additional federal support for child care. And it is critically important.

Some have argued that working families don't need this help, because the states already are getting more federal child care funding than they can spend. But that is just wrong. According to the latest HHS data, states' child care outlays are 90 percent of total budget authority for 1997, and states have obligated 99.8 percent of those funds. Moreover, so far in 1998, states are drawing down child care funds at a higher rate than last year—and at a higher rate than either CBO or OMB had projected.

I also have heard the argument that we don't need to support spending on child care when we can expand the dependent care tax credit instead. But that's just not sufficient.

As long as the dependent care tax credit remains non-refundable, expanding it will not help modest-income working families. In fact, a two-parent family with two children that pays \$400 per month for child care would not begin to benefit from a non-refundable expansion until its annual income reaches almost \$31,000.

Let me emphasize that. If you have two kids, a \$30,000 income, and you pay \$400 a month for child care, you're not going to benefit at all from current proposals to expand the dependent care tax credit. Your income is just too low.

Finally, I know that the Republican budget resolution is assuming some additional discretionary funds for child care. But I question whether these funds will materialize given the strict overall caps on discretionary spending. And, in any case, discretionary spending is a 1-year, short-term approach to a long-term problem. Americans' child care needs are increasing, and families should have our commitment that we will lend a helping hand.

Mr. President, I hope my colleagues will agree that it's time to address child care needs in a serious way. And I hope we can get bipartisan support for Senator DODD's important amendment.

Ms. MOSELEY-BRAUN. Mr. President, first, let me thank Senator DODD for his important leadership on this issue. I am a cosponsor of his child care ACCESS bill and I am proud to join him in supporting this amendment.

I have been on this floor already today talking about the importance of education and how closely educational attainment is tied to every indicia of well being. From an individual's physical health to the nation's economic health, education is the key.

With this amendment, we turn to the issue of child care. I submit that adequate public and private funding for child care is a necessary foundation for educational attainment and economic well being at every level. Children who are not well cared for have trouble thriving and succeeding in school and in life. Parents who cannot find or afford decent child care cannot work or are less productive and reliable when they are working. We all suffer when good, safe child care is not available.

Children who have the opportunity to learn and grow with adult care and attention will do better throughout their lives. Recent studies have confirmed that the first three years of a child's life are the most critical in a child's development. For a child, it is these first three years that have, as a Carnegie study stated, "... a decisive, long-lasting impact on their well-being and ability to learn."

There are many child care alternatives for families ranging from small, home care settings to child care centers with low child to teacher ratios to a stay-at-home mother or father—but only if the families can afford them. The key to successful child care is that the parents have choices about

how to best care for their children. For too many American families the high cost of child care puts options out of their reach.

In Illinois, full-day child care can cost from \$4,000 to \$10,000 per year for just one child. This can be compared to the cost of a college tuition at the University of Illinois of just over \$4,000. These high costs often force parents into unsafe choices. A recent national study found that 40 percent of the rooms used to provide care for infants in child care centers provided care that was so poor as to put the child's health, safety or development at risk. Only 8 percent were rated as providing quality care for infants and toddlers. These statistics do not even take into account those parents who cannot find care at all. In Chicago, for example, a 1995 report found the demand for child care for infants exceeded the supply.

Without choices, parents are unable to work, have to forgo needed family income, or are unable to devote their full time and attention to their work. The lack of choices not only affects the family but has a direct and negative impact on the economy as a whole in public assistance and lost productivity costs.

A 1991 study for the Illinois Department of Public Aid, for instance, found that for single parents in Illinois receiving welfare, child care problems kept 42 percent of them from working full time. Twenty percent of those women who worked but returned to welfare within a year were forced back onto welfare because of child care problems. For those who had to quit school, 42 percent left because of child care programs. While the statistics may not be so stark for middle-class families, the effects can be as great. The lack of decent, affordable care crosses economic lines.

The fiscal year 1999 budget resolution has several provisions for improving child care, but these are tentative and modest compared to the need. This amendment will allow those in the Senate concerned with the lack of child care choices for at-home and working parents to effectively target public and private resources to address the child care crisis. We cannot slam the door on child care as we open the door to the 21st Century. It would be irresponsible. I urge my colleagues to vote for this amendment.

Mrs. MURRAY. Mr. President, I rise in support of the amendment offered by Senator DODD, and I commend the Senator from Connecticut for attempting to make the Senate address the need to improve affordable childcare in this nation.

Mr. President, few issues are more important in determining the future of our children and our nation than access to safe and affordable child care. Ensuring the availability of affordable, quality child care programs must be a top national priority for us as lawmakers, as parents, and as citizens. Today, we have a rare opportunity to

offer hope to families struggling to find or keep their children safe and learning.

By sponsoring this amendment, Senator DODD has sent an important message to every American who is working hard to raise a child—we know it is sometimes difficult, and we know your government has a responsibility to assist you in your most important work. With this amendment, of which I am lead cosponsor, we make room in the budget to lay out a vision for the type of assistance the American public has told us will truly help.

First, I must say that like many issues affecting children and families, child care is not a Republican or a Democratic issue. Senator DODD and I have had the opportunity to work toward child care solutions with several Republican senators over the past couple of months. Although both parties and the administration have submitted differing child care proposals, I know we can all work together to create a new child care law that does what American families need. With the right mix of participation from families and communities, private industry, and government, we can create a child care system that is the envy of the world.

But we don't have that system today. And, this is why the Senator from Connecticut's proposal is so critical to our nation's success. Because child care is not just a place you put a child until you get home from work. If we know one thing about child care today, that many of us have long intuitively known was the case, it is that child care is an enterprise defined by the quality of education and care that it provides.

Let us examine some of what we know about child care in America today:

Recent research about the way a child's brain develops shows us the importance of quality care to a child's healthy development. The first three years of a child's development are decisive in determining that child's future. Quality child care, with an age-appropriate developmental and educational focus, provides the early stimulation required to correctly develop a child's sensitive neural systems.

It is time for policy-makers and the American public to reject the narrow view of early child care and education as separate entities. Early child development must now assume its place in our local and national funding priorities as an integral piece of the educational process. Child care lays the foundation required for a lifetime of learning.

Children who experience quality care demonstrate higher language and math skills when entering school. Our first National Educational Goal is that by the year 2000 every child will enter school ready to learn. Without quality early child development programs for all children, we cannot meet this important goal. Early child development also gives children the increased self-

perception and social skills that allow them to succeed in school and in life.

We cannot continue to view child care as "just another expense." Funding for quality care represents a wise investment in our nation's future. Studies consistently show that quality child development programs produce long-term positive social benefits. Quality care reduces the anti-social behavior and chronic delinquency which threaten the stability of our communities. Early child development must also be a priority if we truly want to halt the spread of crime. Law enforcement leaders across the nation agree that investments that create a safe and nurturing environment for children, especially in the critical hours between 3 and 10 p.m., will sharply reduce crime.

Some early childhood services for low-income toddlers have been found to cut the number of chronic criminal offenders by 80 percent and delinquency by 90 percent. By providing children with the preparation to learn, quality child care prevents the lack of literacy and marketable skills that force many people to rely on public assistance.

By reducing the later, more-expensive costs of public assistance and imprisonment, investment in child care can save billions of taxpayer dollars. The High Scope Preschool Study found that by providing increased tax revenues and reduced costs of crime and welfare, every dollar invested in high quality early childhood programs for low income children eventually saved \$7 of taxpayer money.

Despite the monumental consequences, the current American "system" of early child development meets neither the demand for supply, nor the quality required of it. In too many communities, parents are simply unable to find affordable, quality care. The situation is especially acute for low-income parents; the working poor currently face waiting lists in thirty-eight states. Although children from low-income families receive the most benefit from child care, they attend child development programs at only half the rate of children from high-income families.

The 1996 welfare law dramatically increased the already urgent demand for affordable, quality child care. Welfare plans will direct over two million parents, mostly mothers, into the workforce. Without the support provided by child care which meets at least minimal standards of affordability and quality, few parents can afford to leave the home for the workplace.

Too many existing child care programs fail to provide developmentally-appropriate care. Studies show that less than a tenth of child care centers provide appropriate care. A recent national study found that most centers provide care that is poor or mediocre. The widespread lack of appropriate training and experience, and the lack of safe facilities, holds long-term consequences for the health and development of American children.

Efforts to improve K-12 education can never be fully successful when one-third of our children enter kindergarten unprepared to learn.

We cannot not allow providers to maintain environments which harm our children. The federal government must do something to help states improve their standards—we cannot allow dangerous and inadequate child care environments to continue. A recent analysis of state regulations found that no states have child care safety regulations above the "mediocre" level.

We must also improve standards in the half million to million unlicensed home child care businesses operating in this country. Simply because a child is in an unlicensed facility does not decrease her need for developmentally-appropriate challenges. There are things we can do to increase the kind of care that stimulates a child's early growth.

Parents are an integral part of a child's early developmental growth and must have the opportunity to become involved in early child care programs. Parents cite lack of time as the top reason for not becoming involved in their children's education. I am proud to have sponsored the Time for Schools Act of 1997 which expands uses for time under the Family Medical Leave Act to allow parents to be involved in their children's education, or to take care of child care emergencies, without losing their job.

There is also so much more we can do to involve parents in the care and education of their children. Across this nation, people have worked to put tools in the hands of parents, so they can make the best choices possible when it comes to the care of their children. The family is the engine that drives our economy and society. Any child care legislation must include efforts to get parents and families the information they need, whether it's about choosing quality child care, choosing to stay home and care for a child, or choosing strategies to make caring for a child safer and more affordable.

There are things that states across the nation can learn from my the experiences of my home state of Washington. Washington state has a child care system nationally recognized for its excellence. State licensing requirements far exceed federal standards and go further than almost all state regulations towards ensuring safe child care. The state has implemented an integrated system of child care assistance for all low-moderate income families, regardless of whether they are involved in work first programs. In addition, the state legislature has instituted a training requirement for child care professionals, and provided initial funds for a training system and a registry to track that training.

But even in a state like Washington, the lack of investment from the federal level forces difficult choices at the state level—in our case, lower subsidies which are reducing options for low-income parents.



So whatever solutions we seek here must give assistance flexibly to states, so individual states can make improvements in the areas where they need it most.

Two other discussions in my state are very promising, and they deserve your attention.

First, there is the work of the Human Services Policy Center at the University of Washington. The Policy Center has reached out to leaders in the private and public sectors, and to parents and the child care community, and come up with recommendations to improve child care financing. Their study, "Financing Quality Child Care in Washington," provides a thorough review of the state of child care financing in one state, with implications for our national debate.

Another very exciting discussion and project is underway in Spokane, Washington, of which you all should be aware. It is a family child care demonstration home and small business center, created by a wide array of partners:

Founding partners, including The Health Improvement Partnership of Spokane, Holy Family Hospital, the Nevada-Lidgerwood Neighborhood, and Northwest Regional Facilitators (the local child care resource and referral agency); and newer partners, including the Child Care Facility Fund of Washington State, the Dayton Hudson Foundation, Spokane Falls Community College, Eastern Washington Association for the Education of Young Children, Eastern Washington Family Child Care Association, Family Care Resources, Kathy Modigliani National Accreditation, the National Association of Child Care Resource and Referral Agencies, the Washington State Office of Child Care Policy, the Small Business Development Center, and the Washington State Child Care Resource and Referral Network.

The project is called the "Family Child Care HOME (Hands On Model Environment)" and provides child care in a high quality family child care setting for children from infant to age twelve. The projects also provides orientation and training for child care providers, and a business incubation center for new family child care businesses. The HOME project partners have also set up a revolving microcredit loan program, for child care providers to purchase equipment, expand their business, acquire professional training and remodel their facilities. On site at the child care home, there is a library, equipped with toys, books, start-up supplies, videos, and child centered learning materials for all child care providers throughout the county. In addition, there is a consumer education center for parents, businesses, and communities to learn more about family child care.

I have gone into some detail today, about the state of child care in this nation, and some examples from my own home state, because the Dodd amend-

ment gives us a chance to do something good for American families.

The Senator from Connecticut has introduced legislation to address this issue more comprehensively than the amendment before us today. I am proud to be a cosponsor of that bill as well. But if we do not pass this amendment, this Senate will never even have a chance to debate the merits of the bill that could actually improve child care for working parents.

Working Americans, many of them lower income, are in the greatest need for assistance in our current child care system; the Dodd-Kennedy-Harkin-Murray ACCESS bill would do a lot of important things to help them. It includes refundable tax credits to provide such assistance. The ACCESS bill does not mandate national standards; it gives states the funding and flexibility to make quality improvements where they see them as necessary. The bill expands Family and Medical Leave to more employees. Taken along with my "Time for Schools Act" allowing parents to take care of child care emergencies, this represents a true step forward.

The ACCESS bill provides funding for important quality improvements, including resource and referral services—currently the best source parents have for child care information in many states. Parent education can be expanded with these funds—giving parents the kind of information and resources they are looking for.

The bill makes several changes to promote the kind of private/public partnerships happening in my state. It sends out challenge grants and employer tax credits, but doesn't limit businesses' involvement to the children of their own employees. The quality of child care in the community as a whole will benefit from such provisions.

But the point here today is that we will never even have a chance to pose such questions to the Senate if the Dodd amendment is rejected. That is because the budget resolution before us today does not allow us to debate childcare. It makes no provisions for addressing the childcare needs of American families. By reading this resolution, one could easily conclude the majority party in the Senate simply does not care about childcare.

Not every parent can afford to hire a nanny to look after their children. When we begin to see child care, especially family child care, as a business opportunity, and supporting investments that lead to child care businesses becoming licensed and meeting other quality guidelines then we will begin to build capacity in our communities. We want people to enter this business, to do it well, and to succeed.

As I mentioned, there is bipartisan agreement about the need to improve child care in this country. There must also be agreement about funding, or we will not have child care improvement this year. I can assure the American public that if Congress hears loudly

enough about the interest and need for child care improvement, we will find the money for this. Within the context of a balanced budget, with or without a tobacco settlement or any other possible funding source—if this is a national priority, we can take this step.

But the American people must weigh in, or it will not happen. Increasing the supply of quality child care must become a top national priority. Failure to do so threatens our children's future, and that of our nation. I urge my colleagues to support the Dodd amendment.

Mr. DODD. Mr. President, let me take a few minutes and describe what we are trying to do. This amendment is a procedural one. I am not really debating the issue of how we should resolve the child care crisis—although there are certainly no shortage of opinions on how we ought to do that. All I am trying to do here with this amendment is to say, at some point later this year, if the funds are available, can I bring up a child care amendment without being subjected to a point of order? That is all I want to do. We can get to the merits of various child care proposals at some point later. But under this budget resolution, I am precluded from bringing up such proposals, unless I can override a point of order that requires a supermajority. I don't think that is right or fair.

I don't disagree with those who might say we want to provide a tax cut as a result of having additional revenues, either because the economy is doing tremendously well or if we are able to come up with a tobacco settlement. But what I don't understand is, if it's OK to bring up those issues, why can't I bring up child care, which is a staggering problem? Five million children at this hour, as they finish school for the day, are home alone, unattended. Thirteen million children, every day need some kind of child care setting. And their parents need the ability to pay for that care. But, as you can see from this graph, due to inadequate funding, only 1 in 10 eligible children are receiving assistance from the Child Care and Development Block Grant. Many other families are left to cope with skyrocketing costs. As you can see from this second chart the cost of child care in various cities across America is truly astonishing. In Boston, child care for an infant is \$11,860 a year. For a 3-year-old, it's \$8,840. For 6-year-olds, it's \$6,600. Costs of child care in other states—Florida, Minnesota, Texas, Colorado—range from \$4,000 to \$9,000.

These figures are all the more astonishing when you realize that half of all the parents with young children earn less than \$35,000. Can you imagine how difficult it must be for a family in the city of Boston that earns \$35,000 a year to afford \$11,000 in child care for an infant? Your family is making \$35,000 a year and you may have to spend a third of your budget on child care. How do you make ends meet?



I am not suggesting that the federal government should pick up the whole tab here. But I have some ideas about how we can leverage funds from states, from communities, and from businesses. But I can't even offer these ideas without overcoming a point of order.

Whatever else you may agree or disagree with when it comes to child care, isn't it at least fundamentally fair on an issue this important that we be allowed in this body to debate our options? The budget resolution is about making decisions on how to spend the money of the American people. Now not all of my constituents may agree that child care is important, but a lot of people do. I am going to have to say to them: I am sorry, I can't even bring up your ideas about what we should do to make sure that your child has a safe place to be when you can't be with them. I am not allowed to raise your concerns under this budget resolution. We are allowed to have, on page 27 of this bill, title II, budgetary restraints and rulemaking, line 3, a tax cut reserve fund. That is allowed. So we are allowed to have a reserve fund for tax cuts, but we're not allowed to have a reserve fund for child care.

All I want to do is to create a reserve fund to leave open the possibility of dealing with the issue of child care. Vote against me later if you want. Stand up and say you're sorry, but you don't like my ideas. I will accept it if you disagree with me. But, I can't imagine anybody here, regardless of ideology or party, would say I should not be allowed, in a budget resolution—to address a priority we all agree is pretty high on the list. I ask my colleagues here, 50 plus 1, to say we agree with you, we think that ought to be a priority and we are going to support you. As it stands right now, if it tries to raise concerns or offer solutions to this problem then I have to produce a supermajority to overcome a point of order—which everybody around here knows is virtually impossible to do.

Mr. President, this is a very real issue, one that I think is important. I only have half an hour and to even debate this issue and to tell people why I feel so strongly about it. We have to move along.

I will say from the outset that I have great respect for the chairman of the Budget committee. He has a thankless job, as does my colleague from New Jersey. It is difficult work. I sat on his committee for a number of years. I realize it is not easy to put a budget resolution together. But I believe I ought to have a chance—I believe I deserve a chance—to speak to the needs of children in this nation. There are millions of children, Mr. President—who don't have access to high quality care. Only 17 States have child care standards that meet even minimal standards of quality. In most States, if give manicures, if you work on someone's nails, you have to meet tough standards. But only 17 States require any training at

all for somebody who is going to hold a child's life in their hands. Where is the logic in that?

What I would like to see is debate on how we can improve the quality of child care, through training, and by improving provider-child ratios. I want to debate tax cuts to assist businesses that want to provide child care to their employees. I know my colleague from Wisconsin, Senator KOHL, would like the chance to present this very good idea.

There is something fundamentally wrong with a process that would preclude debate on those ideas.

I see my colleague from Louisiana, Senator LANDRIEU, is here. Let me, if I can, yield a few minutes to her. I turn to my colleague from Louisiana, who has worked for many years on children's issues in her state and has brought great energy to these matters since her arrival in the U.S. Senate.

Ms. LANDRIEU. I thank my colleague from Connecticut for his great and tireless leadership on this important issue.

Mr. President, it has been well stated, the need for child care in the United States. But the point I want to make is that the child care that is just barely there now in our system is not really affordable to working families. As much as there is not enough of it, and not enough spots, we have a real crisis, as my colleague from Connecticut and others realize, because even if it were available under the current system, it is not really affordable to working families.

We have the majority, 65 percent of moms—and I am in that 65 percent; I am a working mom here in the Senate. I have a 6-year-old and an 8-month-old, so I can really speak to all those mothers and fathers who are working with children at home. Some of us work out of choice, but many of us work out of necessity. Many, many parents have to work; they don't have a choice to be at home. Because of some laws that we just recently passed—welfare-to-work and welfare reform, which I generally supported—we have now mandated it. It is not a choice that many poor women have now; we have actually mandated that they leave home and go to work. So we have made what was a problem 2 years ago even greater by forcing many women, who were home, out to work.

It seems to me that in our efforts towards welfare reform—which, again, I support—some Members of this Congress might be somewhat hypocritical in mandating poor women to go to work, wanting to give tax breaks for middle class women to stay home, and then not providing child care to anybody that is affordable to anybody. Mr. President, that is really the situation we are in, which is a crying shame for the working families in our country.

I know my colleague from Connecticut knows the average cost of out-of-home care is \$6,000. For even two parents who are working at a minimum

wage 40 hours a week, their income is \$21,000. By the time they pay whatever taxes and other requirements for that paycheck, they don't even take home enough money to pay for the child care.

So what are some of the options? Some of the options have been outlined, mostly on this side of the aisle. Tax credits for businesses—we have to do a better job as an employer, ourselves, in the Senate, in the Federal Government, to make our systems and our centers more affordable to all of our employees, from our highest paid to our lowest paid. We can do that. We can also provide some direct subsidies, some tax credits, and then some block grants, in addition, to States to expand the slots that they have.

But my final point on this is to say to this Senate and to our colleagues that we can talk about family values, talk about how much we love our children, talk about how important families are, but, really, our checkbooks reflect our priorities. In this budget, it doesn't reflect that our priorities are our families or our children. Only Government, through some action—not by doing it all—can pull this system in our country together for child care and reward, if we will, the families who are working and have made the best choices they can for their families.

I hope we can adopt the amendment of Senator DODD and many other amendments that speak to this issue, because there is a crisis in this country and one that we should not ignore and one that our checkbook—not our words but our checkbook—should reflect.

I thank the Senator from Connecticut.

Mr. DODD. I thank my colleague.

Let me reiterate the point of this amendment. What this amendment would do is establish a deficit-neutral reserve fund, similar to the tax reserve fund created by the Chairman on page 27 of the resolution, to improve the availability, affordability, and quality of child care. A reserve fund—for those who may not be aware—is simply a mechanism that allows legislation, in this case child care legislation, to be offered later in the year without the threat of a budget point of order being brought against it.

Why is that necessary? The budget resolution before us today forecloses the possibility of other meaningful and comprehensive solutions to child care. It does contain some proposals for child care, but it doesn't allow us to offer our alternatives for meeting the concerns of families in this country.

Senator MURRAY, our colleague from Washington, offered an amendment as a member of the Budget Committee in the markup which would have kept our options open. That amendment and this one would allow the Senate to consider mandatory funding—just consider it, not require it—for child care. This amendment was rejected by the committee along party lines. So, as the budget resolution now stands, future

legislative attempts to improve the quality of child care, or to help families afford the skyrocketing costs of care, or to create after-school programs for the 5 million children home alone each day after school, to provide for care for children with special health needs, are all shut out. I would like the opportunity to offer those ideas. To do so, this amendment must be adopted. If not, then I am foreclosed from doing so, and that is the reason I am asking for support.

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

Mr. DODD. I am happy to yield to my colleague.

Mr. DOMENICI. I do not need time in opposition for another 5 or 6 minutes, if he wants to speak some more. He is eloquent on the subject. Even though his amendment is quite deficient, he is spectacular in terms of his presentation.

Let me just ask a question.

Mr. DODD. Certainly.

Mr. DOMENICI. You said even if you wanted to present a child care proposal, you would be precluded from doing that unless there were something in this budget resolution that allowed it. I don't believe the Senator meant that. For, let me tell you, this budget resolution does nothing to the right of anyone to bring up a bill with a new entitlement, which is what you are contemplating, so long as it is paid for. You would have to provide tax increases or entitlement restraint. And you can offer all the child care add-on mandatories you would like; they may not pass, but they would not be subject to a point of order. The budget processes are complicated and in some cases arcane, but there is a simple one: You pay for entitlements with entitlement cuts or tax increases. So you could do that.

I am not suggesting that is the best way, or the only way, but I believe you said you could not, and I just wanted to make sure that, at least from my standpoint, you either—if you meant what you said, you at least take into consideration what I have said—or perhaps you could suggest that I am in some way in error?

Mr. DODD. To my good friend and colleague, who is so knowledgeable on these issues, let me state this as I understand it, and you respond, if you will.

In order to do what you have suggested, of course, I would have to operate within the existing budget structure—which means I would have to take from one critical program—perhaps Head Start or education, to fund child care. I would have to make families compete against themselves. But if I want to take anticipated tobacco revenues or draw from the additional resources of a growing economy, as I understand it, I am precluded under this budget resolution from doing so.

Out of that \$300 billion or \$500 billion in tobacco funds—whatever amount we ultimately decide here—I believe that

\$15 billion or \$20 over 5 years can be found to commit to child care. But under this budget resolution, I would be subject to a point of order; is that not correct?

Mr. DOMENICI. The Senator is correct. But I didn't raise that point. I answered a statement you made that you would be precluded from offering it under this budget resolution. All I said is, anybody can offer a spending bill, an entitlement, mandatory spending bill. It will not be subject to a budget point of order if it is paid for, and the "paid for" is either cutting other similar programs or tax increases that you use for it.

You raise a different question. You raise the question now, which I did not think was in your reserve fund, because the reserve fund is set up for all of the tobacco settlement receipts. If you want to take something out of that, then, like others, you might want to amend that. If you try to amend that, we suggest that money should go to Medicare. So that will be the battle, and we will have that out. There will be a number of amendments which handle it that way.

Let me just also suggest that you mentioned appropriated accounts. I don't want to get this to be a mumbogumbo "budgetese" discussion here, but your amendment is not one that has anything to do with discretionary programs. It creates an entitlement program. So the discretionary caps which we are all—excepting maybe three Senators or four—coming down here saying we want to keep—and I don't know where you stand on that, whether you want to break them or not—you break those by spending discretionary money. You don't break them by creating a new mandatory program, a new entitlement. Although nobody thought we would be creating new entitlement programs once we got the budget balanced; most people thought we would not do that anymore because we want to keep it balanced. But if you want to do it some more, you have to pay for them in the ways I have described.

Mr. DODD. I thank my colleague. I agree that we should not be creating programs that we can't pay for. That is the purpose of creating a deficit neutral reserve account. Like all reserve funds, including that of my friend and colleague from New Mexico, this reserve fund makes the hypothetical statement that if we somehow find additional revenues we should use them for the purpose stated in the fund. Being deficit neutral means that we would be required to find an offset. We don't know where the funds might come from, obviously. Around here, anything can happen between cup and lip. But we are working on an assumption that there will be some revenues available this year, and we want the opportunity to debate whether those funds can be used for child care.

With regard to potential tobacco funds, the majority has made the decision that they must exclusively be used

for Medicare. What some of us are saying here is that we don't disagree that certainly part of it ought to be for that purpose. But we think in addition to Medicare there are some other legitimate purposes, and one of them is child care.

The fact is that the tobacco industry has, for generations, targeted children—and we all know that to be the case. Certainly their advertising, Joe Camel for example, has been designed to appeal to kids. Why? Because the industry knows that 90 percent of the adults who smoke began as teenagers.

We are suggesting if you have some additional resources generated by tobacco company payments, shouldn't some of those funds be targeted to children and families? That is all we are suggesting. I am certainly not asking for the money to go exclusively to child care. I am not asking for a provision which says that money from tobacco can only be used for children. I wouldn't say that, because I respect the fact that there are other activities that need and deserve these dollars—public health programs, smoking cessation and biomedical research, and certainly Medicare. But I think that child care also has merit and that I ought to be allowed to make a case on why it deserves some of these tobacco dollars.

Again, we may differ, as we certainly do, about how a child care bill ought to be framed. My colleague, for instance, from Vermont and my colleagues from Kansas, PAT ROBERTS, Senator SNOWE from Maine, Senator COLLINS from Maine, Senator SPECTER of Pennsylvania and others—all have had ideas on child care which are ones they would like to have considered. So when I stand here to try to set up a reserve account, it isn't just to protect my proposals, it is to protect ideas they may have as well. But in the absence of the adoption of this amendment, whether it is my colleagues from the Republican side who care about child care, or colleagues from this side, unless we have the reserve account, we are precluded from doing anything meaningful in this area.

I see my time has expired, the time of those who are the proponents of this amendment. I will yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Are we scheduled now to vote on the Gregg amendment at 4 o'clock, except that each side has 1 minute to discuss the Gregg amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. That will be followed by the Dodd amendment, which is not amendable, and there will be 1 minute on each side after that vote has expired.

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. Clearly, Senator DODD has perceived my position correctly. I will make a point of order

with reference to his amendment. It clearly is subject to a point of order, and then I presume he would like to vote on a waiver. That is probably what the vote is going to be when it comes to the amendment of Senator DODD, because we have waived no points of order as we have gone through this process.

Mr. President, I say to Senator DODD, while I believe I am entitled to the rest of the time, of course, in the interest of half the time to each side, if the Senator from Connecticut needs some time, he can call on me and I will relinquish some of my time.

I will discuss various reserve funds shortly, but I would like very much to talk about this amendment which, in essence, as to its substantive effect, is very, very similar to the Murray amendment which was denied germaneness by the Senate in the last vote, and it fell. With regard to what it attempts to do, it is a different subject matter but the same kind of process.

There is a little-used process called a reserve fund. There is nothing wrong with trying to expand. We will get a proliferation of reserve fund attempts this year. It is interesting, and perhaps, Mr. President, you would be interested in why there will be a proliferation of reserve funds.

First of all, most reserve funds create a new spending program, and almost all reserve funds—there have been very few—when it comes to a new program, they are entitlements that are created. Essentially, reserve funds say that if you want to fund a new transportation program or Amtrak, that if, in fact, you put into that reserve fund the resources to do it, then the chairman of the Budget Committee says the budget accommodates it, and it would, obviously, be neutral, by definition; it would not increase the deficit or the expenditure.

The problem this year is most interesting. The era of the balanced budget is bringing forth a plethora of suggestions—get this—that we increase entitlement programs, not necessarily in dollars spent on each one, but brand new ones. Isn't that interesting? At the time we finally have our budget under control, when we have spent the best part of 18 years, that I am aware of, saying, "Let's get entitlements under control"—that is, the automatic spending items; they just spend pursuant to a formula or the letter of the law, and they spend until you change the law, whereas appropriations you do every year—every year.

The plethora of these new ones is because we found a way, believe it or not, to say you can't spend any more money on this other kind of account, the annual appropriations bills, in which these programs belong. This child care program belongs in that category called an annual appropriation. But if you put it in there, you have to do two things, and that is why there will be reserve funds, because you have to cut some domestic program to make room

for it, or you break the budget, which has a dollar number in for each year.

So now that that is firmly fixed and we have it under control and Wall Street and Alan Greenspan and those who make interest rates in America are saying, "The one thing you really did"—now let's follow through—"is you placed that cap, annual amount, that dollar number, that you can't exceed, you put it in each year," now they said, "Prove it; do it." What we do is say we don't want to provide any cuts, reductions, or eliminations, so we are coming around and creating new mandatory expenditures.

Frankly, the problem with mandatory expenditures is, they go on almost forever, but, secondly, you frequently underestimate them. Yet, if they spend out above the estimate, they just spend out. An example is Medicaid. Medicaid was created on the floor of the Senate with an estimate of less than a billion dollars in cost. It became an entitlement. I don't remember, when we finally reformed it and made it a block grant, how many billions it was, but it was many tens of times bigger than the estimate. When we changed it, we usually changed it to spend more.

You can see why we were so worried that if we wanted to get to an era of balanced budgets and surpluses—"Good for America," everybody in the world said; "It is great for America that our unified budget is balanced; you have to try to keep those caps in place, and you have to try to not create any new entitlement programs." But if you cannot spend any more on this side of the ledger, then go over to this side and say we will create a new one over here, and we will try to pay for it one way or the other so it won't increase—it won't affect the budget surplus.

The problem with this one is very, very simple. Just like Senator MURRAY's reserve, it said we would like to spend more money on child care and we would like to have our programs expanded rather substantially—I don't know how many billions; it just says child care program.

Then it says here is a reserve fund, but the reserve fund is only half filled, because it says what we want to spend the money on but it does not say where we get the money to spend. It does not say increase taxes \$15 billion to pay for it. It does not say decrease entitlement programs in some way to pay for it, because what no one wants to do is, no one wants to go home and tell their constituents that in order to have a new program, "We had to raise your taxes." They just want to say, "We are giving you a new program."

No one wants to go home and say, "We got you a new program, and we had to cut these other programs," because, obviously, there will be people who like the programs that were cut, too.

So here we are with, as I said, a number of these proposals going to be forthcoming, and they are going to sound, for all intents and purposes—

and I really give Senator DODD credit in this area. He has been a leader in bringing everybody's attention to child care needs and getting it started in one very serious way. We had a big compromise battle one time. He gave, we gave, and we actually got a bipartisan bill, the first one that was bipartisan. He deserves credit, no doubt about it.

What we are doing now is saying we want more of those but we don't want to tell anyone what we have to do to pay for it. We just want to put it in this reserve fund, and that will happen some other time, but let everyone know the sponsors want an expanded child care program. I have no doubt that they do. It is just that the budget law says you can't do it this way.

It is going to be subject to a point of order, and I am very hopeful it will fail on that. I am very hopeful that those in the country who look at this will conclude that it was not a proposal that had much of a chance to ever be carried out, because there was no money to do it. If you are going to spend \$12 billion or \$16 billion, keep a balanced budget—and you know how that is already planned; it is called the baseline—if you already know that, and then somebody comes along and says, "We want \$16 billion more," it is pretty obvious you have to raise taxes or you have to cut something. That is one argument for today. But I want to give you a couple others.

First of all, according to the General Accounting Office, there are now 22 separate programs and tax expenditures which support and fund child care. The combined Federal programs provide child care services and subsidies to over 5.1 million children, or half the children under 5 with working mothers. The Federal Government, as one part of government in America, pays for 40 percent of all child care expenditures that are governmental.

In 1997, the Federal Government spent \$13.8 billion on child care programs. And I will give you the range of them:

Dependent care tax credit, child care programs ranging from Head Start to the program I just mentioned, and a couple of others. The military has the largest single program, \$302 million, 166,000 kids.

The Federal Government spending on child care has increased \$6.1 billion, for an 82-percent increase since 1990. Not too shabby. Under current law, by 2003 the Federal Government will spend almost \$17 billion for child care programs and subsidies. The budget resolution would increase this spending to \$20 billion and an increase of almost 20 percent. In particular, the budget resolution more than doubles the size of the child care and the child care development block grant, increasing the funds from \$1 billion in 1998 to \$2.2 billion by the year 2003.

The budget resolution also assumes that tax relief of up to \$9 billion could be afforded as a portion of the funds and a portion of the funds could go to

tax relief to stay-at-home parents if the tax-writing committee so decides.

All of these funds are within the \$1.7 trillion budget. They are all within the \$1.7 trillion. We do not increase taxes to pay for them; we do not worsen the deficit to pay for the new spending. The amendment before us is different from that, albeit, in the mind of the principal sponsor, totally justifiable. But the \$1.7 trillion is not enough, and we must ask the taxpayers to give us, the Federal Government, more so that we can spend even more on child care than is assumed in this resolution.

In short, while I am not necessarily arguing that under no circumstances should we ever put any more money in child care, I am suggesting that this year in this budget resolution we do provide some significant increases.

Let me make one other statement and then call one precise item to the attention of the Senate. I know this sounds like a lot of money and, on the other hand, my friend Senator DODD might say it is not enough money, but just prior to the budget markup I asked for a breakdown of all of the money being spent on what would commonly be called child care.

Mr. President, Senator DODD may still maintain that we need more and he may have evidence that we need more, but, obviously, there are a lot of things we need more in America, and we can't afford to pay for them all. The Senator from Connecticut voted many times not to pay for something because we didn't have enough money.

I went through and looked at the total amount of money that we will spend under this 5-year budget, under the discretionary part of this budget—that is, the annual appropriations for child care of various types, special education for infants and toddlers, development block grant, head Start—we will spend \$31 billion in just that one category over these 5 years.

Then I looked and said, what about mandatory programs, those that you do not have to appropriate each year? I found a child care development fund, which is a perpetual fund, not one that you feel you must vote on each year, a child care feeding program, social service block grant, and I found that \$23 billion is spent over the next 5 years for that.

Then I looked on the tax side to see how we were doing, and I found that dependent-care tax credit, \$15 billion for 5 years; employer-provided child care exclusion, \$22.3 billion; dependent-care assistance program, \$800 million. Now if you add them all up, it is \$76.8 billion that goes out of the Federal Treasury in this area helping little children with developmental funds, feeding programs and child care. This number is without the add-ons. This is if we started off the budget process and said we are going to make no reductions and no increases; that is it.

I want to raise one other program with you, I say to Senator DODD. Maybe you are unaware of it. Maybe

you and others, if you are made aware of it, might say we should do something about this. But I think you recall—you probably were part of it—when we did the welfare reform, we put \$1.7 billion in there for child care.

Remember the package. We said, let us help with child care, let us help with training; and all that went into welfare. I understand that 55 percent—just a moment. CBO estimates, and this is a current estimate, that States will use only 80 percent of the available funding in 1999. States have obligated all funds, but if they do not obligate, they lose any rights to the funds. So they are not going to be able to draw down all the money. Frankly, I think we ought to try to do something about that. That has already been provided for. I do not know what we can do about it.

Mr. DODD. If my colleague will yield on that last point.

Mr. DOMENICI. I will be glad to.

Mr. DODD. We anticipated that this might be one of the arguments that would be raised, and asked the Department of Health and Human Services to tell us exactly what the status of child care spending by the States is. I think this graph here states it well. My colleague from New Mexico just pointed out that 98.8 percent of child care funds have been obligated, but in addition, by January of this year 90.6 percent of funds had actually been spent. So the notion somehow that states are not spending the available child care money is not valid. I appreciate the Senator raising this point, but according to our latest data, the States have already spent pretty much 90 percent of available child care dollars. And they have obligated, of course, virtually 100 percent of it, which demonstrates, I think, a clear need out there.

Mr. DOMENICI. I say to the Senator, let me tell you, we are both right. It is just that those numbers of what HHS is telling you about are the moneys that the Treasury of the United States has turned over to be spent. But now we have to have the States literally draw them down. The Congressional Budget Office is saying that they estimate that the States will draw down and use only 80 percent, and there is a chance they will lose some money, according to what my staff says. So maybe we can work on something there saying that they are extending something so they will not lose it. That might be one thing we could work on.

Now, Mr. President, let me ask my friend, Senator DODD, if he needs another 5 minutes or so.

Mr. DODD. If I could. I appreciate, Mr. President, the chance to, if I could, take just a couple minutes to rebut.

Mr. DOMENICI. I will split the time with you.

Mr. DODD. I have my colleague from Illinois and the ranking member from New Jersey who would like to be heard. So I will take a couple minutes, if I can, and just respond.

Let me, first of all, thank my colleague from New Mexico for his generosity.

Mr. DOMENICI. Could I ask a question?

Mr. DODD. Yes.

Mr. DOMENICI. It is the regular order, however, unless changed by UC that we will start voting by 4 o'clock?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I will give you half the time and keep half for myself and Senator ENZI.

Mr. DODD. Very quickly, first let me thank my colleague from New Mexico for his generosity in providing time here, on his time, to respond to his arguments.

They still come back to the central point. We can debate all day the question of whether or not you think we are doing enough or not enough for child care.

I tell you again that there are waiting lists in California of 200,000, Texas of 25,000, Florida 30,000—and in my State they don't even keep the waiting lists any longer. I say again that there are parents out there, as we sit here today, worried about where their children are. And the costs of child care, when it can be found, are staggering.

Putting aside those issues—all I want to be able to do is at some point this year, before we adjourn, is to be able to offer child care legislation. I want to create a reserve account for children just like Senator DOMENICI has created for tax cuts.

And I would like the chance to use some of the tobacco dollars, Mr. President. There may be as much as \$600 billion in tobacco funds. But my good friend from New Mexico has said you cannot touch that money. That money is only going to be for Medicare.

I do not disagree that Medicare is a priority. But if the tobacco companies for decades have targeted young people in my State of Connecticut and all across this country and 1,000 of the 3,000 children who every day start smoking will die prematurely, I think we ought to be able to take some of those moneys from tobacco and apply them to kids' needs in this country. I think most Medicare recipients would tell you they think their children and their grandchildren are important. You go ahead and ask any grandparent in this country whether or not they think every dollar we get from tobacco ought to go to Medicare. I think many of them will say that we should give something to our children—that they are also a priority. But unless I get this amendment adopted here, I am not going to be able to ask that question.

I would like to have a debate about whether or not you think we do too much or too little in child care. But we are never going to get to that debate unless this amendment is adopted.

This is not the time to debate child care, although I know I can make a case for the tremendous need that exists. The question my colleagues have

to ask themselves is, should this body have the right to debate the issue of child care? Should we be allowed to go after some revenues that are coming in from the tobacco resources? Yes or no?

If we adopt my amendment, you give me a chance to try. It does not guarantee me that I am going to get what I want. You may defeat me, but at least I get a chance to try.

With that, let me yield a minute or two to my friend from Illinois.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut has 1 minute under his control. The Senator from Illinois is recognized.

Mr. DURBIN. I thank the Senator from Connecticut.

Let me say, I hope those who are listening to this debate understand the issue that is at stake here. It is the care of our children. When Senator DOMENICI speaks about 4.5 percent of the Federal budget going to the care of our children, that is not an overwhelming percentage. But I will tell you what is overwhelming, speak to the working families who show up every day at day care centers struggling to pay for quality, safe child care. Senator DODD understands what their concerns are.

I hope this Senate will support his effort to finally let this Federal Government go on record as saying, yes, let us reward work but let us also care for the children. We pay a fortune when we fail with children. And we pay it every day. Let us invest some money to help families take care of their kids and in a safe, quality setting.

I yield back my time.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I have the remaining time?

The PRESIDING OFFICER. The Senator has 5 minutes remaining. The Senator from Connecticut has 12 seconds.

Mr. DOMENICI. Twelve seconds. Do you want to use your 12 seconds?

Mr. DODD. If you would give me 1 minute.

Mr. DOMENICI. I yield 1 minute of mine.

Mr. LAUTENBERG. That is very kind. I thank the Senator from New Mexico for his generous giving up of some time here.

In 1 minute, very succinctly, Mr. President, it is this: I heard our friend from New Mexico talk about the proliferation of reserve funds. I want to remind the Senator that he and I were part and parcel of an agreement to establish a major reserve fund last year in the budget agreement. It was designed for transportation.

We encouraged that process to make sure that there would be money to take care of the transportation needs. We had a commitment by the chairman of the Finance Committee that that was an appropriate use of process, to set up a reserve fund. Well, we have a reserve fund now to make sure our kids, when they grow up, are healthy and learned

and ready to take on their responsibilities. I do not mind a little reserve fund. I hope that the Senator's vote carries.

Mr. DOMENICI. Mr. President, I am kind of confused on my side for the moment. I see two Senators. I yield time to Senator ENZI. I ask the Senator, do you want to speak on the DODD amendment or do you want to speak on another amendment?

Mr. ENZI. I would like to speak on the GREGG amendment.

Mr. DOMENICI. I ask Senator HATCH, do you want to speak 1 minute on the GREGG amendment?

Mr. HATCH. One minute on the GREGG amendment.

Mr. DOMENICI. I will give you each 1 minute on mine. I will try to go quicker than that.

The argument has now reached the point where everybody can understand it. Although the amendment which the Senator offered does not address the reserve funds set up with the tobacco settlement money, he has clearly stated his case. He would like to be able to spend some of the tobacco settlement on his ideas on child care.

Even if his amendment passed, he could not do that. But let me just tell you what this means. This means that the Senator from Connecticut wants to spend tobacco settlement money on child care where the Budget Committee wants to spend it on Medicare. Medicare spends \$25 billion a year and thus it is in default and will be bankrupt in 10 years because of cigarette smoking which causes illness and cancer in the seniors covered.

The Budget Committee said the best place to use the money is to put it in the Medicare fund so we do not let the program go bankrupt. I continue to say that is the best place and the highest priority.

Today is another good example. No matter what the Government of America is doing, we must do more. Whatever we are doing in child care, we must do more. Whatever we are doing in some other area, it is not enough. Now we have heard that for a long time, but I believe we are passed that stage. I think we are in an era of balanced budgets and surpluses. You will not stay there very long if you return to the day that whatever the Government is spending, it is not spending enough, let us have a new program.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 1 minute.

Mr. ENZI. Thank you, Mr. President.

AMENDMENT NO. 2168

Mr. ENZI. Mr. President, I reluctantly rise in opposition to the amendment offered by my friend and colleague from New Hampshire, Mr. GREGG. I think it is too early in the process to talk about whether we are going to limit liability or not. I have never accepted any money from the tobacco companies.

I am not trying to help the tobacco companies. What I want is for the

smokers of America to realize that there is not enough money in all of the assets of all of the tobacco companies to take care of the problems that have already been caused. What the smokers need to be worrying about is how they are going to divide up those assets to take care of the health problems which have already been caused to be sure that they are getting a piece of the money that they have already paid in and will be paying in through higher taxes.

We need to wait on the debate to make sure that we are debating the issues on liability and leaving the options open to protect those people who have already been harmed by smoking and those people that will be harmed by smoking.

As I said, Mr. President, I reluctantly rise in opposition to the amendment offered by my friend and colleague from New Hampshire, Mr. GREGG. I have worked with the Senator from New Hampshire on the tobacco issue in the Labor Committee and I can appreciate his position on this aspect of the settlement. However, I oppose this amendment because I believe it is premature for this body to decide the issue of immunity, even in a sense of the Senate resolution, before we have the opportunity to debate tobacco legislation on the Senate floor.

First, I would like to explain that my reasons for opposing this amendment are not based on any desire to protect the tobacco companies from legitimate legal actions. I have explained before that I did not accept any money from the tobacco companies during my campaign because I have seen the destructive effects of cigarette smoking my entire life and I have never seen that smoking ever helped anyone. In short, I oppose this amendment because it is too early in the debate to limit our options on the issue of liability.

Mr. President, let me make it very clear that we will not help one person suffering from smoking-related illnesses by adopting this sense-of-the-Senate resolution. Rather, we will send a green light to plaintiffs' lawyers that Congress will not stand in the way as they fill their retirement coffers at the expense of the smokers and the American public.

By prohibiting any type of current or future immunity for the tobacco manufacturers, we actually do a disservice to the very people we are trying to help. If Congress is really concerned about providing long-term reimbursement for people suffering from smoking-related illnesses, we should look at ensuring that the money will actually go to smokers—not into the pockets of trial lawyers.

Mr. President, I have proposed for some time that we should take a look at a smokers' compensation fund, whereby individual smokers could be reimbursed for their smoking-related medical expenses from an account funded by payments by the tobacco companies. Such a system as this

would ensure that real stakeholders in the tobacco debate—smokers themselves, would receive the proceeds from any tobacco settlement. It would also be a good way to help the long term solvency of both the Medicare and Medicaid programs by alleviating some of the burden of reimbursing providers for smoking-related medical expenses.

I understand that any such comprehensive reimbursement scheme is not going to be accomplished this year. That is why I support the efforts of the chairman of the Budget Committee in his efforts to ensure that any money received from a tobacco settlement is going to be dedicated to the Medicare trust fund. I applaud his efforts in ensuring that any possible proceeds actually be used to help pay for the smoking-related expenses of Medicare beneficiaries instead of being used for any number of unrelated programs.

I urge my colleagues to join me in opposing this amendment. We should send a message to the American people that any money from the tobacco settlement should be used for smokers—not inflated legal judgments.

I thank the Senator from New Mexico for the time to speak on this. I fully support putting that money, if we ever get it, into the Medicare Program. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Utah is recognized for 1 minute.

Mr. HATCH. I rise in opposition to the Gregg amendment. The Gregg amendment is an attempt to put the Senate on record against any liability provisions in connection with the tobacco bill now being formulated in the Commerce Committee.

True, the amendment refers to "immunity." Now, I do not want to give the tobacco industry and nobody else wants to give them immunity. No one does. However, the term "immunity" is broader than the limited liability provisions many of us believe are key to the comprehensive antitobacco global settlement bill.

I fear many will seize upon what will be a near unanimous vote today to say the Senate opposes any liability provisions. That is not the case. And 284 days ago, 40 courageous State Attorneys General, both Democrats and Republicans, announced an agreement which should continue to be the basis of any legislation to curb youth smoking. It is predicated on large tobacco industry payments for a whole host of antitobacco programs, including cessation, prevention, and biomedical research.

I, for one, continue to believe that the best way to ensure we will have the huge sums necessary to wean a generation of teens off tobacco is to guarantee there are industry payments. I do not believe that it will be possible to attain that without endorsing the framework of the AG settlement which does include some liability provisions.

I yield the floor.

The PRESIDING OFFICER. All time has expired.

Mr. DOMENICI. I ask for the yeas and nays on the second-degree amendment of Senator GREGG.

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

The yeas and nays were ordered.

Mr. DOMENICI. I ask unanimous consent for it to be in order for me to make a point of order on the DODD amendment so he can make the motion to waive, so that will have been accomplished, and we will, therefore, have that be the second vote.

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

Mr. DOMENICI. Regarding the Dodd amendment, it is not germane to the provisions of the budget resolution pursuant to section 305(b)(2) of the Budget Act, and I raise a point of order against the Dodd amendment.

Mr. DODD. Mr. President, I move to waive the point of order and I ask for the yeas and nays on my motion.

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

The yeas and nays were ordered.

AMENDMENT NO. 2168

Mr. LAUTENBERG. Mr. President, I rise in strong support of the amendment offered by the distinguished Senator from New Hampshire, Mr. GREGG, which expresses the sense of the Senate that Congress should not grant immunity to the tobacco companies as part of comprehensive tobacco legislation.

Mr. President, I want to commend the Senator from New Hampshire for offering this sense of the Senate. It's a clear statement on a critical issue.

Mr. President, there is no valid reason to give the tobacco industry special protections from liability. The tobacco industry, for decades, has lied to the American people. It's intentionally boosted the addictive power of its products to hook consumers. And, worst of all, it's conspired to illegally market its products to children.

The end result of all this fraud and deception is that millions of Americans have died prematurely. Families have lost mothers. Fathers. Grandparents. Brothers. Sisters. And all too often, these families watched helplessly as their loved ones smoked themselves to death, unable to break this deadly addiction.

Now, Mr. President, the tobacco industry is asking for a special favor. They want to be shielded from liability for the harms they've caused. A shield that hasn't been granted to any other industry.

Mr. President, why would Congress give special immunity to the tobacco industry, of all industries?

Well, the main argument you hear is that Congress must let the industry off the hook because otherwise they'll keep marketing tobacco to our kids. It's as if the industry has a gun to our heads. Or, more precisely, the heads of our children.

Well, Mr. President, that's an outrageous threat. And I don't think we

should give in to it. After all, the U.S. Government doesn't negotiate with terrorists. And the same should be true for those who threaten to market deadly drugs to our children.

I also would point out, Mr. President, that if we did give the industry the broad liability restrictions that it wants, we still wouldn't get much in return. And it's important to understand why not.

The tobacco industry has said that it would be willing to give up advertising to kids if we give it immunity. But the tobacco manufacturers can't make an agreement on behalf of all those who might want to advertise. So, instead of RJR buying ads, its distributors could. Or retailers. Or anyone else. These others would not be bound by any agreements entered into by manufacturers.

It's also important to remember that many constitutional experts believe that these agreements could be ruled unenforceable. So we could discover later that we have compromised the legal rights of tobacco victims, and gained absolutely nothing in the process.

Mr. President, instead of giving special breaks to the tobacco industry, Congress should be developing legislation that keeps our kids away from tobacco. That helps adults kick the habit. And that saves lives.

We need legislation that will increase the price of cigarettes to at least \$1.50 per pack—as the Budget Committee agreed, in a bipartisan vote.

We need legislation to give FDA the authority to regulate tobacco as a drug. Legislation to fund anti-teen smoking programs, smoking cessation programs, counter advertising, and other anti-tobacco initiatives.

Mr. President, there's no reason to give the tobacco industry veto rights over that kind of legislation. None.

Mr. President, this is the Senate of the United States of America. And our job is to do what is right for the American people. It is to do what we can to save lives. And if the tobacco industry doesn't like it—frankly, that's too bad.

So, Mr. President, I hope my colleagues will support the amendment offered by the distinguished Senator from New Hampshire. Let's not give the tobacco industry a special handout. This is an industry that has lied to the American people. It's an industry that's directly responsible for the deaths of millions of Americans. And they should be held accountable. There just is no excuse for letting them off the hook.

The PRESIDING OFFICER (Mr. GORTON). The question is on agreeing to the Gregg second-degree amendment No. 2168. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arkansas (Mr. HUTCHINSON) is necessarily absent.

Mr. FORD. I announce that the Senator from Maryland (Ms. MIKULSKI) is necessarily absent.

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

The result was announced—yeas 79, nays 19, as follows:

[Rollcall Vote No. 51 Leg.]

YEAS—79

Abraham	Feingold	Moseley-Braun
Akaka	Feinstein	Moynihan
Allard	Frist	Murkowski
Ashcroft	Glenn	Murray
Baucus	Graham	Nickles
Biden	Gramm	Reed
Bingaman	Grams	Reid
Bond	Grassley	Robb
Boxer	Gregg	Roberts
Breaux	Harkin	Rockefeller
Brownback	Hutchison	Roth
Bryan	Inouye	Santorum
Bumpers	Johnson	Sarbanes
Byrd	Kempthorne	Shelby
Chafee	Kennedy	Smith (NH)
Cleland	Kerrey	Smith (OR)
Collins	Kerry	Snowe
Conrad	Kohl	Specter
Coverdell	Kyl	Thomas
Craig	Landrieu	Thompson
D'Amato	Lautenberg	Thurmond
Daschle	Leahy	Torricelli
DeWine	Levin	Warner
Dodd	Lieberman	Wellstone
Domenici	Lugar	Wyden
Dorgan	Mack	
Durbin	McCain	

NAYS—19

Bennett	Ford	Jeffords
Burns	Gorton	Lott
Campbell	Hagel	McConnell
Coats	Hatch	Sessions
Cochran	Helms	Stevens
Enzi	Hollings	
Faircloth	Inhofe	

NOT VOTING—2

Hutchinson Mikulski

The amendment (No. 2168) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2167, AS AMENDED

The PRESIDING OFFICER. The question is on the first-degree amendment, as amended.

Mr. DOMENICI. I ask unanimous consent that the yeas and nays be vitiated.

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

The question is on agreeing to the amendment.

The amendment (No. 2167), as amended, was agreed to.

VOTE ON MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act as to the amendment of the Senator from Connecticut, Mr. DODD. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arkansas (Mr. HUTCHINSON) is necessarily absent.

Mr. FORD. I announce that the Senator from Maryland (Ms. MIKULSKI) is necessarily absent.

The yeas and nays resulted—yeas 50, nays 48, as follows:

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 52 Leg.]

YEAS—50

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

NAYS—48

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

NOT VOTING—2

Hutchinson Mikulski

The PRESIDING OFFICER. On this vote the yeas are 50, the nays 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I will offer two amendments. Both of them clarify outlay levels for fiscal year 1999 and thereafter. One amendment is with respect to national defense, and the other is with respect to outlay levels for major functional categories in the budget.

AMENDMENTS NOS. 2191 AND 2192, EN BLOC

Mr. THURMOND. Mr. President, I send two amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes amendments numbered 2191 and 2192, en bloc.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 2191

(Purpose: To clarify outlay levels for major functional categories)

On page 26, after line 25, insert the following:

**SEC. 104. OUTLAY LEVELS FOR MAJOR FUNCTIONAL CATEGORIES.**

(a) DETERMINATIONS FOR FISCAL YEAR 1999.—Notwithstanding the provisions of sec-

tion 103, outlay levels for the major functional categories for fiscal year 1999 shall be determined in the following manner:

(1) Prior year outlays shall be determined using historical rates as employed by the Office of Management and Budget.

(2) Current and future year outlays shall be determined using rates calculated by the Congressional Budget Office.

(b) DETERMINATIONS FOR FISCAL YEARS 2000 AND THEREAFTER.—Notwithstanding the provisions of section 103, outlay levels for the major functional categories for fiscal years 2000 and thereafter shall be determined in the following manner:

(1) The Office of Management and Budget and the Congressional Budget Office shall annually attempt to reconcile their technical assumptions with respect to preparing estimates for all accounts in those categories, and shall report the outcome of these attempts to the Committees on the Budget not later than December 15 of each year.

(2) If the Office of Management and Budget and the Congressional Budget Office are able to reconcile their technical assumptions by the date of that report, the technical assumptions used to determine outlay levels shall be those agreed to by those agencies.

(3) If the Office of Management and Budget and the Congressional Budget Office are unable in any year to reconcile their technical assumptions, the outlay levels for that fiscal year shall be determined by the Committee on the Budget of each House, prior to the receipt by the committee of the estimate of the Congressional Budget Office.

AMENDMENT NO. 2192

(Purpose: To clarify outlay levels for national defense)

On page 26, after line 25, insert the following:

**SEC. 104. OUTLAY LEVELS FOR NATIONAL DEFENSE.**

(a) DETERMINATIONS FOR FISCAL YEAR 1999.—Notwithstanding the provisions of section 103, outlay levels for major functional category 050 (national defense) for fiscal year 1999 shall be determined in the following manner:

(1) Prior year outlays shall be determined using historical rates as employed by the Office of Management and Budget.

(2) Current and future year outlays shall be determined using rates calculated by the Congressional Budget Office.

(b) DETERMINATIONS FOR FISCAL YEARS 2000 AND THEREAFTER.—Notwithstanding the provisions of section 103, outlay levels for major functional category 050 (national defense) for fiscal years 2000 and thereafter shall be determined in the following manner:

(1) The Office of Management and Budget and the Congressional Budget Office shall annually attempt to reconcile their technical assumptions with respect to preparing estimates for all accounts in those categories, and shall report the outcome of these attempts in the report required by section 226 of title 10, United States Code.

(2) If the Office of Management and Budget and the Congressional Budget Office are able to reconcile their technical assumptions by the date of that report, the technical assumptions used to determine outlay levels shall be those agreed to by those agencies.

(3) If the Office of Management and Budget and the Congressional Budget Office are unable in any year to reconcile their technical assumptions, the outlay levels for that fiscal year shall be determined by the Committee



on the Budget of each House, prior to its receipt of the estimate of the Congressional Budget Office.

Mr. THURMOND. Mr. President, I ask unanimous consent that these two amendments be temporarily laid aside. The PRESIDING OFFICER. Without objection, the amendments are laid aside.

Mr. DOMENICI. I don't think we have anything further by unanimous consent. By virtue of the list we have, the next amendment is Senator KYL's. That will be followed by a Democratic amendment yet to be chosen.

Mr. LAUTENBERG. Mr. President, I ask the manager if we can take a couple of minutes to lay down some amendments here—I think people have had a chance to look at them and know what they are—so that we are in the order to be considered.

Mr. DOMENICI. Is the Senator talking about the two amendments we had agreed we were going to dispose of by Senator BURNS and Senator KERRY?

Mr. LAUTENBERG. We have the two that were cleared by Senator BURNS and Senator KERRY. We can do those. I was talking about in advance of Senator KYL's amendment.

Mr. DOMENICI. Does the Senator have more amendments?

Mr. LAUTENBERG. We have two we would like to lay down on behalf of some of our Members here.

Mr. DOMENICI. Let's do that.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for that purpose.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the following amendments be called up and set aside for disposition in a sequence that would be agreed to by the managers. There are four first-degree amendments and one second-degree amendment. We have an amendment on behalf of Senator HOLLINGS which concerns Social Security, a Lautenberg amendment, a Conrad second-degree amendment, a Lautenberg amendment on the environment, and a Boxer amendment on education. I ask unanimous consent that these be accepted at the desk.

Mr. DOMENICI. Mr. President, parliamentary inquiry. I am not objecting on the basis that the second-degree amendment alluded to is not automatically called up as a second-degree amendment to the amendment suggested, because I believe we will have an opportunity, even if we have to have the majority leader here, to offer the second-degree amendment before it is offered on that side. Is that correct?

The PRESIDING OFFICER. The second-degree amendment will not be a part of the unanimous consent agreement if the Senator from New Mexico objects to it. If the Senator accepts the unanimous consent agreement as propounded—

Mr. DOMENICI. I didn't think it was a unanimous-consent request. I object. I have no objection to the amendments.

The PRESIDING OFFICER. The four first-degree amendments—

Mr. DOMENICI. They are just going to be pending like the other amendments, as I understand it.

Mr. LAUTENBERG. Mr. President, in the interest of moving the program along, we will eliminate the Conrad second-degree amendment at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENTS NOS. 2193 THROUGH 2195, EN BLOC

Mr. LAUTENBERG. Mr. President, I send three amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes amendments numbered 2193 through 2195, en bloc.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 2193

(Purpose: To provide a supermajority point of order against any change in the off-budget status of Social Security)

At the end of title II, add the following:

**SEC. . PROTECTING THE OFF-BUDGET STATUS OF SOCIAL SECURITY.**

(a) POINT OF ORDER.—It shall not be in order in the Senate to consider any bill, resolution, or amendment or motion thereto or conference report thereon, including legislation reported by the Committee on the Budget of either House pursuant to section 306 of the Congressional Budget Act of 1974, that changes section 301(i), 302(f), 310(g), or 311 of the Congressional Budget Act of 1974, or section 13301 of the Budget Enforcement Act of 1990, section 202 of H. Con. Res. 67 (104 Congress), or this section, or would otherwise change budget procedures regarding Social Security.

(b) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

AMENDMENT NO. 2194

(Purpose: To ensure that the tobacco reserve fund in the resolution may be used to protect the public health)

At the end of title III, insert the following:

**SEC. . SENSE OF THE SENATE ON PRICE INCREASE ON TOBACCO PRODUCTS OF \$1.50 PER PACK.**

(a) FINDINGS.—The Senate finds that—  
(1) smoking rates among children and teenagers have reached epidemic proportions;  
(2) of the 3,000 children and teenagers who begin smoking every day, 1000 will eventually die of smoking-related disease; and  
(3) public health experts and economists agree that the most effective and efficient way to achieve major reduction in youth smoking rates is to raise the price of tobacco products by at least \$1.50 per pack.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the levels in this resolution assume that comprehensive tobacco legislation should increase the price of each pack of cigarettes sold by at least \$1.50 through a per-pack fee or other mechanism that will guarantee a price increase of \$1.50 per pack within three years not including existing scheduled Federal, State, and local tax increases, with equivalent price increases on other tobacco products, and should index these price increases by an appropriate measure of inflation.

tion assume that comprehensive tobacco legislation should increase the price of each pack of cigarettes sold by at least \$1.50 through a per-pack fee or other mechanism that will guarantee a price increase of \$1.50 per pack within three years not including existing scheduled Federal, State, and local tax increases, with equivalent price increases on other tobacco products, and should index these price increases by an appropriate measure of inflation.

AMENDMENT NO. 2195

(Purpose: To establish a deficit-neutral reserve fund for environmental and natural resources)

At the appropriate place, insert the following:

**SEC. . DEFICIT-NEUTRAL RESERVE FUND FOR ENVIRONMENTAL AND NATURAL RESOURCES.**

(a) IN GENERAL.—In the Senate, revenue and spending aggregates and other appropriate budgetary levels and limits may be adjusted and allocations may be revised for legislation to improve the quality of our nation's air, water, land, and natural resources, provided that, to the extent that this concurrent resolution on the budget does not include the costs of that legislation, the enactment of that legislation will not increase (by virtue of either contemporaneous or previously-passed reinstatement or modification of expired excise or environmental taxes) the deficit in this resolution for—  
(1) fiscal year 1999;  
(2) the period of fiscal years 1999 through 2003; or  
(3) the period of fiscal years 2004 through 2009.

(b) REVISED ALLOCATIONS.—  
(1) ADJUSTMENTS FOR LEGISLATION.—Upon the consideration of legislation pursuant to subsection (a), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately-revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this resolution.

(2) ADJUSTMENTS FOR AMENDMENTS.—If the Chairman of the Committee on the Budget of the Senate submits an adjustment under this section for legislation in furtherance of the purpose described in subsection (a), upon the offering of an amendment to that legislation that would necessitate such submission, the Chairman shall submit to the Senate appropriately-revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this resolution.

(c) REPORTING REVISED ALLOCATIONS.—The appropriate committees shall report appropriately-revised allocations pursuant to section 302(b) of the Congressional Budget Act of 1974 to carry out this section.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that these three amendments be temporarily laid aside.

The PRESIDING OFFICER. Without objection, the amendments are laid aside.

AMENDMENT NO. 2176, AS MODIFIED

Mr. LAUTENBERG. Mr. President, I send a modification of the Boxer amendment to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 2176), as modified, is as follows:

On page 16, line 9, increase the amount by \$50,000,000.

On page 16, line 10, increase the amount by \$6,000,000.

On page 16, line 13, increase the amount by \$50,000,000.

On page 16, line 14, increase the amount by \$40,000,000.

On page 16, line 17, increase the amount by \$50,000,000.

On page 16, line 18, increase the amount by \$49,000,000.

On page 16, line 21, increase the amount by \$50,000,000.

On page 16, line 22, increase the amount by \$50,000,000.

On page 16, line 25, increase the amount by \$50,000,000.

On page 17, line 1, increase the amount by \$50,000,000.

On page 25, line 8, strike “—\$300,000,000” and insert “—\$350,000,000.”

On page 25, line 9, strike “—\$1,900,000,000” and insert “—\$1,906,000,000.”

On page 25, line 12, strike “—\$1,200,000,000” and insert “—\$1,250,000,000.”

On page 25, line 13, strike “—\$4,600,000,000” and insert “—\$4,640,000,000.”

On page 25, line 16, strike “—\$2,700,000,000” and insert “—\$2,750,000,000.”

On page 25, line 17, strike “—\$3,000,000,000” and insert “—\$3,049,000,000.”

On page 25, line 20, strike “—\$3,800,000,000” and insert “—\$3,850,000,000.”

On page 25, line 21, strike “—\$7,000,000,000” and insert “—\$7,050,000,000.”

On page 25, line 24, strike “—\$5,400,000,000” and insert “—\$5,450,000,000.”

On page 25, line 25, strike “—\$5,000,000,000” and insert “—\$5,050,000,000.”

AMENDMENTS NOS. 2186 AND 2188, AS MODIFIED

Mr. LAUTENBERG. Mr. President, Senator WELLSTONE has three amendments that are at the desk and have been laid aside. I understand that amendments 2186 and 2188 need to be modified. I now ask that those two amendments be modified with the changes that are now at the desk. They have been reviewed by the majority.

The PRESIDING OFFICER. The Senator has the right to modify the amendments.

The amendments (Nos. 2186 and 2188), as modified, are as follows:

AMENDMENT NO. 2186

At the end of title II, add the following:

**SEC. 204. DEDICATION OF CORPORATE WELFARE SAVINGS TO PELL GRANTS.**

(a) SPENDING RESERVE.—In accordance with section 312(a) of the Congressional Budget Act of 1974 and for the purposes of title III of that Act, the Chairman of the Committee on the Budget may reserve the estimated increased revenues resulting from changes in legislation specified in subsection (b) for the purpose of offsetting additional outlays not to exceed \$12,450,000,000 for fiscal years 1999 through 2003 for increasing the maximum Pell grant award from \$3,000 to \$4,000.

(b) OFFSETS.—

(1) IN GENERAL.—For purposes of subsection (a), increased revenues from the elimination of corporate welfare tax provisions not to exceed \$12,450,000,000 for fiscal years 1999 through 2003 are reserved in function 920, Allowances.

(2) SPECIFIC TAXES.—The tax provisions referred to in paragraph (1) include—

- (A) expensing for oil and gas exploration;
- (B) elimination of the oil and gas allowance for producers; and
- (C) elimination or reduction of the foreign-earned income exclusion.

AMENDMENT NO. 2188

On page 53, after line 22, add the following:  
**SEC. 317. SENSE OF THE SENATE ON FUNDING FOR MEDICAL CARE FOR VETERANS.**

It is the sense of the Senate that the functional totals underlying this resolution assume that \$40,274,000 in additional amounts above the President's budget levels will be made available for veterans health care for fiscal year 1999.

Mr. LAUTENBERG. I thank the chairman for permitting me to send those amendments to the desk. We are ready to proceed.

Mr. DOMENICI. Mr. President, I yield the floor to Senator KYL.

AMENDMENT NO. 2169

Mr. KYL. Mr. President, we are now back on amendment No. 2169. That amendment is a sense of the Congress, and it is very simple. I will read the operative clause:

It is the sense of Congress that seniors have the right to see the physician or health care provider of their choice and not be limited in such right by the imposition of such unreasonable conditions on providers who are willing to treat seniors on a private basis, and that the assumptions underlying the functional totals in this resolution assume that legislation will be enacted to assure this right.

It is that simple, Mr. President. Senior citizens should not be discriminated against because when they turn 65 they are eligible to receive Medicare. Unfortunately, the administration has taken the position that eligibility to receive Medicare is exclusive; that is to say, that it's either Medicare or no care, that a senior citizen has no right to be treated outside of Medicare for Medicare-covered services. How could we be in that situation in the United States of America, where the Government provides a good program for senior citizens which, in most cases, is going to be precisely what they want to take advantage of, but it says to them that, if there is some reason why you might want to privately contract and pay the bill yourself, you can't do that.

Here is the history of it, Mr. President. For over 20 years during the time Medicare has been in force, senior citizens have had the right either to go to the physician of their choice and have him submit a bill to Medicare or, if they choose, to be treated outside of Medicare and not submit the bill. There are some people who have not wanted their records to be part of the official Government archive.

They may have psychiatric problems, for example, and they didn't want to have their treatment be a part of Medicare and they were willing to pay the bill themselves. That is just one example.

But recently HCFA, the Health Care Financing Administration, began taking the view that that was illegal and began sending letters to physicians threatening them with prosecution if

they treated patients outside of Medicare. So, as part of the Balanced Budget Act, I offered an amendment which prevailed on an overwhelming vote here last year that citizens did, in fact, have the right to privately contract—a very straightforward proposition.

During the last-minute negotiations of the Balanced Budget Act, however, the administration representatives convinced whoever was negotiating on our side that the President would veto the entire Balanced Budget Act if the Kyl amendment stayed in, and it was changed, pursuant to the administration's request, to provide that while the right of the senior citizen existed, it could only be exercised by a physician who, in advance, dumped all of his Medicare patients for a period of 2 years. That is obviously an unreasonable requirement. Very few, if any, physicians are going to do that. So, as a practical matter, the right of senior citizens to go to a physician of their choice under Medicare was eliminated.

We have not yet offered legislation for a vote here which would reverse that. But this is the first opportunity we have had, so we present to the Senate a sense of the Senate, as part of the budget resolution, which says that senior citizens should have this right. Then, when the opportune time comes, we will be offering the legislation which has already been introduced and has 49 cosponsors in the Senate, and 190 cosponsors in the House of Representatives, a bill sponsored by the Ways and Means Committee Chairman BILL ARCHER called the Medicare Beneficiaries Freedom to Contract Act. That legislation, which, as I say, has 49 cosponsors here and 190 in the House already, will be offered, so we will have the opportunity to actually change the law. But pending that, this presents the principle that seniors ought to have this freedom to contract.

Our resolution, by the way, is sponsored by Senator HOLLINGS, Senator LOTT, Senator FRIST, Senator GRAMM, Senator DOMENICI, Senator STEVENS, Senator GORTON—the Presiding Officer—and, as I say, 49 Members total.

Let me give an example of a specific situation which came to my attention. One of my constituents from Prescott, AZ—a relatively small town—has a severe case of diabetes. She went to a physician who said, “I am sorry, I am not taking any Medicare patients, so I cannot take care of you.” He was the only specialist, really, in the small community who could care for her.

Why is it, by the way, that some physicians are in that position? We know that Medicare reimburses at such a low rate—the average is 70 cents on the dollar of cost—that many physicians simply cannot take all Medicare patients. So they have to draw the line and not take any beyond a certain point.

In any event, she said, “That's fine, bill me directly, and I will be happy to pay.” He said, “Medicare will prosecute me for fraud if I do that.” And that is

what we are trying to fix here. There are a lot of situations where people may wish to go to the doctor of their choice and be treated outside of Medicare.

I know of a situation in which I helped a constituent obtain a compassionate release from FDA so that constituent could take an experimental drug to treat her for cancer. The reason is that her husband was willing to go to any lengths, to do anything, to preserve her life. She ended up dying, but I think her case is illustrative of what every one of us would do in her husband's position. If we had the money, if we had the ability, we would go to any length to do anything to save our loved one's life. That is what is being denied American citizens today.

Believe it or not, the socialized medicine system in Great Britain allows patients this choice. They can either be treated under their socialized medicine system or they can go to a private physician and pay the bill themselves. But here in the United States of America, once you turn 65, you lose that right. This amendment simply expresses the sense of Congress that that should not be the case. The seniors here should have the freedom of choice. That right should not be limited by any unreasonable conditions placed upon providers.

Mr. President, I thank the Chair for the opportunity to present these views. I would love to hear from anyone who would like to speak in opposition to this principle that senior citizens should have the right to privately contract. I invite anyone who is in opposition to present those views here, because I would love to debate that, as I said. Constituents all over this country are writing in and calling me saying, this is outrageous; please reestablish this right.

So I am going to cease my presentation now since we are limited in the amount of time we have. I reserve whatever time we have to respond to anyone who is willing to come defend the proposition that senior citizens should not have the right to privately contract in the United States of America.

Mr. President, observing no other Members on the floor, 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. SMITH of Oregon. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

Mr. SMITH of Oregon. Also, that the Kyl amendment may be temporarily laid aside so I may speak to an amendment I introduced early this morning.

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

AMENDMENT NO. 2180

Mr. SMITH of Oregon. Mr. President, I sent an amendment to the desk ear-

lier today to modify my original amendment numbered 2180. This amendment simply provides an exception for federally funded research projects being conducted on marijuana. This is to ensure that the National Institute of Drug Abuse at NIH and other agencies may continue their important research on the long-term effects of drug use, and possible alternatives to the persistent use of marijuana.

This amendment addresses an issue which has become a great concern to me and to many in my State—legalization of marijuana for medical use. While this is simply a sense of the Senate to prohibit the use of Federal funds for medical use of marijuana, I intend to work with my colleagues on legislation on this issue following the budget resolution. While this is not a new issue for the State of Arizona, or for the State of California, which have already passed laws and put them in place following the passage of Proposition 215, there are other States, including Oregon, Maine, Alaska, Nevada, Florida, and the District of Columbia, which are facing similar ballot measure proposals.

In my State of Oregon alone, five ballot measures have been proposed which would legalize the use of marijuana in varying degrees, from an outright legalization of the drug to legalization for medical purposes. California and Arizona have already passed legislation legalizing medical use of marijuana and are already experiencing the adverse effects on their communities. In California, for instance, the law has become almost impossible to enforce, as the law enforcement community has had difficult times suppressing illegal marijuana use and its sale. With the opening of "pot cafes" in that State, it is impossible to prove whether patrons are there for medicinal or recreational use.

At a time when illegal drug abuse is on the rise, legalizing the use of marijuana in any form, medical or recreational, sends a mixed signal at best to our children, particularly when there are prescription drugs in the marketplace such as Marinol.

While the effectiveness of these prescription drugs is varied, I believe it is our responsibility to encourage a healthy alternative to marijuana that is effective, safe, and can be regulated like any other prescription drug in the marketplace. I would be interested in working with any of my colleagues on both sides of the aisle who have an interest in this issue, particularly those who want to keep drugs, such as marijuana, out of the reach of our children.

In a study released by the National Institute of Drug Abuse at NIH, marijuana is noted as the most commonly used drug in America. In fact, 18 million Americans used it last year alone. In fact, smoking marijuana over a long term has the same damaging effects on the brain as long-term use of cocaine and heroin and produces the same lung damage and potential cancer risk as

smoking cigarettes, even though marijuana smokers smoke less.

Perhaps even more disturbing is that the National Institute of Drug Abuse also reported that 23 percent of all eighth graders in the United States used marijuana in 1996 and that marijuana use overall has steadily increased since 1993.

Mr. President, while this is a sense of the Senate and it is only a start, I believe this is our opportunity to voice our opposition to these efforts to legalize the use of marijuana in our States. Through these laws, we are proceeding down a dangerous path by sending a mixed signal to our children that marijuana use is an acceptable alternative. It is not. It is dangerous. It is deadly.

I thank the Chair and encourage my colleagues to adopt this amendment.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 2169

Mr. ROCKEFELLER. Mr. President, are we now back on the Kyl amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROCKEFELLER. Mr. President, I hope that Senator RICHARD BRYAN from Nevada is on the way to the floor as I speak. I speak in opposition to this amendment.

I need to point out that Medicare beneficiaries did not ask for this so-called "new right." This is a proposal which is written to, frankly, charge seniors more money. That comment can be thrown around and thrown around very glibly when one is trying to make a populist point. On the other hand, therefore, it is true—and it has to be said in that manner—92 percent of beneficiaries are satisfied or, in fact, very satisfied with the availability of care under the Medicare Program now.

It is this Senator's belief that fraud and abuse in the Medicare Program will increase very substantially if private contracting is allowed to occur. The Congressional Budget Office has this to say about the Kyl-Archer bill:

HCFA's efforts to screen inappropriate or fraudulent claims could be significantly compromised because it would be difficult to evaluate episodes of care with gaps where services were directly contracted—

A very complicated way of saying a rather easy thing. It would not be very easy to track this:

Without adequate regulatory oversight, unethical providers could bill Medicare while also collecting from directly-contracted patients.

In other words, they could collect twice from Medicare and the patient.

The bill would almost certainly raise national health spending.

The Government Accounting Office.

Private contracting, further, Mr. President, is not about the freedom of choice, as some of our friends from across the aisle would have us believe. The effort to privately contract is really, as I indicated much earlier, about

money. Seniors have freedom of choice now.

You can make a very, very good case that the strength of Medicare is based upon an original concept that no longer exists, and that is one gigantic pool. Because everybody is in that pool, almost like the original Blue Cross, Medicare wins money on some, loses on others, but in the end everything tends to wash out evenly.

Seniors now are given many options. I participated in one of the options myself, the PSO amendment, which I did with Senator BILL FRIST, and it was successful. But all this does not indicate, therefore, that seniors do not have the freedom of choice now. They do. They can go in many directions, and that is increasing all the time. They can see any doctor they want now, and they have adequate protections that the Medicare Program has and is providing them.

The proposal to privately contract is opposed by the American Association of Retired Persons, the American College of Physicians, the National Council of Senior Citizens, Families USA, et cetera, and that is not really the point, is it? Because one can always find groups that are for or against something.

While private contracting may be a good deal for doctors, it really is not necessarily a very good deal for beneficiaries, and that becomes important in the Medicare communities. Seniors would pay 100 percent of the bill when they privately contract. That is the way it would work—a large price tag for services that Medicare would otherwise cover.

Private contracting would cripple Medicare's ability to hold down health care costs and would put elderly and disabled citizens at serious financial and medical risk. Under the Kyl-Archer bill, doctors can charge whatever they want for a Medicare-covered service. One would ask, why would one want to do that? The Kyl-Archer bill would allow doctors to give priority, frankly, to wealthy patients who are willing and able to pay out of pocket.

My wife and I recently had an event—not serious—with our 18-year-old son. We took our son to six different physicians, most of them specialists. So when I say this, I say this in the context of an enormous regard for physicians and for the field and for the fact that our 18-year-old son wants to become a physician himself. Nevertheless, it is an incentive for doctors to go to those who are able to pay and get them to pay out of their pocket and pay more.

In a February 23, 1998, letter from the GAO—which I believe is fairly broadly respected around here—to Senator MOYNIHAN, the GAO's findings do not support Senator KYL's sense-of-the-Senate amendment. Senator KYL's amendment, for example, reads, according to the GAO, "most seniors are denied this right (to obtain health care from physicians or providers of their

choice) by current restrictions on their health care choices."

Again, a denial of choice argument.

The GAO letter to Senator MOYNIHAN reads:

Nearly all physicians treat Medicare patients and accept new patients covered by Medicare. Recent data from the AMA indicate that 96.2 percent of all non-Federal physicians treated Medicare beneficiaries in 1996. Moreover, the percentage of physicians treating Medicare patients has increased—from 95.2 percent in 1995 and 94.2 percent in 1994—over the last 2 years.

A 1-percent increase. It simply shows the direction of more physicians treating Medicare patients.

Again, the GAO says:

According to the recent reports from PPRC, "access for most [fee-for-service] beneficiaries remains excellent and . . . measures of access are essentially unchanged from previous years."

In closing, Mr. President, I wish to make this statement. Much has been made of the United Seniors Association, which is a conservative fundraising arm of the Republican Party, in fact, and is the No. 1 supporter of the Kyl private contracting amendment. But then again, those things happen, too. I will say when Chairman ROTH of the Senate Finance Committee heard their testimony, he said, "I just want to make it clear that those kinds of statements are not satisfactory to this chairman." And he was not at that point a particularly happy chairman.

At the beginning of the Kyl amendment, frankly, there were some of us who were very, very concerned because there were 47 cosponsors, including one Democrat. There has been a lot of emphasis, I think, in the last number of weeks to try to get this to be a better-understood proposition. In fact, I think now people are beginning to understand that this is not necessary, and there is a way for physicians to be able to charge Medicare beneficiaries more, and, in a sense, if a Medicare beneficiary is in a very sick condition or bad condition, how are they able to negotiate in the first place? I think the Senate would do best to simply send this sense of the Senate underground.

I thank the Presiding Officer for his courtesy.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Massachusetts.

Mr. KENNEDY. Can I yield myself 8 minutes off the amendment?

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

Mr. KENNEDY. I yield myself 8 minutes off the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank my friend and colleague, the Senator from West Virginia, for his analysis of this issue. He is one of the real experts on Medicare and Medicaid and is very much involved in the subcommittee of the Finance Committee dealing with all of these issues. He brings a very sound perspective to this

issue. His comments identified the weaknesses of the Kyl proposal and also what are the dangers for so many of our senior citizens. I hope that our colleagues pay close attention to his words.

I join in urging the Senate to oppose the Kyl amendment and defeat this attempt to undermine Medicare by eliminating the protections in current law that prevent doctors from overcharging senior citizens. This is not a "freedom of choice" amendment for patients; it is a "freedom to price gouge" amendment for physicians, and it deserves to be rejected by the Senate.

Medicare patients already have freedom of choice. In fact, because Medicare is one of the only insurance programs that still offers a true fee-for-service option, senior citizens generally have more choices in health care than other citizens, including those of us in the Senate.

According to a February 23 report from the General Accounting Office, the information available to us indicates that Medicare beneficiaries have ready access to physicians. The report emphasizes the high participation rate in Medicare by physicians. Ninety-six percent of all the doctors accept and treat Medicare patients.

The report also emphasizes that few Medicare patients have problems in obtaining health care. Only 4 percent report difficulty in finding a physician. This does not appear to be due to the reimbursement levels. The GAO found reimbursement levels for physicians under Medicare are adequate and do not jeopardize access to health care for senior citizens.

The Kyl amendment is no answer to the problems of Medicare. It will only make those problems worse. The freedom it proposes is the freedom to exploit senior citizens and the freedom to dismantle the fundamental guarantee of affordable health care for the elderly that has served American senior citizens well for so many years.

Senior citizens deserve affordable health care provided by Medicare, and that they have earned through a lifetime of hard work and service to this country. The Kyl amendment takes the choice out of the hands of the vast majority of senior citizens and puts it in the hands of the doctors. That is the key flaw in the Kyl amendment.

Who is going to be making the decision? Is it going to be the patient, or is it going to be the provider? The patient already has that kind of freedom today. If they want to indicate that they do not want their doctor to bill the Medicare system, then they can go ahead and pay if they want to. They have that opportunity to do so.

That is not what the Kyl amendment is about. The Kyl amendment puts the power in the hands of the doctors. If such legislation were to pass, doctors would be free to charge unlimited fees and patients would be free to pay them. Some freedom. Some choice.

Medicare works well for patients and physicians alike. Senior citizens are

free to choose their doctor and are free to self-pay if they desire. Physicians must abide by limits on what they can charge for services covered by Medicare, which means that senior citizens know they cannot be overcharged.

In addition, because Medicare covers the basic services, but not all services, the elderly are free to pay out of pocket for services not covered by Medicare. If they are able to afford it and they want to pay privately for Medicare-covered service, they can do that too by asking the doctor not to submit a claim. If the patient wants to pay the doctor, and pay the doctor more, and pay the doctor an exorbitant amount, the patient is free to do so now at the present time and not have them submit the claim to Medicare.

This was the case before the Balanced Budget Act was enacted last year, and it is the case today. The current system works and works well. This aspect of Medicare is not broken, and it does not need to be fixed. The only fix the Kyl amendment provides is the authority for doctors to fix the higher prices than Medicare allows.

Current law favors the patient by guaranteeing that it is the patient who initiates actions to pay outside of Medicare. Medicare's balanced billing limits continue to apply. The patients have the choice. They are the ones who can initiate or end the private transaction. The power is in the hands of the patient. That is where it should be. The Kyl amendment gives that choice to the physician. That is the serious mistake that would jeopardize Medicare coverage for large numbers of senior citizens.

The reality is that in a number of instances the patient will ask the doctor not to submit the claim or the bill under Medicare. These are primarily in the cases of mental health and substance abuse where the individual, for any number of reasons, fears what might happen to them in the job market or because it might make it more difficult or complex in terms of other different personal reasons and chooses to pay themselves and tells the doctor, "Look, don't bill Medicare. I'll pay you. I'll pay you." That happens today. It is not widely advertised, not widely proclaimed, but it happens today. That goes on, and the Medicare system respects that.

But that isn't what this is about. This is about where the doctor says to the patient who is in that doctor's office and needs help and assistance, "Look, you're not going to effectively get it"—it might be a little smoother than this, but the message is going to be clear—"unless you're going to pay me whatever I say." Now, that is the beginning of the end. That is something that we have guarded against over a long period of time, and we should not open up those gates today.

Congress should not imperil the financial security of 38 million senior citizens. Congress should not take the money out of the pockets of the elderly

and put it in the bank accounts of wealthy physicians. That is what this issue is really about. Simply put, who is going to be the one who is going to make the decision? Is it going to be the patient, which I think all of us feel is the way that it should go, and it is that way at the present time, or is it going to be the physician who is going to be making that judgment, looking into the eyes of a sick patient, virtually at the will of the physician, when they have that illness and sickness and are told, "Look, if you want my treatment, if you want to be treated by me, it's going to cost you a bundle." That we have guarded against over a long period of time. It is a key element in terms of the whole guarantee of quality, good care for our senior citizens, and we should not alter and change that particular protection now.

Mr. President, I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I would like to respond to the remarks of the Senator from Massachusetts, and perhaps those of the Senator from West Virginia as well.

First of all, let me clarify something. The Senator from Massachusetts says that this is the "freedom to price gouge" and the "freedom to exploit." In so saying, the Senator misrepresents significantly the amendment, or the bill that Representative ARCHER and I have introduced, which has a variety of provisions specifically designed to prevent fraud and abuse.

The only thing that we have before us here today is the sense-of-the-Congress resolution. I draw the Senator's attention to some of the provisions on page 2 which specifically set forth the requirements that would protect against fraud and abuse. In other words, what we are saying is that this freedom to choose must—and I am quoting now from the amendment that we are debating—must include provisions that "are subject to stringent fraud and abuse law, including the Medicare antifraud provisions in the Health Insurance Portability and Accountability Act of 1996."

Now, if those are not good enough, then perhaps we ought to be changing the existing law. But we are going to actually have more stringent fraud and abuse provisions than the existing law has. So I really in a sense resent the suggestion that there is nothing in here that prevents fraud and abuse. This legislation has more antifraud and abuse provisions than existing law.

Second point. The Senator from Massachusetts says that only 4 percent, according to a study, only 4 percent of seniors have difficulty getting their health care under Medicare. Well, by my calculation that is "only" 1,360,000 seniors. That is a lot of seniors.

The truth of the matter is most seniors will take advantage of Medicare. It is a good deal. We hope that will continue to be the case. But for those few

who choose to contract privately, why deny them that right? The GAO study cited by the Senator from Massachusetts says, "If direct contracting continued to be rarely used"—and I say "continued to be" because the right does exist today—"there would be no changes in the benefit payments, no additional difficulties in combating fraud and abuse, and no major new administrative burdens placed on HCFA."

So if it is not a problem, then why oppose this amendment? GAO says it would not be a problem. And, in fact, the Senator proves too much by the last point that he made. He said, actually it is the case today that if a patient wants to ask the doctor not to submit a claim, the doctor does not have to do that and therefore we already have this so we do not need the Kyl amendment—to which there are two responses. First of all, if current law already provides this, then why does the Senator object to the mere statement of the principle that the choice should exist? If the Senator is happy with existing law, he can't very well oppose the principle that simply restates existing law.

I again quote from what we are debating. It is frequently helpful to do that. All the sense-of-the-Senate provides is, and I quote, "It is the sense of Congress that seniors have the right to see the physician or health care provider of their choice, and not be limited in such right by the imposition of unreasonable conditions on providers who are willing to treat seniors on a private basis. . . ."

Does the Senator oppose that principle? The Senator suggests that that is already existing law. If so, then what is the problem? The truth, however, Mr. President, is that it is not existing law. As a matter of fact, the Senator from Massachusetts cannot cite either a statute or a regulation which says that this is existing law, because it is not. HCFA will quietly tell you that they would not mind if a patient did that, but they do not want to advertise it and there is no legal authority for it.

The truth of the matter is that, as the GAO pointed out, it has always been the case up until January 1, 1998, that patients had this right to privately contract. You have all of the great concerns about fraud and abuse that have been articulated by the Senator from West Virginia and the Senator from Massachusetts, but I have never heard of one single case—and I would be delighted if the Senator could cite one—where in the past 20 years, since this right did exist until January 1 of this year, there was fraud and abuse as a result of this. I know of none.

So, Mr. President, I will make one final point. The Senator from West Virginia is not on the floor, but he made the point that this isn't good for Medicare beneficiaries. I suggest, that goes to the heart of this debate. Who decides what is good for the beneficiaries? Washington, DC, bureaucrats or the

beneficiaries? Let the beneficiaries decide.

As the GAO points out, if most beneficiaries do not take advantage of this freedom to contract—and I doubt that they will—then there is no problem. But let them make the decision. We should not be making the decision that they do not have the right even if they desire to exercise it.

I think it is pretty hard to argue with the proposition that patients should have this freedom of choice. And I have not heard anything yet that persuades me that this is not a good amendment.

I again urge my colleagues to support it. I thank the Chair.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank the Chair.

Mr. President, I rise in respectful opposition to the amendment of my friend, the junior Senator from Arizona. Although this amendment is dressed in the robes of patient choice, in my view it dramatically changes the nature of the Medicare system and now, for the first time in more than three decades of Medicare experience, would give to the physician the ability to determine how much a Medicare patient pays for Medicare-covered services. I believe it is a prescription for disaster for the Medicare system and for the patient himself or herself.

Let me put this in some context, if I may. For 30 years-plus Medicare patients have come to their physician and have known with reasonable certainty what kind of financial expectation they are required to pay in order to receive Medicare-covered benefits. This amendment would change that and allow the physician to make that determination.

No. 2, we are plagued in the Medicare system today with fraud that some estimate may exceed \$20 billion a year. I believe that this change would make it more complicated in addressing the problems of fraud that the system confronts.

And, finally, for the Medicare patient himself or herself, I think it injects a notion of uncertainty and confusion when that Medicare patient goes to the physician.

Let me put this in some context, as I understand it, so we can talk about what is not involved here. Since the inception of Medicare, and continuing beyond the 1998 balanced budget agreement for noncovered Medicare services—that would be, for example, plastic surgery—a Medicare patient has always had the right to enter into a private contractual arrangement with the physician of his or her choice. That is the history. That was unchanged by the balanced budget agreement of 1997, and it continues to be the law today.

With respect to a Medicare-covered service, such as a diagnostic test in which Medicare pays for only one or two of those diagnostic tests, if a Medicare patient is uncertain as to the kind

of advice he or she is getting as a consequence of that test, it has always been the case that if a second or third or fourth opinion is sought by the Medicare patient, that Medicare patient has the right to enter into a private contractual arrangement with the physician of his or her choice. That has been true historically. That was true prior to the balanced budget agreement and remains the case as well.

Thirdly, this applies to part B Medicare, so we are not talking about the trust fund. For an individual who is philosophically opposed or for whatever reason chooses not to be a part of Medicare part B, that is his or her absolute choice. No one is required to participate or to pay that premium. And that is true with the physician as well.

What I apprehend will occur here is a rather dramatic change in the Medicare system. A Medicare patient goes to a physician, and the Medicare physician says, "Look, there are three or four procedures which I believe you need. With respect to three of those procedures, I'm satisfied that the Medicare reimbursement schedule is adequate. As to the fourth, I will need additional compensation in order to provide that service."

The net effect of all of that, I respectfully submit, is that no Medicare patient, going to his or her doctor's office, will know with certainty what the financial expectation will be of that Medicare patient. That changes the system rather dramatically.

For more than three decades, to the best of my ability, there has been no private contracting between Medicare patient and physician with respect to covered service. My distinguished colleague may be right that there may not be carved in stone any legal prescription, but that indeed has been the practice. And 96 percent of physicians in America cover and treat Medicare patients. So I think we ought to give a considerable reflection to what is at issue here.

My distinguished friend and colleague offered in the balanced budget amendment an amendment which was ultimately fashioned into law. That provided, for the first time, an opportunity for a physician who wants to enter into a private contractual arrangement with a Medicare patient to do so.

If the Medicare physician chooses to do so, then that Medicare physician may not have other Medicare patients for a period of 2 years. That was, in effect, an opening, if you will. That provided an expanded opportunity which did not heretofore exist.

There are some groups who I think have been irresponsible in characterizing that as a limitation. That is not the case, as I understand it.

I simply say to my colleagues, the Medicare system is not perfect. There are certainly some things which we need to do, and, indeed, the Medicare Commission has been formed for that

purpose. Hopefully, it will come with some bipartisan recommendations. But I do not believe we will want to change dramatically the nature of that system which does have certainty; namely, a fee schedule for reimbursement to a physician for Medicare-covered services. That has been the hallmark of the Medicare system. That will change rather dramatically if the proposal which my friend from Arizona offers is accepted, and would allow not the patient, but the physician, to make that judgment.

Most of us, when we go to our physician, even those of us who might be described as being in the "pre-Medicare age"—that is, we are not quite eligible for Medicare services—approach the annual visit to our physician with some trepidation. A physician has the ability to say, "Look, that condition that you have is terminal." So there is some apprehension, some ill at ease, no matter how many times you have been to a doctor. When you are in that context, it is not a level playing field, and the doctor saying to you, "Look, I no longer accept this rate of reimbursement from Medicare which I previously accepted," places, in my view, the patient at a decided disadvantage in dealing with that physician and is more likely than not to say, "Well, all right, I will agree to pay."

As I indicated previously, if there are two or three Medicare services that the patient requires, the confusion of, "I will accept Medicare reimbursement for two of the services but not a third," I think leaves the patient in a very confused situation.

I urge my colleagues to reject this amendment. Let's all work together as a result of the Medicare Commission and see what kind of changes we need to make to improve the system.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I rise in opposition to the amendment.

I don't know what the time allocation is. I believe Senator LAUTENBERG is in charge of our side.

Mr. LAUTENBERG. Mr. President, I am happy to yield 8 minutes to the Senator from Illinois.

Mr. DURBIN. I thank my colleague and friend.

The great philosopher Kris Kristofferson once said, "Freedom is just another word for nothing left to lose." I believe those were actually sung or spoken by the late, great Janice Joplin.

This amendment characterized as the Freedom of Health Care Choice for Medicare Seniors, on its face, appears to be a positive addition to the Medicare system. You would think if you proposed, as the Senator from Arizona does, that we will give more freedom to Medicare seniors—more freedom—that you would just guess that the major senior organizations from around the country would be unified in support of this amendment. In fact, they are unified in opposition to this amendment.

So there might be more to this amendment than freedom. There is something to lose in this amendment.

Let me get down to the bottom line of what all this debate is about. This debate is about whether a Medicare senior going into a doctor's office is going to have to pay according to an established Medicare schedule or whether that doctor can charge more. So it is whether the doctor—some doctors have the freedom to charge some seniors more for services. You might argue that that is necessary if there is a shortage of doctors providing benefits to Medicare seniors. But, lo and behold, 96 percent of doctors are already providing benefits to Medicare seniors. So virtually all of the doctors, 96 percent of them nationwide, have signed on. They are prepared to treat Medicare seniors and to be paid according to the fee schedule.

What is at stake here is not about doctors in service but, rather, whether or not some doctors can charge more. What will this mean to us when we reach the Medicare eligibility age, which is creeping up on many of us, or our parents, or grandparents? It may mean before you have a chance—if the amendment of the Senator from Arizona prevails, before you have a chance to talk to your doctor about your problem, if you are a Medicare senior with this new "freedom," first you will have to talk to the accountant in the office, who is going to want to know a little bit about your salary, your net worth, and how much they can charge you for the benefits they will provide. For some, that may be freedom. From where I am standing, that is not freedom. In fact, it restricts the rights which seniors already have.

I think we ought to take a look at this amendment for what it really does. Private contracting sounds good on its face, unless you understand what you lose in the process of private contracting. In this situation, it means for seniors that instead of knowing what they pay when they go to the doctor's office, it really is going to be an uncertainty; they won't know. They will walk into the office uncertain whether that doctor will charge considerably more than they might have expected. That is the reason every seniors group—the AARP, the National Council of Senior Citizens, Families USA, and others—have come out in opposition to this amendment.

I might also add that there have been groups, one group in particular, which is called the United Seniors Association, which is sending mailings to seniors and would-be seniors. Lo and behold, I ended up on their mailing list. They were writing on behalf of this amendment's concept. I don't believe they were authorized by the Senator from Arizona. I am sure they were not. But they are, unfortunately, spreading some rather alarming news to seniors across America.

Listen to what it says on the front of the envelope sent to my home in Springfield, IL:

Mr. and Mrs. Richard Durbin: As of January 1998, our government for the first time ever will stop everyone over age 64 from getting lifesaving medical treatment.

If you receive this and you are a senior, or close to it, boy, you will open it up in a hurry. What you find in here is a total misrepresentation of the Medicare system as it currently exists. The Medicare system in America is a very successful medical system. It is true that we will need to deal with the fact that the cost of health care continues to go up and our resources to pay for it are not matching that, but the bottom line is from the viewpoint of parties. They are happy with the system. They are content with the care they are receiving. They don't want Members of Congress, House or the Senate, meddling with the basic Medicare system. This amendment, this so-called private contracting freedom amendment, meddles with the system in a way that most seniors are not going to be happy with.

Some doctors will, because they can charge more. But for a lot of seniors, we will find them really disadvantaged. For 38 million Americans who rely on the system, I think it would be a serious mistake for us to adopt this amendment. As a matter of fact, Senator CHAFEE and I will be offering an amendment at a later time in this debate which I think more correctly addresses the feelings that I hope more Members of the Senate share about the future of the Medicare system. In that amendment, we say as a sense of Congress that the assumptions underlying the functional totals in this budget resolution assume that seniors have the right to affordable, high-quality health care, and they have the right to choose their doctors, and no change should be made to the Medicare Program that could impose unreasonable and unpredictable out-of-pocket costs for seniors or erode their benefits.

If the Senator from Arizona prevails with his amendment, we cannot make that claim, because the benefits provided to seniors will be unpredictable in cost. Each doctor can decide how much more they want to charge.

We also say in our resolution that we don't want to compromise the efforts of the Secretary of Health and Human Services to screen inappropriate or fraudulent claims for reimbursement and, finally, to allow unscrupulous providers under the program to bill twice for the same services. Senator CHAFEE and I will offer this later during the course of the debate. I hope my colleagues, Democrat and Republicans, will join us in supporting it.

In closing, let me say I know the Senator from Arizona is firm in his belief that this would be a solid addition to the Medicare system. I happen to think the system as it currently exists, with predictable costs and predictable services for seniors, is exactly what they want to protect.

I yield back the remainder of my time.

Mr. BUMPERS. I wonder if the Senator from New Jersey would yield 8 minutes.

Mr. LAUTENBERG. I am pleased to yield 8 minutes to the Senator from Arkansas.

Mr. DOMENICI. Might I inquire how much time remains on the amendment and how much in opposition?

The PRESIDING OFFICER. The Senator from Arizona has 39 minutes, and the Senator from New Jersey has 28 minutes.

Mr. DOMENICI. If we use that, each side has used an hour.

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. Thank you.

Senator BUMPERS.

Mr. BUMPERS. Mr. President, I have the utmost respect for the sponsor of this bill, but I have utterly nothing but contempt for the amendment.

Medicare has done more to provide a good night's sleep to the elderly of this country than any other single program, with the possible exception of Social Security. We made a solemn contract with the elderly of this country to provide them with medical care. When I was first elected Governor of my State, I found that 50 percent of the people didn't even know what to do in case they got sick. But when you polled the people over 65, they knew what to do and they knew where to go and they knew their bill was going to be paid.

The underlying assumption of the Kyl amendment is that somehow or other people are having a difficult time getting a doctor to take them. Now, the General Accounting Office has answered a number of questions propounded to them by the distinguished senior Senator from New York, Mr. MOYNIHAN, and in answer to one of the questions: How much difficulty are they having? here is the answer. According to the GAO, 96 percent of the Medicare-eligible people in this country stated that they had some difficulty getting medical care. But listen to this. The Kyl amendment goes to this figure: Only two-tenths of 1 percent said they had difficulty getting satisfactory assistance because of Medicare. Here we are tinkering with a system that has been so successful and so rewarding to our elderly, because two-tenths of 1 percent of the people in this country said they had difficulty getting the kind of care they wanted under Medicare.

No. 1, doctors right now, under the Balanced Budget Act of 1997, are eligible to charge 15 percent more than the Medicare allowance. For example, you have a procedure—say, laser surgery for your eyes. Assume that the Medicare limit on laser surgery for your eye, or eyes, is \$1,000, but the doctor can charge 15 percent more than that, or \$1,150. Medicare may only pay 80 percent of the allowable charge, or \$800, but the doctor can charge 15 percent more than the Medicare allowance.



The balanced budget amendment also provided that if a doctor wants to privately contract, he or she may privately contract, but they have to drop out of the program for 2 years.

Now, we feel strongly—many of us—that this is an elitist amendment. Obviously, there are a lot of people in this country—perhaps 2 percent to 5 percent—who will pay a doctor of their choice whatever he charges. They want him; they are used to him. Say I worked from the time I was 30 years old until I was 65 and went to the same doctor, and when I became 65 I said, "Doctor, I am switching from my Blue Cross policy over to Medicare." The doctor says, "I'm sorry, I'm not going to be able to take care of you anymore because Medicare is simply not meeting my expenses." You think about that. The patient may be a person of very modest means but who, above all, wants to go to the doctor he or she has been going to for years, and the doctor says, "Well, now, if you are willing to pay, that is a different matter, I will let you keep coming to see me."

Let me tell you another thing the doctor can do. Assume you are in a fairly big-sized clinic, and the doctor says, "We will take you for your heart conditions under Medicare, but we can't take your liver," or, "we can't take your kidneys." Think of all the different kinds of contracts people would enter into. If this amendment ever became law—God forbid—you would start hearing some of the most fraudulent contracts and some of the most exorbitant charges for medical services that would choke a mule.

Mr. President, if there is a problem with Medicare, if we are not paying enough to entice a majority of the doctors in this country to provide services under Medicare, let's raise the rates. But for Pete's sake, let's not allow people to enter into these private contracts. I have the utmost respect for the medical profession. But I am telling you, you are giving them unbelievable leverage over millions of Medicare patients if you allow them to say, "I can't take you because Medicare is not enough." If only two-tenths of 1 percent of the people in this country are having difficulty getting medical care because of Medicare rates, I suggest to you that that is not a sufficient number to warrant tinkering with one of the finest programs this country has ever produced.

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

Mr. WELLSTONE addressed the Chair.

Mr. LAUTENBERG. Mr. President, I yield up to 6 minutes to my friend from Minnesota. If more is needed, let me know.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for up to 6 minutes.

Mr. WELLSTONE. Mr. President, let me just say one more time to my colleague from Arkansas, I wish he wasn't leaving the Senate. I can't add too much to what he said.

Let me just say to my colleague from Arizona, whom I really respect, that I don't agree with him on a lot of issues, but I respect him. I mean that very sincerely. I think this amendment is mistaken, and I rise in strong opposition to it.

I have just a few quotes. Families USA Foundation states that this provision, the Kyl amendment, "may put increasing pressure on older Americans to choose between getting the health services they need or putting food on their table." I think Families USA has really had a great deal of credibility. I know what they mean. I think the fear is now, what would happen with the Kyl amendment is that doctors could charge an elderly person, a senior citizen, just about any fee for any visit or service. The problem is that if doctors are now going to be making this judgment and they can charge more than Medicare payments and stay in the Medicare system, the danger is that many will do so.

I had two parents with Parkinson's, and neither one of them made much money. The Medicare Program was the difference for them between being able to live a life toward the end of their years with dignity, albeit a struggle, and going under. Who is to tell what a doctor decides in any given community? A lot of elderly people are going to be put under enormous pressure. Indeed, it could be a choice between whether or not people get the services they need or whether they put food on the table.

Also, remember that senior citizens are paying more and more out of pocket. Since we had the debate on universal health care coverage, national health insurance, a few short years ago—a debate we should get back to—the fact is that seniors are paying even more out of pocket for health care costs. For many of them, it is the prescription drug costs.

I don't know about other States, but my guess would be that in Minnesota the median income for senior citizens may be \$15,000 or \$16,000 a year. I suppose if you are a senior citizen with an income of \$150,000 a year—there are very few, contrary to the stereotype—then you know a doctor could say, "I want you to pay what I am going to charge and we will have this private contract." Those people would be all right, but for the vast majority of elderly people in our country—and we are not talking about a high-income profile—the Kyl amendment is a very real threat to a system that has worked well for people.

Catholic Charities USA, representing nearly 13 million people, states that the Kyl legislation would "dangerously undermine the Medicare Program." They are right.

It would leave "average and low-income Medicare patients at grave risk of substandard care and second-class medicine." That was in a letter to all Senators from Fred Kammer, March 31—today, my son's birthday.

The National Council of Senior Citizens, asserting that the Kyl legislation "is fraudulent and should be defeated," says that the bill would "essentially end Medicare as a national health insurance program for almost 40 million Americans."

"This proposal would essentially license doctors to gouge millions of seniors for Medicare services." That is from a letter to Senator DASCHLE from Steve Protulis dated today.

If the Kyl amendment succeeds, "seniors will be left with big medical bills and the doctors will have new weapons to exploit health needs for profit." That comes from a memo by the National Council of Senior Citizens.

I ask unanimous consent that quotes from these organizations, along with a series of other letters from organizations representing senior citizens, be printed in the RECORD.

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

#### PRIVATE CONTRACTING—LETTERS

1. Families USA Foundation states that the Kyl provision "may put increasing pressure on older Americans to choose between getting the health services they need or putting food on their table." [Press Release, Families USA, 10/8/98]

2. Catholic Charities USA, representing nearly 13 million people, states that the Kyl legislation would "dangerously undermine the Medicare program." [Letter to all Senators from Fred Kammer, 3/31/98]

It will leave "average- and low-income Medicare patients at grave risk of substandard care and second class medicine." [Letter to All senators from Fred Kammer, 3/31/98]

3. The National Council of Senior Citizens, asserting that the Kyl legislation "is fraudulent and should be defeated," says that the bill would "essentially end Medicare as a national health insurance program for almost 40 million Americans." [Letter to Sen. Daschle from Steve Protulis 3/13/98]

"This proposal would essentially license doctors to gouge millions of seniors for Medicare services." [Letter to Sen. Daschle from Steve Protulis 3/31/98]

If the Kyl Amendment succeeds, "seniors will be left with big medical bills and the doctors will have new weapons to exploit health needs for profit." [Memo from National Council of Senior Citizens, 10/27/98]

4. The Service Employees International Union, on behalf of 1.2 million workers and retirees, strongly opposes S. 1194 saying that "this legislation is an underhanded effort to destabilize the entire Medicare system and make it unaffordable for poor and working class citizens." [Written statement submitted to Senate Committee on Finance for hearing record, 2/26/98]

This legislation would give "doctors more leeway to rush people into contracts they don't understand, to charge higher rates, and to select to serve people who will make them the most money." [Written statement submitted to Senate Committee on Finance for hearing record, 2/26/98]

5. Beatrice S. Braun, M.D., currently a member of AARP Board of Directors testified that "AARP firmly believes that if S. 1194 were adopted, beneficiaries and the Medicare program would be more vulnerable to fraud and abuse." [Written testimony: Senate Committee on Finance hearing, 2/26/98]

6. Dr. William A. Reynolds, President of the American College of physicians, testified

that the Kyl legislation would: "(1) create access problems where none existed; (2) increase administrative complexity for physicians, who will be struggling with billing errors and ad hoc incoming testing of their patients; and (3) produce conflict in the physician-patient relationship." [Written testimony: Senate Committee on Finance hearing, 2/28/98]

The ACP strongly believes that "the Kyl bill threatens Medicare's viability as a health plan." [Letter to Sen. Moynihan from Dr. Reynolds, 10/5/97]

7. The National Association of Retired Federal Employees, urging opposition to the Kyl legislation, wrote that Medicare patients would negotiate from a position of weakness if doctors were allowed to pick and choose when to be in or out of Medicare. [Letter to Sen. Daschle from NAREE, 3/31/98]

8. OWL, the Older Women's League, believes that the Kyl legislation would take away "guarantees of access and quality that Medicare has always provided to America's older women. [Press Release, OWL, 10/8/98]

9. The National Council on the Aging fears that "access to specialists would suffer, as they could refuse to see the vast majority of Medicare beneficiaries so that a small handful of the wealthiest seniors could pay their highest rate." [Press Release, The National Council on the Aging, 10/97]

10. The Leadership Council of Aging Organizations believes that the passage of S. 1194 "would be anti-consumer and would hurt Medicare beneficiaries and the program generally." "[Letter to ALL Representatives from the Leadership Council of Aging Organizations, 10/30/97]

11. Retired Public Employees Association believes that under the Kyl legislation, "the possibility exists that less affluent Medicare beneficiaries will be forced to choose between a private contract which they can ill afford and or an interruption in their continuity of care. [Stanley Winter, Written Statement submitted to Senate Committee on Finance for hearing record, 2/26/98]

12. Jane Bryant Quinn, with the Washington Post, wrote that this "anti-senior law" would be "freedom for Doctors to charge you more." [Jane B. Quinn, Washington Post, 3/8/98]

13. The New York State Council of Senior Citizens, representing over 200,000 elders, wrote that this "pernicious bill masquerades under a pretense of increasing 'free-choice' to Medicare beneficiaries." [Letter to Sen. Moynihan from Eleanor Litwak, 1/26/98]

They fear that were the bill to be enacted, "Medicare would become impoverished and would rapidly become a program for the poorest and the sickest instead of the great universal entitlement it is now." [Letter to Sen. Moynihan from Eleanor Litwak, 1/26/98]

WRITTEN STATEMENT SUBMITTED TO THE SENATE FINANCE COMMITTEE BY PATRICIA A. FORD, EXECUTIVE VICE PRESIDENT OF THE SERVICE EMPLOYEES INTERNATIONAL UNION, IN OPPOSITION TO MEDICARE PRIVATE CONTRACTING LEGISLATION (S. 1194; H.R. 2497)

The Service Employees International Union strongly opposes S. 1194, the Medicare private contracting legislation. We are deeply concerned about the consequences that this legislation would have for access to affordable, quality care for Medicare beneficiaries. In our view, this legislation is an underhanded effort to destabilize the entire Medicare system and make it unaffordable for poor and working class senior citizens.

Our union represents over 1.2 million workers and retirees. More than 600,000 of these are front line health care workers, including nurses, hospital workers, nursing home workers and home health workers, who pro-

vide Medicare funded services to senior citizens every day. We also represent our retired members—former public sector, building service and health care workers. These retired janitors, secretaries, and clerks live on fixed incomes and rely on Medicare to cover the bulk of their health care needs.

Some have touted that this amendment is about offering patients more choice, but this is very misleading. Medicare beneficiaries have always been free to privately purchase services that Medicare does not cover. Last year's Balanced Budget Act broadened choice even further by allowing beneficiaries to privately contract for services that are already covered under Medicare. Medicare Beneficiaries already have choice.

The Medicare private contracting legislation is really about offering physicians, not consumers, more choice. This legislation would remove the two-year exclusion provision and other consumer protections that govern these private contracts, giving doctors more leeway to rush people into contracts they do not understand, to charge higher rates, and to select to serve people who will make them the most money.

Currently, even with Medicare coverage, more than one out of every five retiree dollars goes to covering health care costs. And when the median income for those over 65 is a little over \$11,000 that leaves precious little for food and much less for clothing and shelter. This means that the vast majority of senior citizens in this country will not have the means to enter into private contracts.

One of our major concerns—that lies at the heart of this bill—is that it would destabilize the entire Medicare system and make it unaffordable for many beneficiaries. This legislation would have the effect of transforming Medicare from a social insurance program that everyone pays into and everyone benefits from to a privatized program with incentives for doctors to serve only the most profitable patients.

The 1.2 million members of our Union, along with all working families in this country, count on care being available when they need it—that is why health insurance was developed in the first place. By allowing physicians to charge for services at will this basic premise is lost. The Medicare private contracting legislation would destroy the stability of paying into a system that insures available, affordable coverage for those who need it. Getting medical treatment—although vital—is a service and as such should not fluctuate in price depending on the income of the person who seeks it.

We object to the premise of this legislation and question why the Federal Government would want to replace a system in which 95% of all physicians provide care to 100% of qualified enrollees with a two-tiered system in which access to quality care is determined by income rather than illness. The potential effect of this legislation on overall health spending is also very alarming. The non-partisan Congressional Budget Office (CBO) predicts that if this legislation is approved it would "almost certainly" send national health care spending spiraling upwards.

Again, on behalf of our more than 1.2 million members and our thousands of low-income retired members, I urge you strongly to oppose Medicare private contracting legislation, S. 1194. Thank you.

NATIONAL COUNCIL OF  
SENIOR CITIZENS,

*Silver Spring, MD, March 31, 1998.*

Senator TOM DASCHLE,  
Hart Senate Office Building,  
Washington, DC.

DEAR SENATOR DASCHLE: The National Council of Senior Citizens urges you and your Senate colleagues to vote against Sen-

ator Kyl's amendment to S. Con. Res. 86. In our view, Senator Kyl's proposal would essentially end Medicare as a national health insurance program for almost 40 million Americans. It would virtually destroy the price protections that beneficiaries now enjoy.

This proposal would essentially license doctors to gouge millions of seniors for Medicare services. It would add not a scintilla of "freedom of choice" for Medicare beneficiaries in finding a doctor to treat their medical needs. Ninety-five percent of all doctors already treat Medicare patients.

The recent hearing held by the Senate Finance Committee demonstrated that current Medicare rules allow Medicare patients to pay their doctors for specific services without requiring the doctor to withdraw from Medicare for two years.

In short, Senator Kyl's sense of the Congress resolution would add no benefit or freedom to the lives of seniors. It is fraudulent and should be defeated.

Sincerely,

STEVE PROTULIS,  
Executive Director.

NATIONAL ASSOCIATION OF  
RETIRED FEDERAL EMPLOYEES,  
Alexandria, VA, March 31, 1998.

To: Hon. TOM DASCHLE.

From: Charles R. Jackson, NARFE President.

Misinformation and deliberate distortion of facts about Medicare's Private Contracting rules should not be the basis for attaching even a non-binding version of Senator Kyl's bill, S. 1194, to the Senate budget resolution, S. Con. Res. 86. Federal retirees, particularly the 8,296 annuitants in your state ask that you vote against this amendment.

Medicare patients would negotiate from a position of weakness if doctors were allowed to pick and choose when to be in or out of Medicare. Absent private contracting protections, physicians—not beneficiaries—would decide what to charge for their services. That is the only freedom being enhanced by the Kyl and Archer bills, S. 1194 and H.R. 2497.

Congress and President Bush approved legislation in 1989 to limit doctor fees to 115 percent of the Medicare fee schedule. Fee limitations were enacted to ensure that beneficiaries have access to health care at predictable costs. More than 90 percent of America's physicians participate in Medicare despite fee limitations which private contract protections help to enforce. Fee limitations have not resulted in services being denied to Medicare patients, but we fear repealing private contract protections will render fee limitations meaningless.

The nonpartisan Congressional Budget Office (CBO) has warned Congress that this legislation could significantly compromise Medicare's ability to screen inappropriate claims. As a result, CBO says that it would be easier for an unethical physician to bill both Medicare and the private contract patient for the same service.

Fraud, waste and abuse is already a \$23 billion a year problem in Medicare. NARFE believes unrestricted private contracting will only increase fraud at a time when public policy makers are trying to preserve Medicare for current and future generations.

MEDICARE RIGHTS CENTER  
F.A.L.S.E. ALARM FOOLING AMERICANS INTO  
LOSING SENIOR ENTITLEMENTS

Seniors around the country are being fooled into believing that Medicare won't take care of them. Americans Lobbying Against Rationing Of Medicaid Care (A.L.A.R.M.). Alarm of United Seniors Association, is falsely scaring seniors and tricking them into giving up one of Medicare's

greatest protections: the limit on the amount doctors can charge Medicare patients.

"A.L.A.R.M. is not telling seniors the truth when they state that Medicare won't pay for their health care and they will be left with nowhere to go to get it," says Diane Archer, Executive Director of the Medicare Rights Center, a national not for profit consumer service organization.

Currently, traditional Medicare pays for all reasonable and necessary services and limits seniors' out-of-pocket costs. Seniors can see almost any doctor they want anywhere in the country: 96% of doctors treat Medicare patients and agree to charge these patients at a fixed rate set by the government.

"The real alarm is that unless Medicare retains its billing protection, seniors will have to pay out of their own pockets whatever fees their doctors come up with. If they cannot afford the fee, they will be forced to go without health care," says Ms. Archer.

The current limits on doctors' charges allow people on Medicare freedom to get the health care they need, permitting doctors once again to set their own fees only makes health care unaffordable for many seniors.

In short, says Ms. Archer, "A.L.A.R.M. wants to shift responsibility for the cost of health care from the government to seniors who cannot afford to pay for it."

A copy of A.L.A.R.M.'s letter is attached along with a MRC fact sheet about what Medicare really provides seniors.

NEW KYL LEGISLATION WOULD  
DISPROPORTIONATELY HARM OLDER WOMEN  
OLDER WOMEN ARE POORER, HAVE MORE, AND  
MORE COMPLEX, ILLNESSES; INCREASED COSTS  
WOULD PRICE THEM OUT OF HEALTH CARE  
MARKETPLACE

OWL, an organization representing the more than 57 million American women over the age of 40, today (October 8) issued the following statement opposing S 1194/HR 2497, bills that would enable physicians, without any consumer protections, to contract privately for services with Medicare beneficiaries:

"Kyl II," which would give doctors license to charge whatever the market would bear for services that already have Medicare-imposed cost ceilings, would be particularly damaging to women who suffer from more, and often more complex conditions than men. Requiring more general physician care and more specialist care, these already vulnerable patients, who even now have trouble affording the out-of-pocket health care expenses they must pay, could be faced with a choice of private treatment or a Medicaid-funded nursing home stay.

"Kyl II" would make bad public policy worse. The so-called Medicare "reforms" that were included in the Balanced Budget Act have aptly been identified as the start down a slippery slope that will eventually lead to the total dismemberment of Medicare. OWL believes that "Kyl II" would be a large rock rapidly careening down that slope, taking with it the guarantees of access and quality that Medicare has always provided to America's older women.

21.8 million (out of 38.1 million) of all Medicare beneficiaries are women, and 83% have an annual income of less than \$25,000 per year. In fact, older women live on a median income of \$9,355 a year (compared to a man's \$14,983), and depend upon Medicare and their monthly Social Security check for maintaining their independence at home rather than entering a nursing home. This proposed legislation not only threatens to destroy the foundation of a critical social insurance program, but could seriously threaten the lives of America's older women.

STATEMENT BY JUDY WAXMAN, DIRECTOR,  
GOVERNMENT AFFAIRS, FAMILIES, USA

The Medicare Beneficiary Freedom to Contract Act of 1997 could result in beneficiaries being held hostage to high-priced doctors. Doctors could seek any fee they want for any service, and Medicare beneficiaries would feel compelled to pay such unlimited fees to retain their doctors.

Out-of-pocket health care costs have continued to rise for America's seniors since Medicare's inception. This provision may put increasing pressure on older Americans to choose between getting the health services they need or putting food on their table. This choice is simply unacceptable.

Families USA is the national health consumer group.

THE NATIONAL COUNCIL ON THE AGING  
LCAO OPPOSES MEDICARE PRIVATE  
CONTRACTING PROPOSAL

My name is Howard Bedlin and I am the Vice President for Public Policy and Advocacy for the National Council on the Aging, which currently chairs the Leadership Council on Aging Organizations (LCAO). The LCAO represents 43 national organizations serving over 40 million older persons.

The Leadership Council of Aging Organizations opposes efforts to overturn current provisions that protect Medicare beneficiaries from physician overbilling. Doctors are already permitted to charge 15% more than what Medicare considers to be a reasonable price, and now they want to charge even more. We oppose opening up Medicare provisions enacted under the Balanced Budget Act just two months ago on an issue that has far reaching implications, yet has never been the subject of a congressional hearing or even debated on the House or Senate floor. LCAO members will be sending a letter to members of Congress next week to express our opposition to this ill-conceived, anti-consumer proposal.

The National Council on the Aging believes that the proposals introduced by Senator Kyl and Chairman Archer are not designed to solve any problem experienced by Medicare beneficiaries. Well over 90 percent of physician's bills accept Medicare rates and there is no evidence to indicate that access problems exist because of Medicare payments to doctors. The proposals would, however, increase physicians' income and fundamentally change the nature of the doctor-patient relationship.

Without notice, or in the middle of a course of treatment, doctors could tell Medicare patients that treatment will be denied unless payment is made for the full amount of whatever the doctor wants to charge. No other insurance policy, in either the public or private sectors, permits this. Access to specialists would suffer, as they could refuse to see the vast majority of Medicare beneficiaries so that a small handful of the wealthiest seniors could pay their higher rates. Instances of fraud and abuse would increase, as unscrupulous doctors would have an easy time getting away with double billing both Medicare and the patient.

Beneficiaries could be subject to bait-and-switch tactics, in which doctors begin a course of treatment under Medicare and then turn around and demand full payment of higher charges out-of-pocket for treatment to continue. What if a particular doctor doesn't like what Medicare is paying him for one particular service? What if the doctor notices that the patient has driven up in a nice new car? The kind of uncertainty this proposal would create would be extremely harmful to Medicare beneficiaries.

We strongly urge members of Congress to reject this proposal, to act in the interest of

33 million Medicare beneficiaries, and to refuse to line the pockets of a few greedy doctors.

Mr. WELLSTONE. Mr. President, I say to my colleague from Arizona and to other colleagues, this amendment is profoundly mistaken. This amendment, if passed, I believe, really puts way too many senior citizens at risk.

The Medicare Program is a universal coverage program. The Medicare Program is, for many seniors, the difference between survival and even life with dignity versus going under. To all of a sudden now say to doctors and other providers in this country that you can charge what you want and still stay in the Medicare system now, I am not in favor of that. But if they do it for 2 years, they are out of Medicare. To tell the doctors and providers they can charge what they want and stay in Medicare, that doctors can decide, for any senior citizen and their families, whether or not they have the money to pay for additional costs the doctors want to impose on them does a grave injustice to the Medicare system.

I don't hear a lot of senior citizens—I say to my colleagues—in Minnesota saying they want to see the Medicare system "fixed" in this direction. I hear people talking about, "Can there be coverage for prescription drug costs?" I hear people talking about the problems they have when they are faced with catastrophic expenses, not wanting to spend the end of their lives in a nursing home and maybe going under because of that. I hear senior citizens talking about the need to have more funding for home-based health care so they can live at home in as near normal circumstances as possible with dignity. I don't hear senior citizens in Minnesota saying they want the Kyl amendment passed, which will enable providers, in too many cases, to gouge them, to charge what they want to charge to seniors, to put a whole lot of senior citizens at risk. This amendment is mistaken. This amendment undermines the Medicare system, and this amendment should be resoundingly defeated.

Mr. President, I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, might I inquire about the time remaining?

The PRESIDING OFFICER. The Senator from Arizona controls 39 minutes 30 seconds. The Senator from New Jersey controls 14 minutes 15 seconds.

Mr. KYL. I thank the Chair.

I think it is probably time for me to respond to some of the things that have been said. I appreciate the spirit in which the comments were made by the Senator from Minnesota, and earlier by the Senator from Arkansas, and certainly also by the Senator from Nevada. We have reasonable differences of opinion about certain matters here. I appreciate the spirit in which their comments have been made.

But my, oh, my, Mr. President, it is amazing to me that we would have 49

or 50 cosponsors of this legislation in the Senate and almost 200 in the House if it were going to do all of the horrible things that have been suggested by my colleagues. I don't think I could go home. I daresay that I probably represent more senior citizens—or at least as many as my distinguished colleague from Minnesota. In fact, half of the State of Minnesota comes to my State in the wintertime, and we really enjoy visiting with his constituents. Obviously, they probably receive some medical care in our State, too. Obviously, we are not going to be doing something by which my mother and father and all of their friends and all of my other senior constituents are going to feel threatened.

What could it be that is so horrible about this?

The Senators from Arkansas and Nevada made, I think, a very telling point. They said that Medicare has certainty. The Senator from Nevada said that it may not be perfect but at least it has certainty. Mr. President, that is true. The Congress began here with a program, an entitlement for senior citizens, to provide certain medical care—not all care, but certain care for senior citizens. Gradually, over time, that has transformed from an entitlement into an exclusive program. It is Medicare or no care, as of January 1 of this year.

Up to that point, you had options. You could go outside the Medicare system, if you wanted to, for covered services. As the Senator from Nevada pointed out, it wasn't done very much, but you had the right. That is the point. All of these dire warnings about price gouging and people having to choose between food and medical care, that has been the situation for the last 20 some years. Patients have always had this right to privately contract. It was taken away from them, as a practical matter, on January 1 of this year. That is why I am standing here. I would not be here otherwise.

What happened was that because the Health Care Financing Administration was writing letters to doctors threatening them that they had to submit a bill to Medicare for anyone who was "Medicare eligible"—obviously, that is everybody over 65—the doctors were worried. They said, "We never had to do this before," and, as a colleague pointed out, "If the patient doesn't want to have this done, we don't have to do it. They could be treated outside of Medicare. So would you please confirm that, make it absolutely certain in the law?" So I introduced the amendment. It passed overwhelmingly, like 65-35 or so.

All of us want to give patients the freedom of choice. Even if the right isn't going to be exercised very much, let the patient decide. But what happened was that after that became part of the Balanced Budget Act of last year, as it was being negotiated in its details at the very end of the year, in the middle of the night, the adminis-

tration officials convinced some House and Senate negotiators that they had to attach a condition onto our amendment; namely, in order for a patient to have this right, they had to find a doctor who would dump all of that doctor's Medicare patients for 2 years in advance, or you could not contract privately. As a practical matter, that eliminated the choice, because very few doctors are going to dump all of their existing Medicare load to just treat a few private contract patients.

So, as a result, we are now dealing with a new phenomenon. What started as a great program, an entitlement, which people could take advantage of, has now become the exclusive, only way for senior citizens to receive care in our country. As I pointed out earlier, even in England where they have socialized medicine, they have a system whereby, if you don't want to go to the socialized medicine program, you can go to a doctor of your choice. Many people do, and has it ruined the English system of health care? No. If this is going to be such a horrible thing and ruin Medicare, why hasn't it ruined the English system, where this right of private choice always has existed? Why didn't it ruin the Medicare system before January 1, when this right existed? It may not be perfect, but at least there is certainty. We are saying the certainty has now gotten to the point where it is a constraint, the denial of a right and the denial of a freedom. In that regard, certainty is less desirable than choice.

Now, my colleague from Minnesota made an interesting point in concluding. He said doctors could overcharge here and you could actually create two classes of medicine. Mr. President, I think this says a lot, because what it says in the long run is that we are going to have one level of care for senior citizens. We can't predict exactly what that level of care is going to be, but whatever it is, if a senior feels dissatisfied with that level of care, he or she is stuck with it; there is no way out. Even in Great Britain, you have a way out. If you are not satisfied with it, if you don't think it suits your particular needs, you at least have the right to go to the doctor of your choice outside the system. But not in the United States of America.

We are going to say, "No, no, there has to be only one type of care and it has to be the same for everybody once you hit 65." What we are saying is that there may be a few people—and I grant it will not be a large number—but there may be a few people who are not satisfied with that, who, for whatever reason, decide they want to have care outside of the Medicare system and they are willing to pay for it. Why deny them that right? This is America.

One of my colleagues made the point. I think it was the colleague from Arkansas, that this is elitist because some people will pay for their own care. Perhaps you have a patient who has been treated by the same doctor for

many years and he just wants to go back to that same doctor even though he would have to privately contract. That could well happen, but I don't call that elitist. I cited the example of a friend of mine, who is not a senior citizen, by the way, but his wife was very, very ill with cancer. He would have spent every nickel that he had, he would have spent his life savings, he would have done anything to save her life. In the end he couldn't, but he went to great lengths to try to save her life.

As I said, I was successful in getting a compassionate release from FDA so she could be treated with some experimental drugs. When it is your life, or your wife, your spouse, you will do anything when their health care, their life, is involved. Are we going to say to them, in the United States of America, "No, you are stuck with Medicare whether you like it or not," even though you might be able to go to a great specialist somewhere at some great university who is not taking very many Medicare patients and he doesn't want to take any more Medicare patients but he is willing to treat you? We are saying, "No, we are not going to let that great surgeon, that university research expert, treat you outside of Medicare because we only have one level of care in this country and we don't want anybody to have any better care than anybody else."

I don't call that elitist. I call that the denial of the basic American right of freedom. That is why I think we need to get this back to what we are really talking about.

Let me read again the words, because I find it hard to believe that my colleagues would really vote against these words. This is the amendment we are debating here:

It is the sense of Congress that seniors have the right to see the physician or health care provider of their choice.

Those who vote no are saying, no, they should not have that right. It is that simple.

Finally, perhaps I could refer to some of the antifraud provisions. I had not wanted to take the time to do this, but there has been a suggestion that patients are in jeopardy, that seniors would be in jeopardy because doctors could charge all kinds of extra money. I really don't have the time to read all of this; it is page after page after page. Let me just cite some examples here of some of the things that are included that a physician would have to do in order to enter into this kind of contract, in order to assure that there is no fraud or abuse. And HCFA, Health Care Finance Administration, would have total control over this. The requirements are as follows.

First of all, a contract would have to be in writing and signed. No claims could be—the contract provides that no party to the contract and no entity on behalf of any party to the contract shall submit any claim or request for payment to Medicare.

The contract must identify the Medicare-covered professional services and

the period, if any, to be covered, but does not cover any services furnished before the contract is entered into for the treatment of an emergency medical condition. So this couldn't be used when the patient is in extremis unless the contract was entered into before the onset of the emergency medical condition. There must be clear disclosure of terms. The contract must clearly indicate that by signing the contract the Medicare beneficiary understands and agrees not to submit a claim to Medicare, agrees to be responsible, whether through insurance or otherwise, to pay for the services, acknowledges that no limits under this title may be charged, acknowledges that Medicare supplemental policies do not make payments for such services, acknowledges that the beneficiary has the right to have such services provided by other physicians or health care practitioners for whom payment would be made by Medicare; that the contract must also clearly indicate whether the physician or practitioner is excluded from participation; the parties can modify the contract if they consent, the health care practitioner must submit a variety of—a whole variety here of things to HCFA, including information to HCFA which makes it clear as to what the charges are, what the services are for which the payment is being made by the patient, and other information that Medicare—HCFA deems necessary to prevent fraud and abuse. It goes on and on and on. I don't need to quote it all.

The point is the sense-of-the-Senate resolution that we have before us here also makes reference to and summarizes those provisions. I noted just one of the provisions. I will cite it again, that the legislation we are talking about here must include provisions that are subject to stringent fraud and abuse law, including the Medicare anti-fraud provisions in the Health Insurance Portability and Accountability Act of 1996.

The point is, if the existing law anti-fraud provisions are good enough for the existing law, then it is kind of hard to criticize them as applicable to this.

So I think it is a red herring to say doctors could somehow gouge patients under this. They are going to be subject to very stringent antifraud provisions, at least as stringent, and frankly more stringent, than those under existing law. So I really don't think that is a fair criticism of what we are trying to do here.

This is merely a sense of the Senate that people in this country, just because they turn 65, should not be precluded from making the choice—that they are willing to pay for—to be treated outside of the Medicare Program. Most will not want to do so. But who are we to say in those cases in which a person does want to do so that they can't do it, whatever it means to their life or the life of their loved ones? I think that is what is elitist. I hope my colleagues will join me in supporting this amendment.

Mr. WELLSTONE addressed Chair.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Mr. President, I ask for 4 minutes to respond.

Mr. LAUTENBERG. Mr. President, I yield the Senator from Minnesota 4 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for up to 4 minutes.

Mr. WELLSTONE. Mr. President, again, colleagues should understand exactly what this sense of the Senate is about. What this amendment is about is what the Kyl legislation is about, which is really quite a change from current policy. Right now what we have said is that if a doctor or provider wants to charge more than the reimbursement he or she will get from Medicare, fine. Go ahead and do it. But if you do that with your own private contracting, then for 2 years you are not in the Medicare system. The reason for that is to protect people, elderly people, who rely on this program.

Mr. President, again I present to colleagues a very important letter on private contracting, a GAO letter to Senator MOYNIHAN of February 23, 1998:

Nearly all physicians treat Medicare patients and accept new patients covered by Medicare. The recent data from the AMA indicate that 96.2 percent of all non-Federal physicians treated Medicare beneficiaries in 1996. Moreover, the percentage of physicians treating Medicare patients has increased to 95.2 percent in 1995 from 94.2 percent in 1994; over the last 2 years.

Mr. President, here is the point. The point is that the Medicare Program is a program that seniors rely on. A lot of Senators may not understand where the Kyl amendment takes us. Where the Kyl amendment takes us is the following direction.

By the way, people who are covered by Medicare are covered. They are able to get the care they need. My colleague was talking about the horrible example of someone who had a loved one who was struggling with cancer. It's the vast majority of people in the country who do not have insurance or are underinsured who need the most help. We really ought to be expanding Medicare for people in our country. We ought not to be about the business of dismantling Medicare.

I will use the same example as my colleague from Arizona used, but I will reach a whole different set of conclusions. I will simply say to you: Imagine a situation where you have an elderly couple, age 70. The wife is now battling cancer. It turns out that in the community where they live, under the Kyl amendment, given where the Kyl amendment is taking us, the vast majority of doctors in the community have decided, "Listen, we are going to charge more than Medicare reimbursement will give us. We are going to charge more." It just so happens that this couple can't afford it. They maybe have a total income of \$20,000 or \$25,000 a year.

Now it is two classes of medicine. If you are wealthy, you are going to be

able to afford it. But what about the vast, vast majority of senior citizens who can't afford now what doctors are charging them? That is really what we are going into. We are not talking about freedom of choice for elderly people. We are taking a lot of choice away. We are talking about a situation where conceivably in a given community doctors could get together, or the majority of doctors could get together, charge more, still be in the Medicare system, and decide for each and every elderly person and their loved one what they pay—what they pay.

A whole lot of people who now can go and get the care they need, given the Medicare system, may no longer be able to afford it. The whole purpose of Medicare was that we said when you get to be older, you are going to incur more health care costs and we want to make sure that there is coverage for you, that we should at least do that for elderly people. Why in the world would we want to turn the clock back? Why in the world would we want to turn our backs on elderly people? Why in the world would we now want to create a situation where, if you are wealthy—and by the way most senior citizens are not—you have it made. Yes, you can contract with this doctor and these doctors. This doctor or these doctors can charge you anything they want to. But for the vast majority of people, Medicare beneficiaries, this will not work well. This will not work well.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LAUTENBERG. The Senator can have a couple more minutes as he needs.

Mr. WELLSTONE. I thank my colleague.

Let me just give an analogy. Take the Kaiser plan. It is well known, a managed care plan. You join the Kaiser plan and you are going to pay a given fee, the enrollees pay a given fee. Can you imagine what it would be like if all of a sudden doctors in the Kaiser plan could decide on their own, based upon what particular citizens they were seeing, that they would charge more for service? You join the plan just like people join Medicare. You join the Kaiser plan. Where Senator KYL is taking us, it would be as if doctors in the Kaiser plan could now say to the enrollees, "By the way, we have decided we are going to charge you more for coverage of this service." I mean, people would be furious. People would feel betrayed. People would say, "Wait a minute, that is not the contract with us."

Medicare is a sacred contract with senior citizens. We ought not create this gigantic loophole for too many providers who I fear rip off elderly people to charge fees for services that senior citizens cannot afford. We ought not tear up a very sacred contract.

I hope we will have a strong vote against this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, if I could make just a couple of comments in response to the Senator from Minnesota. If an insurance company or plan like Kaiser company has a contract to provide care, they would be obligated to provide the care they contracted to provide. They can't all of a sudden just opt out and say we have decided we don't want to do that anymore or we are going to charge more money for it. I really don't understand the point of the Senator from Minnesota in that regard.

Second, he argued that under this amendment it could well come to pass, probably would come to pass, that so many physicians would charge so much more that pretty soon people wouldn't be able to afford their medical care. Yet it has also been argued here that very few people would want to take advantage of this; that 92 percent of the people in Medicare are happy with the care that they are getting. I don't think you can have it both ways. I don't think you can argue on the one hand that there would be dire consequences because everybody will want to do this and on the other hand everything is just fine and nobody is going to want to do it.

The truth of the matter is that probably not very many people will want to do this and therefore it will not have dire consequences on the system. But for those people who do want to do it, it becomes a very important matter to them. They may want to spend whatever they have—whether they have very much or not—in order to get that physician of their choice.

Let me present an analogy to you, Mr. President, about what the Senators who are arguing in opposition to this are really arguing.

They said we provided this great health care system for the citizens of the United States, and so it has to be the only system. To be consistent, they should also say we provided a great retirement system for people in this country; it is called Social Security. So in order to prevent anybody from getting anymore money than anyone else in retirement, we are going to provide that under Social Security; that is what you got; you can't go outside; you can't have pension benefits, insurance benefits, stock paying you dividends or money from your kids or whatever. It is the Government plan or no plan, just like they are saying, here it is, Medicare or no care. Same thing, Mr. President. You can see how absurd the proposition is when presented in that way.

For retirement savings, we acknowledge the fact that people ought to have a choice. They can have the Government plan but they can also exercise their own freedom of choice to provide for themselves as they see necessary. But what our colleagues on the other side are saying is, when it comes to health care, which I argue is even more important to people than money, "No, you don't have that choice, because the Government has decided not only is it

going to provide you an entitlement of health care, but it has now decided that is the only thing you can get once you turn 65; that you cannot go outside of that system."

That, Mr. President, is what is so wrong with the law that took effect as of January 1 of this year and what we are trying to correct. That is why we need to go on record expressing the sense of the Senate, and I will read it again:

[Expressing] the sense of the Senate that seniors have the right to see the physician or health care provider of their choice. . . .

I hope my colleagues will support us in that expression.

Mr. LAUTENBERG. Mr. President, I rise in opposition to the sense-of-the-Senate amendment offered by Senator KYL, which calls for the expansion of private contracting between physicians and Medicare beneficiaries. This proposal could leave beneficiaries vulnerable to higher out-of-pocket costs for Medicare services. And it could leave the Medicare Program more vulnerable to fraud and abuse.

Mr. President, the Balanced Budget Act of 1997 allows physicians to enter into "private contracts" with Medicare enrollees and set their own fees for services covered by Medicare. The intent of this provision was to allow the 9 percent of physicians who don't participate in the Medicare Program, to continue to treat their Medicare-eligible patients through private contracts.

To protect Medicare from fraud and to ensure that private contracting arrangements are limited to physicians who otherwise would not be available to Medicare beneficiaries, the law is limited to those physicians who agree, in an affidavit, to forgo all reimbursement from Medicare for at least 2 years. The law also requires a physician to disclose to the patient that no Medicare payment will be made for privately contracted services, no balance billing limits will apply, no Medigap coverage will be available, and the services to be performed would be paid for by Medicare if provided by another physician.

The proposal advocated by Senator KYL could jeopardize these important protections by allowing all physicians to charge Medicare beneficiaries more than the levels set by the Congress on a service-by-service or patient-by-patient basis. And that could lead many seniors vulnerable to pressure from providers to pay higher rates. For example, a physician could tell someone with a serious illness that they would have to pay extra to get the services they need. And for a desperately ill person, that may leave them feeling that they have no real choice.

So, Mr. President, we need to evaluate the impact of the law we just passed before we make changes that could raise costs for beneficiaries or add to the already critical problems of fraud and abuse. The American College of Physicians has recommended that we not legislate further on the issue of

private contracting at this time. They have advised that any further expansion of private contracting could have many unknown effects that should be studied in the broader context of Medicare reform by the bipartisan commission on Medicare. I believe that's good advice, Mr. President, and I would urge my colleagues to oppose this amendment.

Mr. REID. Mr. President, I rise in opposition to the Kyl amendment. I do so because I am not convinced that a private contracting provision is necessary in the first place. This amendment is presented in the name of freedom of choice when in fact it has a potentially devastating effect on the Medicare program and the health care costs paid by America's senior citizens. Seniors today have a choice in their health care options. They have the ability to privately contract for care not covered by Medicare as they always have. They also have payment protection in terms of how much they can be charged for Medicare covered services. Under the Kyl amendment these protections are removed and seniors who engage in private contracting would be responsible for 100% of the cost of their care. Even if this care is for Medicare covered services, Medicare would not pay for these services under private contract nor would supplemental policies pay as well. Seniors would be 100% responsible for these costs.

Today, 92% of Medicare beneficiaries are satisfied with Medicare. Under this amendment, the potential for significant out of pocket costs for seniors becomes a reality. When seniors already pay 21% of their health care costs out of pocket, any amendment to raise these costs should be closely scrutinized. The potential for fraudulent activity is also significantly increased under this amendment. While I have faith in our physician community and don't believe they are waiting in the wings to defraud our Medicare system, the potential for the Health Care Financing Administration (HCFA) to monitor claims that might be submitted while a private contracting relationship has been established is questionable. We have a responsibility to minimize any scenario that might lead to fraudulent activity and under this amendment, those guarantees to do not exist. The Congressional Budget Office reports that the HCFAs efforts to screen inappropriate or fraudulent claims could be significantly compromised. There is no system in place that would allow HCFA to determine which patients are paying for their care out of pocket from those whose physician is submitting claims to Medicare for these same services. It is for this reason that the private contracting clause in the balanced budget Act of 1997 has a 2-year exemption clause which would require physician's who participate in private contracting to see no other Medicare patients during this period. This would enable HCFA to ensure that no double payments are being made. This is the only



way HCFA at this time could preclude possible fraudulent activity.

Prior to the Balanced Budget Act of 1997 few of us in Congress had ever heard about private contracting in Medicare. This is because our senior constituents were not concerned about this issue and our physician constituents had never surfaced the issue either. My sense is that the truth of the matter is that they would not be concerned about this issue now as well had it not surfaced during the balanced budget debate. The cost protections afforded by Medicare are valuable to seniors and the peace of mind that is achieved knowing out of pocket costs will be limited means a great deal to those on fixed incomes. In that 96 percent of physicians participate in Medicare, there were no signs of their dissatisfaction or a call for change. Perhaps rather than voting on this amendment which is framed in the name of freedom of choice, the better approach would be to remove the private contracting choice provision in the Balanced Budget Act of 1997 and return to the way things were. I do not believe that this debate is about freedom of choice for seniors nor do I believe that physicians are standing in line to defraud our Medicare system. What I do believe is that we are debating an issue that before we learned what it meant seven months ago, few of us, constituents included, were even aware of. I submit that change for change sake is a mistake. We have a strong Medicare Program with protections in place to protect beneficiaries from high out of pocket costs and one that is committed to removing the potential for fraudulent activity from the system. We must be very cautious before we take steps to destroy the success of this program and the many protections this program provides to the 38 million beneficiaries who count on it for their day to day health care. In my view, the Kyl amendment does not pass the test to ensure payment protection for beneficiaries nor does it ensure the potential for fraudulent activity is removed. As such, I must oppose this amendment.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. How much time remains on the Kyl amendment and the opposition to it?

The PRESIDING OFFICER. The Senator from Arizona controls 22 minutes 40 seconds; the Senator from New Jersey controls 8 minutes 30 seconds.

Mr. DOMENICI. I wonder if the distinguished Senator from New Jersey can agree we will both yield back the remainder of the time. I wonder if you intend to second degree the amendment. If you do not, then based on a UC that says that, we won't offer a second-degree amendment. If not, we intend to—

Mr. LAUTENBERG. Mr. President, we have no indication from anybody here that they want to offer a second-

degree amendment. So that would take care of that.

Is the Senator proposing that we yield back all remaining time from the Senator from Arizona as well as our side; all yielding back?

Mr. DOMENICI. Yes, I am. Obviously, when this amendment comes up, if you desire to yield off the resolution, we can still do that. I just want to get on to another amendment, if we can.

Mr. LAUTENBERG. When is the Senator proposing to set the vote on this amendment?

Mr. DOMENICI. Mr. President, I say to the Senator from New Jersey, I received a note from the majority leader that votes will start tomorrow at 12 noon on a number of stacked amendments.

Mr. LAUTENBERG. So all the people who want to rush down here and offer amendments will still have time to do so tonight?

Mr. DOMENICI. We know of three that will take quite a bit of time, and they are willing to do that.

Mr. LAUTENBERG. That would be wonderful. We are not thinking of closing up shop until we have heard all the amendments.

Mr. DOMENICI. All amendments that can possibly be taken up on the floor.

Mr. LAUTENBERG. Oh, that would be excellent. I can't wait to hear them.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, I say this in all sincerity, because the votes were very long. One was in excess of a half hour, and quorum calls before the votes don't count and the vote time doesn't count. We have not even used 5½ hours today from starting at 9:30 this morning. We still have 29 hours remaining at this point, and we have essentially 2 days, Wednesday and Thursday, to get it done. That is going to be very difficult.

I am going to stay here, and we are not going to close the Senate. We would like Senators to come down and offer amendments.

I propose the following so there will be a sequence: First of all, there will be no votes until 12 noon tomorrow, and then there should be three votes. While this is not a unanimous consent request—it will be proposed later—let me say those votes will be on or in relation to the Kyl amendment, on or in relation to the Conrad amendment, and on or in relation to the Coverdell-McCain amendment. We are expecting to debate at least, if not more, Senator CONRAD's amendment and the Coverdell, McCain, et al. amendment. We are trying to get Senator CONRAD, and I hope Senator COVERDELL is on notice

we will be ready soon after that. With that, I yield to my friend from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I appreciate the message that the chairman of the Budget Committee is sending out here, and that is the time is going to be consumed. We always know what happens when it gets to the bewitching hour, which is the end of the week, and people want to go home or take care of other business.

I say to my colleagues on my side, as well as the other side, do not be surprised, if you want to delay doing it now, that you are not going to be able to get enough time, in many cases, to really explore the amendment that you want to present. We could wind up in a vote-a-thon. That is going to be allowed. It means 1 minute debate and a vote. I don't think that is a good way to do legislation.

I say we are going to be here. Senator DOMENICI and I have agreed we will stay as long as we can, to use the expression, to do some business, to have people come down and offer their amendments. We invite them, whether it is 10 o'clock or 12 o'clock. We don't want an hour to elapse in between them, frankly, but we are here and we will stay as long as our colleagues want to bring amendments. We hope they will. If I still have the floor, I have a couple of amendments to send to the desk.

Mr. DOMENICI. Will the Senator let me make an assignment? Mr. President, Senator GORTON is going to take over my responsibilities as manager, and whatever privileges I have under the Budget Act belong to Senator GORTON from this point until I return.

The PRESIDING OFFICER. Do the Senators yield back the time on the pending amendment?

Mr. DOMENICI. I yield back any time Senator KYL had on his amendment.

Mr. LAUTENBERG. And we yield back on our side as well.

The PRESIDING OFFICER. All time is yielded back.

Mr. DOMENICI. It is understood there will be no second-degree amendments, and the Kyl amendment will be voted on tomorrow in sequence. I ask unanimous consent that that be the case.

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

Mr. DOMENICI. I yield the floor.

AMENDMENTS NOS. 2204 AND 2205

Mr. LAUTENBERG. Mr. President, I have two amendments that I send to the desk. One is for Senator KOHL from Wisconsin and the other is for Senator DURBIN and Senator CHAFEE. I send these to the desk and ask they be held pending further action.

The PRESIDING OFFICER. If there is no objection, the pending amendment will be set aside and the clerk will report.

The legislative clerk read as follows:



The Senator from New Jersey [Mr. LAUTENBERG] proposes amendments numbered 2204 and 2205.

The amendments are as follows:

AMENDMENT NO. 2204

(Purpose: To express the sense of the Senate regarding the establishment of a national background check system for long-term care workers)

At the end of title III add the following:

**SEC. \_\_\_\_ SENSE OF THE SENATE REGARDING THE ESTABLISHMENT OF A NATIONAL BACKGROUND CHECK SYSTEM FOR LONG-TERM CARE WORKERS.**

(a) FINDINGS.—The Senate makes the following findings:

(1) Over 43 percent of Americans over the age of 65 are likely to spend time in a nursing home.

(2) Home health care is the fastest growing portion of the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), with an average annual growth rate of 32 percent since 1989.

(3) A 1997 report from State Long-Term Care Ombudsmen assisted under the Older Americans Act of 1965 indicated that in 29 States surveyed, 7,043 cases of abuse, gross neglect, or exploitation occurred in nursing homes and board and care facilities.

(4) A random sample survey of nursing home staff found that 10 percent of the staff admitted committing at least 1 act of physical abuse in the preceding year.

(5) Although the majority of long-term care facilities do an excellent job in caring for elderly and disabled patients, incidents of abuse and neglect do occur at an unacceptable rate and are not limited to nursing homes alone.

(6) Most long-term care facilities do not conduct both Federal and State criminal background checks on prospective employees.

(7) Most State nurse aide abuse registries are limited to nursing home aides, thereby failing to cover home health and hospice aides.

(8) Current State nurse aide abuse registries are inadequate to screen out abusive long-term care workers because no national system is in place to track abusers from State to State and facility to facility.

(9) Currently, 29 States have enacted varying forms of criminal background check requirements for prospective long-term care employees. However current Federal and State safeguards are inadequate because there is little or no information sharing between States about known abusers.

(10) Many facilities would choose to conduct background checks on prospective employees if an efficient, accurate, and cost-effective national system existed.

(11) The impending retirement of the baby boom generation will greatly increase the demand and need for quality long-term care.

(12) It is incumbent on Congress and the President to ensure that patients receiving care under the medicare and medicaid programs (42 U.S.C. 1395 et seq.; 1396 et seq.) are protected from abuse, neglect, and mistreatment.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the assumptions underlying the functional totals in this concurrent resolution on the budget assume that—

(1) funds should be directed toward the establishment of a national background check system for long-term care workers who participate in the medicare and medicaid programs (42 U.S.C. 1395 et seq.; 1396 et seq.);

(2) such a system would include both a national registry of abusive long-term care workers and a requirement for a Federal criminal background check before such

workers are employed to provide long-term care; and

(3) such a system would be created with ample input and comment from representatives of the Department of Health and Human Services, State government, law enforcement, the nursing home and home health industries, patient and consumer advocates, and advocates for long-term care workers.

AMENDMENT NO. 2205

(Purpose: To express the sense of Congress regarding the right to affordable, high-quality health care for seniors)

At the end of title III, insert the following:

**SEC. \_\_\_\_ FINDINGS AND SENSE OF CONGRESS REGARDING AFFORDABLE, HIGH-QUALITY HEALTH CARE FOR SENIORS.**

(a) FINDINGS.—Congress finds the following:

(1) Seniors deserve affordable, high quality health care.

(2) The medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) has made health care affordable for millions of seniors.

(3) Beneficiaries under the medicare program deserve to know that such program will cover the benefits that they are currently entitled to.

(4) Beneficiaries under the medicare program can pay out-of-pocket for health care services whenever they—

(A) do not want a claim for reimbursement for such services submitted to such program; or

(B) want or need to obtain health care services that such program does not cover.

(5) Beneficiaries under the medicare program can use doctors who do not receive any reimbursement under such program.

(6) Close to 75 percent of seniors have annual incomes below \$25,000, including 4 percent who have annual incomes below \$5,000, making any additional out-of-pocket costs for health care services extremely burdensome.

(7) Very few beneficiaries under the medicare program report having difficulty obtaining access to a physician who accepts reimbursement under such program.

(8) Allowing private contracting on a claim-by-claim basis under the medicare program would impose significant out-of-pocket costs on beneficiaries under such program.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the assumptions underlying the functional totals in this resolution assume that seniors have the right to affordable, high-quality health care and that they have the right to choose their doctors, and that no change should be made to the medicare program that could—

(1) impose unreasonable and unpredictable out-of-pocket costs for seniors or erode the benefits that the 38,000,000 beneficiaries under the medicare program are entitled to;

(2) compromise the efforts of the Secretary of Health and Human Services to screen inappropriate or fraudulent claims for reimbursement under such program; and

(3) allow unscrupulous providers under such program to bill twice for the same services.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GORTON. Mr. President, I ask unanimous consent that a vote occur on or in relation to the Kyl amendment at 12 noon, Wednesday, April 1, and no amendments be in order to the Kyl amendment.

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

Mr. GORTON. I announce on behalf of the majority leader there will be no further votes this evening.

**EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR ENDING SEPTEMBER 30, 1998**

The PRESIDING OFFICER. Under the order of March 26, 1998, the Senate has received H.R. 3579, the supplemental appropriations bill, recently passed by the House. All after the enacting clause of H.R. 3579 is stricken and the text of S. 1768, as amended, is inserted in lieu thereof; the House bill is considered read a third time and passed; the Senate insists on its amendment, requests a conference with the House, and the Chair appoints the following conferees.

The Presiding Officer (Mr. BROWNBACK) appointed Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. GORTON, Mr. MCCONNELL, Mr. BURNS, Mr. SHELBY, Mr. GREGG, Mr. BENNETT, Mr. CAMPBELL, Mr. CRAIG, Mr. FAIRCLOTH, Mrs. HUTCHISON, Mr. BYRD, Mr. INOUE, Mr. HOLLINGS, Mr. LEAHY, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. KOHL, Mrs. MURRAY, Mr. DORGAN, and Mrs. BOXER conferees on the part of the Senate.

Mr. GORTON. Does the Presiding Officer have any additional appointments? If not, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

**THE UNIVERSITY OF TENNESSEE LADY VOLUNTEERS**

Mr. FRIST. Mr. President, on this past Sunday night history was made, perfection was attained, and a dynasty was firmly established in women's collegiate basketball. It is with great Tennessee pride that I salute the 1998 NCAA National Championship Lady Vols of the University of Tennessee.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 203, submitted earlier today by myself and Senator THOMPSON.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 203) expressing the sense of the Senate that the University of