Senate reassembled when called to order by the Presiding Officer [Mr. GREGG].

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The pending business is amendment 1056, offered by Senator KYL of Arizona.

The Senator from Maine.

AMENDMENT NO. 1056

Ms. SNOWE. Mr. President, I rise today in opposition to the Kyl amendment to the fiscal 1998 Labor, Health and Education appropriations bill, which would devastate an already underfunded Low-Income Home Energy Assistance Program. Although I am a strong supporter of the Pell Grant Program, which provides critical assistance and access for needy students, I cannot support the Kyl amendment, knowing that it will reduce the low-income fuel assistance limited funding.

I regret the Senator from Arizona has offered this amendment to reduce the Low-Income Home Energy Assistance Program in order to provide an increase to the Pell Grant Program. I hope we can follow the House lead in this regard, by providing an increase in the Pell Grant Program but without affecting the Low-Income Home Energy Assistance Program. The bottom line is LIHEAP provides invaluable assistance to low-income and elderly households in America that must not be sacrificed. Make no mistake about it, this means-tested program is specifically targeted to those who already are in desperate need of financial assistance. To be precise, according to the Department of Health and Human Services, more than two-thirds of the households receiving Low-Income Home Energy Assistance Program assistance have annual incomes of less than $8,000 a year, and more than half have incomes below $6,000 a year.

While I believe that all programs must be asked to contribute their fair share in our efforts to balance the budget, it is worth noting that the Low-Income Home Energy Assistance Program has already taken more than its fair share of budget cuts in recent years. Overall, the funding for the Low-Income Home Energy Assistance Program has fallen consistently and dramatically since 1985. In fiscal year 1985, the program received $2.1 billion. This year, it will receive $1 billion. In real terms, this represents a cut of more than 65 percent. Yet, despite this dramatic cut, the Senator from Arizona is proposing we further reduce this critically important but limited low-income assistance funding by an additional $528 million, or 53 percent of its already paltry budget.

Furthermore, we should not be proposing a cut to a program that is already woefully underfunded and serves only a minority of its eligible recipients. Because of past spending cuts, LIHEAP now provides benefits to only 20 percent of all eligible households. This means that 80 percent of America's households meet the income qualifications to receive benefits, but there is simply not enough money to provide assistance to them all. Needless to say, this proposed $528 million reduction represents a very real risk of keeping many low-income families from being able to heat their homes in the winters ahead, even as it eviscerates a program that has already contributed more than its fair share to deficit reduction.

It is also worth noting that even for those families that do receive Low-Income Home Energy Assistance Program benefits, it is not a very high sum. In my home State of Maine, the average benefit last year was $308. In the midst of a severely cold winter, that $308 was the only way that 33,000 low-income and elderly Mainers were able to heat their homes. So, although a $528 million reduction may seem small in the overall budget of the U.S. Government, and $308 may not sound like much to many people, it means a great deal to the residents of my State who do not want to be forced this winter into the position of choosing between heat and food.

The Low-Income Home Energy Assistance Program has already taken more than its fair share of reductions since its inception back in 1981, and simply cannot afford any further reductions in this very critical program. Any additional cut in this already underfunded program represents a very serious risk to low-income and elderly households in my State of Maine and all the cold weather regions of this country that rely on this very important, essential program.

Therefore, I urge my colleagues to join me in opposing the Kyl amendment and adopting the approach that has been taken by the House that provides for increased support for the Pell Grant Program but without reducing LIHEAP that is so critical to many people in my State and so many other States who are located in cold weather areas of our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I would like to begin by thanking Senator SPECTER and the members of the Labor, Education, HHS appropriations subcommittee for bringing this bill to the floor.

This bill contains a much needed funding increase for the National Institutes of Health. Earlier this year I joined with 97 of my colleagues in this Senate body in voting for a sense-of-the-Senate amendment calling for a doubling of NIH funding over the next 5 years. The bill that we have in front of us today represents a substantial step forward. It increases funding for NIH from $12.7 to $13.69 billion. This funding, simply, Mr. President, will save lives.

There are two measures in this bill that I would like to call to the attention of my colleagues, and that I believe deserve special mention. Earlier this year I introduced, along with Senator KENNEDY and Senator BOND, a bill which would establish a pediatric research initiative within the Office of the Director of NIH. Senator KENNEDY and I and Senator BOND, along with many sponsors of that bill, have worked hard to develop a proposal that we feel helps place appropriate emphasis on pediatric research while at the same time supporting the scientific judgment so important to the success of NIH.

The value of this initiative really is without question. Research breakthroughs to treat pediatric illnesses have been enormously effective both in reducing costs and, more important, in freeing young children from a lifetime of illness and disability. From vaccines to treat polio to surfactant replacement to prevent respiratory distress syndrome, research has saved hundreds of millions of dollars and improved the lives of millions of children.

Recently, the Public Health and Safety Subcommittee of the Labor and Human Resources Committee held a hearing on NIH reauthorization. During the hearing, a distinguished panel of pediatric researchers from NIH and also from the private sector described some of the enormous opportunities that now exist for scientific progress in combating and in preventing diseases affecting children. Their testimony dramatically underscored the critical need for additional emphasis and increased support for pediatric research.

Last year, the Labor, Education, and HHS appropriations subcommittee, chaired by Senator SPECTER, allocated $5 million as an initial downpayment toward the pediatric research initiative. This year the appropriations subcommittee has allocated $20 million toward this initiative. I personally thank Chairman SPECTER and the members of his subcommittee for their continued commitment to pediatric research. By recognizing the critical need to encourage and promote pediatric research, the committee has really helped ensure the next generation of Americans grows up to be healthy, productive members of our society.

Mr. President, the second provision I would like to talk about in this bill is the funding for substance abuse and mental health services. Without the provision contained in this bill, some States would have faced massive cuts in the funding for their programs to help people with substance abuse and/or mental health problems. My own State of Ohio would have faced a devastating funding cut of more than 20 percent, our neighboring State to the north, Michigan, would have received a cut of 19 percent, and other States would have also been seriously hurt. Among the important programs threatened by these cuts would have been the

agencies promoting early intervention with young people to help them find alternatives to getting involved with drugs and crime. I have long believed that the problem of at-risk youth in this country is one for which an ounce of prevention truly is worth a pound of cure. The sooner we can reach these young people, the better off we will be in our efforts to help them avoid the tragedy of lifetime addiction.

The SAMHSA provision contained in this bill averts the awful consequences of the proposed funding cuts. It is a good measure and deserves strong support of the entire U.S. Senate.

I yield the floor.

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

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

Mr. SPECTER. Mr. President, starting yesterday morning at 11 o'clock, in conjunction with scheduling from the majority leader, Senator LOTT, and the ranking member on this subcommittee, Senator HARKIN, we asked that amendments be brought with the hope of concluding action on this bill today, and that all amendments be submitted, first, by the end of business yesterday or no later than noon today. We have not had a great deal of business.

The one exception would be an amendment which would deal with prohibiting Federal funding for testing, which the administration has in mind. Congressman GOODLING had announced his intention to seek that kind of prohibition in the House.

There had been comments yesterday that someone would offer that kind of legislation on the Senate side. The distinguished presiding officer, Senator JUDD GREGG, said, with a pointed finger, it was he. I don't want to name names here, but I am prepared to identify those who are willing to be identified.

I received a telephone call from the Secretary of Education, Richard Riley, yesterday afternoon, as did Senator HARKIN and others. It seems to me that might be one matter we might put over until tomorrow and schedule the hearing at 9 o'clock to find the specifics as to whether that ought to be done. There is a sense that testing, in general, would be a good idea, but maybe it ought not to be done by the Federal Government. There is a great deal of concern about having the Federal Government move into the field of education. So we are going to move ahead at that time.

Mr. President, I intend to offer an amendment later this afternoon calling for a sense of the Senate for the appointment of independent counsel. Although that is obviously not germane to an appropriations bill on Labor, Health, Human Services and Education, it is a practice in the Senate, with some repetition, to offer extraneous amendments, certainly sense-of-the-Senate resolutions.

I had stated my intention to deal with this issue last July 24 and spoke extensively on the Senate floor on the appropriations bill pending at that time about my concern that independent counsel ought to be appointed based on the state of the record. Then when it was apparent that would tie up that bill, and the majority leader and the minority leader both wanted to move ahead, I said on July 25 that I would not pursue this sense-of-the-Senate resolution at that time and waited an additional month.

I do believe that we urgently need appointment of independent counsel at the present time. I base that judgment on a series of letters which have been written by a variety of Members of Congress to the Attorney General, and she has declined to do so—a formal letter written by the majority members of the Judiciary Committee calling on the Attorney General to appoint independent counsel, and she has declined to do so.

Then we had extensive hearings last April 30 on the Judiciary Committee where I questioned Attorney General Reno about the withholding of information from the President on national security matters, which appear to me to be a highly questionable thing to do, and that the President was publicly quoted saying that those national security matters had been withheld from him and he thought he should have been given access to those matters.

In our constitutional Government it is my judgment that the rule is plain, that those are matters for the President as long as he is the President. There are ways to alter his status as President, but as long as he is the President, it is not up to an appointed Attorney General to make the decision that the President does not get national security information because, as the Attorney General testified, he was a potential suspect in a pending investigation. The damage about such a disclosure to a potential subject, in my view, is far, far less dangerous than having national security information withheld from the President of the United States.

But it did seem to me that in that context that if the matter was serious enough to withhold information from the President, that certainly the independent counsel statute ought to be triggered. That is the statute which provides for an independent lawyer to come in and handle the case where it involves certain levels of Federal Government enumerated officials such as the President and the Vice President and Cabinet officers, especially in the context where Attorney General Reno testified in her confirmation hearings about her view of the importance of independent counsel.

There is also the question about the advertisements. According to Chief of Staff Leon Panetta, and also Dick Morris, the President's political adviser, advertisements had been edited, drafted, essentially written by the President himself. There would be no question that there would be coordination in violation of the Federal statute prohibiting coordination if those in fact were advocacy commercials. We went through the commercials with the Attorney General. This was done on both sides. But the ones that were edited by the President extolled the President's virtues and decried his opponent's alleged failings, but fell short of saying vote for x or vote against y. By any reasonable standard, those were advocacy commercials, but they were viewed as being instead issue commercials and did not constitute a violation of the statute which prohibits coordination.

Well, that plus a great many other factors, I think, have set the stage for the need for independent counsel. We have had disclosures in this morning's Washington Post about funds being raised by the Vice President which were hard money and not soft money. The Attorney General had previously said that if it is soft money it is not a contribution under the Federal election laws, a judgment or interpretation which is inexplicable, in my opinion. It is a contribution nonetheless.

Hundreds of millions of dollars were put into the campaigns on both sides, Democrats and Republicans. But now there has been the forceful allegation made, information that a good bit of the money raised by the Vice President was hard money, and that would take away the last vestige as to what Attorney General Reno had said justified her refusal to appoint independent counsel.

So it is my intention, Mr. President, to call for a vote on this amendment that I send to the desk at this time so that it may be filed and reviewed by my colleagues on both sides of the aisle. Later this afternoon I do intend to offer it, and in fact had thought I would offer it when I sought recognition. But I see my colleague, Senator DORGAN, has come to the floor. I understand he intends to offer an amendment of his own. So I will defer offering this amendment at this time, but I will speak about it to this extent, to put my colleagues on notice that this issue will be on the floor at the conclusion of the Dorgan amendment.

I thank the Chair and yield the floor so my colleague, Senator DORGAN, may proceed.

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

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

AMENDMENT NO. 1068

(Purpose: To increase the funding for heart and stroke research by the National Heart, Lung, and Blood Institute of the National Institutes of Health, with an offset relating to funding for the buildings and facilities of the National Institutes of Health)

Mr. DORGAN. Madam President, I rise to offer an amendment.

I send the amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment will be laid aside. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], proposes an amendment numbered 1068.

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

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

The amendment is as follows:

On page 30, line 21, strike ''$1,531,898,000.'' and insert ''$1,539,898,000''.

On page 35, line 22, strike ''$211,500,000'' and insert ''$203,500,000''.

PRIVILEGE OF THE FLOOR

Mr. DORGAN. Madam President, I ask unanimous consent that floor privileges be granted to Jeff Hoffman of my staff.

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

Mr. DORGAN. Madam President, I appreciate the Senator from Pennsylvania allowing me to offer this amendment at this time. I appreciate the cooperation of the Senator from Pennsylvania and the Senator from Iowa for their work on this legislation. I am going to talk just a bit about my amendment. Before I do, however, let me commend both Senator SPECTER and Senator HARKIN for the work they have done on this piece of legislation.

My amendment specifically deals with funding for the National Institutes of Health National Heart, Lung, and Blood Institute and specifically an interest I have in trying to provide additional resources for NHLBI to be used to provide funding vitally needed for cardiovascular disease research.

I am proposing $8 million be added to the Heart, Lung, and Blood Institute that I hope would be used for that purpose. The offset is from a corresponding reduction in the NIH buildings and facilities account. I believe that both the chairman and the ranking member, at the conclusion of my comments, will accept this amendment and for that I am grateful.

It is undoubtedly true, as people watch the proceedings of the U.S. Senate, that many of us come to the floor of the Senate to talk about legislation that we think is necessary based on our personal experiences and observations. That has certainly been true with respect to a couple of issues I have worked on, including cardiovascular disease research.

Madam President, I have a very personal interest in this, as others do. I have lost a daughter to heart disease. I have another daughter who has a heart defect that we hope, God willing, will not need surgery in the future. But I have spent enough time in cardiologists' offices and I have spent enough time talking about cardiovascular disease to understand that we must continue to substantially increase funding for research on cardiovascular disease.

I have been involved, along with Senator FRIST, as a Senate cochair of the Congressional Heart and Stroke Coalition to try to provide additional attention to the issue of heart disease and stroke and the need for greater research into these diseases.

Many Americans are unaware of the extent and scope of heart disease and stroke, even though virtually all of us has a friend or loved one who has been affected by cardiovascular disease, so I would like to share some startling facts.

Heart disease has been this country's No. 1 killer since 1919 for both men and women.

Stroke continues to be the No. 3 killer in this country and the leading cause of disability in America.

One in five Americans, more than 57 million people, suffer from one or more types of cardiovascular disease, including close to 14 million living with symptomatic coronary heart disease.

One in two women will eventually die of heart disease or stroke.

About one-sixth of cardiovascular disease deaths are among people under the age of 65.

In 1979 there were 1.2 million cardiovascular operations and procedures performed in this country. That number climbed to 4.65 million in 1994, close to a fourfold increase.

The number of Americans suffering from congestive heart failure has grown to about 5 million, with hospital discharges rising from 377,000 in 1979 to 874,000 in 1994.

More Americans die from heart attack and stroke each year than from AIDS, cancer, and diabetes combined. Let me repeat that because I think it is important. More Americans die from heart attack and stroke each year than from AIDS, cancer, and diabetes combined.

I do not come to the floor of the Senate to in any way suggest that we ought to enhance research funding on one disease at the expense of critically needed research funding for others. I have supported substantial research for AIDS, supported efforts to improve research and treatment of diabetes and cancer. In fact, I have supported a substantial increase in funding for the National Institutes of Health and I voted earlier this year to double funding for the National Institutes of Health over the next five years. I think this would be a wonderful investment for our country.

I have become increasingly concerned, however, with what has been happening with respect to the amount of money spent on heart disease research. Even with the significant increases that Congress has been giving the National Institutes of Health over the past decade, funding for heart disease research specifically has simply not kept pace. In fact, heart disease research at the National Heart, Lung, and Blood Institute has decreased by 4.8 percent in constant dollars over the last decade, while the NIH overall budget has increased by 31 percent in constant dollars.

A step toward rectifying this concern was taken this year. For that I commend Senator SPECTER and Senator HARKIN. They have provided in this bill a $99.4 million increase for the National Heart, Lung, and Blood Institute, the third largest dollar increase among the NIH institutes. But even with this increase, if we look beyond the surface, we can see that, without my amendment, the funding for cardiovascular disease research would continue to decrease relative to the overall budget.

The $8 million that my amendment would add would bring the National Heart, Lung, and Blood Institute budget up to the same 7.5-percent level of increase as the overall budget at the National Institutes of Health. It is my hope that this funding would be devoted to cardiovascular disease research.

It is interesting to visit the Bethesda campus of the National Institutes of Health. I encourage my colleagues to do so. There are wonderful men and women working there doing remarkable, breathtaking research on a wide range of issues. I have talked to physicians doing research in the area of cardiovascular disease and what they are doing is remarkable. It has already saved lives and can save even more lives with additional resources.

We now routinely see people with advanced heart disease with symptoms that in previous decades would have caused death. Today, these patients are able to undergo procedures and operations that allow them to continue to lead productive, active lives. These advances are the wonderful result of an investment in research. We can do much, much more.

I said I don't want to decrease research funding for other diseases. In fact, I would like to substantially increase the amount of funding for the NIH generally, far above its current level, because I think the rewards for the people in our country and around the world would be substantial.

It should be noted, however, that heart disease and stroke receive one-twentieth of the research funding per death of AIDS, cancer, and diabetes combined. Now if you divide the amount spent on research into the number of people who are dying from various diseases, it is clear that the amount of research funding invested in cardiovascular disease is not keeping pace. That is why I offer this amendment.

This amendment has the strong support of the American Heart Association, the Association of Black Cardiologists, Mended Hearts, Inc., and the

National Coalition for Heart and Stroke Research. I ask unanimous consent that letters from these organizations in support of my amendment be printed in the RECORD.

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

AMERICAN HEART ASSOCIATION,
Washington, DC, August 29, 1997.

Hon. BYRON DORGAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR DORGAN: On behalf of the 57.5 million Americans suffering from heart attack, stroke and other cardiovascular diseases, the American Heart Association strongly supports your amendment to the Labor-HHS-Education Appropriation bill. The AHA commends your leadership and initiative in offering an amendment to increase the funding pool for the National Heart, Lung, and Blood Institute (NHLBI) by $8 million, targeted specifically for additional heart and stroke-related research. Cardiovascular diseases, America's No. 1 killer and a leading cause of disability, suffer from disproportionately low research funding.

As various indicators show, there has been a dramatic increase in the prevalence of heart disease and stroke, with an unparalleled cost to our society that threatens our future. More than 1 in 5 Americans of all ages suffer from heart attack, stroke and other cardiovascular diseases. These diseases consume about 1 of 6 health care dollars, with a price tag of an estimated $259 billion in medical expenses and lost productivity in 1997. Heart diseases and stroke represent 4 of the top 5 hospital costs to the health care system for all payers, excluding childbirth and its complications, and 4 of the top 5 Medicare hospital costs.

In constant dollars from FY 1986 to FY 1996 funding for the NHLBI extramural Heart Program decreased 5.5 percent. In a recent nationwide survey 79 percent and 77 percent of respondents support more federal funding for heart and stroke research, respectively.

Our government's response to the heart disease and stroke problem today will help define the health and well being of Americans in the next century. Now is the time to capitalize on progress in understanding cardiovascular diseases when breakthroughs are on the horizon. Promising research opportunities will result in better treatment, prevention and even cures for heart attack, stroke and other cardiovascular diseases. A significant increase in research funding will reduce premature death, improve quality of life, cut health care costs and enhance America's scientific competitiveness.

Thank you for your consistent leadership in the battle against heart attack, stroke and other cardiovascular diseases.

Sincerely,
MARTHA HILL, Ph.D., R.N.,
President.

ASSOCIATION OF BLACK CARDIOLOGISTS, INC.,
Atlanta, GA, September 2, 1997.

Hon. BYRON DORGAN,
U.S. Senate,
Washington, DC

DEAR SENATOR DORGAN: The Association of Black Cardiologists (ABC), is pleased that you have offered amendment S. 1061, the FY 1998 Labor-HHS-Education Appropriations bill to increase resources for the National Heart, Lung, and Blood Institute (NHLB) by $8 million, targeted specifically for additional heart and stroke-related research. The Association of Black Cardiologists (ABC), enthusiastically supports your amendment. Our 600 plus members vigorously support this amendment, and believe it is vital to the health of our constituents.

Despite progress, heart attack, stroke and other cardiovascular diseases remain the leading cause of death in the United States and a main cause of disability. Over 57 million Americans . . . more than 1 in 5, are afflicted by one or more cardiovascular diseases. It is even severe contact more in African Americans. Heart attack, stroke and other cardiovascular diseases will cost this nation an estimated $259 billion in medical expenses and loss of work place productivity in 1997.

An increase in research funding for NHLB heart and stroke-related research is critical to reduce premature death, improve quality of life, cut health care costs and enhance America's economic competitiveness. An overwhelming number of respondents in a recent nationwide survey supports more federal funding of heart and stroke research, 79% and 77% respectively. However, in FY 1986 constant dollars, funding for the NHLBI Heart Program decreased 5.5% from FY 1986 to FY 1996.

Promising scientific opportunities in the battle against cardiovascular diseases could be realized with more resources for research. This is the time to capitalize on the progress in understanding cardiovascular diseases.

The Association of Black Cardiologists applauds your leadership in the fight against these killer diseases and commends your initiative in offering this amendment.

Sincerely,
B. WAINE KONG, Ph.D., M.D.,
Chief Operating Officer.

THE MENDED HEARTS, INC.,
Dallas, TX, September 2, 1997.

Hon. BYRON DORGAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR DORGAN: Mended Hearts is a national voluntary organization of people who have heart disease, their spouses, family members, caregivers and medical professionals. Mended Hearts actively supports your floor amendment to the FY 1998 Labor, Health and Human Services, Education and Related Agencies Appropriation bill that increases the funding pool for the National Heart, Lung, and Blood Institute (NHLBI) by $8 million, targeted specifically for additional heart and stroke-related research.

About 20 million Americans of all ages live with the ramifications of heart disease. Of this group, nearly 13.7 million, including about 7 million under age 60, live with the effects of heart attack and about 5 million suffer from congestive heart failure, the leading cause of hospitalization for Americans age 65 and older. Heart defects are the most common birth defect, the major cause of birth defects-related infant deaths and a considerable cause of childhood disability.

The prevalence of heart disease is rising rapidly, with a tremendous economic toll on the economy of the United States. For example, in 1994 there were 4.7 million cardiovascular operations and procedures, compared to 1.2 million in 1979—a fourfold increase.

It is estimated that heart attack, stroke and other cardiovascular diseases will cost this nation $259 billion in medical expenses and lost output in 1997. Despite the seriousness and overwhelming costs of these diseases, in constant dollars from FY 1986 to FY 1996 funding for the NHLBI Heart Program decreased 5.5 percent.

On behalf of the 24,000 members of Mended Hearts in 220 chapters nationwide, I commend your championship and leadership in the battle against heart disease. Your amendment will have a far reaching impact on the main cause of death in the United States—heart disease. Promising research opportunities for innovative cost-effective approaches to the diagnosis, treatment and prevention of heart disease can be developed with these needed resources.

Thank you for your efforts.

Sincerely,
CHARLES CHRISTMAS,
National President.

NATIONAL COALITION FOR HEART AND STROKE RESEARCH,
Washington, DC, September 2, 1997.

Hon. BYRON DORGAN,
U.S. Senate,
Washington, DC

DEAR SENATOR DORGAN: The National Coalition for Heart and Stroke Research, enthusiastically supports your amendment to S. 1061, the FY 1998 Labor-HHS-Education Appropriation bill to increase resources for the National Heart, Lung, and Blood Institute (NHLBI) by $8 million, targeted specifically for additional heart and stroke-related research. Your amendment is critical to the health of all Americans.

About 57 million Americans—more than 1 in 5—are afflicted by one or more cardiovascular diseases. Heart attack, stroke and other cardiovascular diseases will cost this nation an estimated $259 billion in medical expenses and lost productivity in 197. These diseases place a heavy burden on America's health care system, absorbing about 1 of 6 health care dollars. Excluding childbirth and its complications, heart diseases and stroke make up 4 of the top 5 hospital costs for all players, and 4 of the top 5 Medicare hospital costs.

Despite progress, heart attack, stroke and other cardiovascular diseases remain the leading cause of death in the United States and a main cause of disability.

An increase in research funding for NHLBI heart and stroke-related-research is critical to reduce premature death, improve quality of life, cut health care costs and enhance America's economic competitiveness. Many Americans agree! An overwhelming number of respondents in a recent nationwide survey support more federal funding for heart and stroke research, 79 percent and 77 percent, respectively. However, in FY 1986 constant dollars, funding for the NHLBI extramural Heart Program decreased 5.5 percent from FY 1986 to FY 1996.

Promising scientific opportunities in the battle against cardiovascular diseases could be realized with more resources for research. This is the time to capitalize on progress in understanding cardiovascular diseases.

The National Coalition for Heart and Stroke Research applauds your leadership in the fight against these killer diseases and commends your initiative in offering this amendment.

Sincerely,
RENEE SMITH, *Representative.*

Mr. DORGAN. Madam President, it is my hope that in some small way, with this small step, a researcher will now unlock one more mystery of how the human heart works.

I mentioned the wonderful discoveries that are made through research and the wonderful treatments that are provided in our hospitals in the area of cardiology, and yet there is so much we still do not know. Those of us who have waited through heart surgery with members of our family know that when you talk to the cardiovascular surgeons they will tell you that there are times when they simply don't know what has caused this or that condition.

It seems to me more and more research can unlock those mysteries and give us the opportunity to save more and more lives in this country that otherwise would be lost to this insidious enemy called heart disease.

With that, I thank very much the chairman and the ranking member and ask that my amendment be favorably considered. I yield the floor.

Mr. SPECTER. Madam President, I thank my distinguished colleague from North Dakota for offering this amendment. I agree with him about the importance of additional funding for pulmonary research, for heart research. It is a major killer in the United States. We ought to be doing everything we can to investigate, find cures and implement them.

The amendment which has been offered carries an offset on administration and it has been modified from what the Senator from North Dakota had originally suggested, which would have been earmarking, which poses problems, because we do not earmark but instead leave that designation to the National Institutes of Health so we do not have excessive management or micromanagement by the Congress as to what the NIH funds must have. I think Senator DORGAN made a forceful statement that those funds ought to be directed in that way, and the officials at NIH will have that before them. I am confident they will make every effort they can to carry out the intent with which my colleague has expressed here.

We have vast sums of money at NIH. We are increasing it. It is $952 million now, and is up to $13.7 billion. Notwithstanding all that funding, there are many applications which are not granted. This one expresses what the Senator from North Dakota thinks ought to be done.

I am advised Senator HARKIN is off the floor now attending a committee meeting and necessarily absent, but I am advised by his staff that Senator HARKIN finds this amendment acceptable, as do I, as manager for the majority. We accept the amendment.

I urge its adoption.

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

The amendment (No. 1068) was agreed to.

Mr. SPECTER. I move to reconsider the vote.

Mr. GREGG. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1070

Mr. GREGG. I ask unanimous consent the pending amendment be set aside, and I send an amendment to the desk.

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

The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 1070.

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

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

The amendment is as follows:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . (a) PROHIBITION OF FUNDS FOR NATIONAL TESTING IN READING AND MATHEMATICS.—None of the funds made available in this Act may be used to develop, plan, implement, or administer any national testing program in reading or mathematics.

(b) EXCEPTIONS.—Subsection (a) shall not apply to the following:

(1) The National Assessment of Educational Progress carried out under sections 411 through 413 of the Improving America's Schools Act of 1994 (20 U.S.C. 9010–9012).

(2) The Third International Math and Science Study (TIMSS).

Mr. GREGG. Madam President, as the excellent chairman of the labor subcommittee of the Appropriations Committee mentioned earlier, there is a pending issue which is of considerable significance which has arisen in the last few weeks as a result of the question of how we are going to pursue national testing. The chairman of the committee has mentioned he would hope this issue, from the standpoint of an amendment to the bill, would be taken up for final vote tomorrow sometime. I am certainly agreeable to that.

However, it had been my intention, along with Senator COATS, to offer an amendment today on this issue, and in talking it over with the chairman he suggested we offer the amendment and then hold the vote until tomorrow. That certainly is an approach which I am perfectly happy to follow.

This amendment, which is basically directed at codifying what we understand now to be the President's position—and we say ''now'' because the President's position on national testing appears to have undergone a transformation at some fairly high level of significance. It reflects that decision by the President to no longer push national testing as something that should be controlled and directed by the Department of Education but rather to have national testing to the extent it be developed by independent agencies. Using the term ''independent,'' I mean agencies which are independent of the Federal Government and which are not under the Federal Government or even under the Federal Government's control through the use of the appropriations process.

Why is this important? There are a large number of us involved in the issue of reforming education who feel very strongly that national testing makes sense, but to have it controlled by, designed by or in any way managed by the Department of Education here in Washington does not make sense. That would be a fundamental flaw.

We are encouraged, and we think it is appropriate that the President appears to have come to this conclusion himself over the weekend. Although his initial reaction was to have the Department of Education run this type of a national testing program, his decision now is to move it to the private sector and allow the private sector and the private nonprofits to develop the proper testing standards.

Why is this important? Because the issue of national testing is important at a variety of different levels. In a positive way it is important because it will give communities an opportunity to compare how their students are doing with other students, to compare how their schools are doing with other schools, compare how their educators are doing with other educators across the country. That is very significant.

It is not unique, national testing. We have in this country one of the most expansive national testing programs probably anywhere in the world called the SAT test. It comes at the end of the school system, the end of the educational experience, at least as far as elementary and secondary schools are concerned, and juniors and seniors and sometimes sophomores, students in their high school years, will take tests. They have the SAT, the SAT 2, they have achievements, they have advanced placement tests, a whole series of tests which they take, quite a battery of tests. Anybody who has a child going through the SAT experience understands its intensity and recognizes this is one heck of a testing system which we have which is nationally driven which is, in fact, nationally directed, which is, in fact, nationally developed, and which is, in fact, a heck of a good system. I think the reason it worked so well is it has been energized and directed by the private sector of our country, not by the Federal Government.

The downside of national testing is that if it is done by the Federal Government, at the direction of the Federal Government, under the control of the Federal Government or funded by the Federal Government, you are stepping, in my opinion, and I think in the opinion of many of us who view education as a critical asset of the community, of the State, of people at the lowest level of government who have the right to control how their children's lives are determined in their school systems rather than having it be controlled from Washington, those of us who view that education should be directed locally and not nationally, you are stepping on the slippery slope of once again the issue of national control over curriculum, national control over contents, national control over teachers' standards in the educational system because a federally designed, federally paid for, federally controlled national educational testing system would be, in my opinion and I think the opinion of many people who view this issue and who have looked at it for a while as I have, as being one of the first steps toward a nationally directed curriculum, a nationally directed content in education, and a nationally directed standard for our teachers.

That is something that I would most vehemently object to and have objected to, and in fact when we went through Goals 2000, raising the issue of national curriculum was the core question. We amended that law dramatically from its initial structure so that it would not end up as a national curriculum exercise.

Now that we have pushed forward onto the playing field a national testing system, at something other than the end of your high school years, a national testing system which will probably be targeted on the third grade or the eighth grade or maybe both grades, to determine competency, especially in objective types of discipline such as mathematics and science, such a national testing system has to be entered into with some caution to be sure that we do not end up going down the wrong path, that we use it for the purposes for which it should be used, which is to give our local communities the capacity to evaluate how their local school systems are doing in educating their children—not use it with the capacity of taking away from our local communities the capacity to control their local school systems by taking away control over curriculum or taking away control over content.

So this amendment is basically directed at saying it is not appropriate for the Department of Education to be an aggressive participant, a funded participant in the designing of a national testing system. Rather, that should be left to the private or quasiprivate or nonprofit sector which presently does such a good job in areas such as SAT's.

The view, which was not the original view of the President and now is the view of the President, is something which we congratulate him on changing his position on and coming to a conclusion that is of that position and which we want to support by passing this amendment.

Senator COATS and I have put this amendment together. It tracks what was passed in the House, or what is being proposed in the House—I am not sure it has been passed yet—by Representative GOODLING from Pennsylvania, chairman of the authorizing committee which deals with education in the House.

I appreciate the courtesy of the chairman of the committee in allowing us to go forward with it and in his support in going forward with it. We are certainly sensitive to his desire to have the vote tomorrow if there is to be a formal vote, if it is not adopted by agreement, which I hope would be because it does reflect, we believe, the administration position.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I expect we will have a rather spirited debate about this amendment, and we should have. I think this is an interesting, timely, and important subject for the Senate at this point. My understanding is that there will be lengthy debate and a hearing in the Senate tomorrow morning, followed by a vote tomorrow on this subject.

This debate is not about developing some sort of enforced Federal standard. Rather, this is a very important question about this country's educational system and whether parents, no matter where they live, have an opportunity and the ability to measure how well their children are doing at two levels. Can they read at the fourth-grade level, and how do they read relative to other kids in this country, and can they achieve basic proficiency in mathematics at the eighth-grade level?

We have some significant choices to make in this country on the subject of education. No one that I know of suggests that we wrest the control of educating our kids in the elementary and secondary schools from the local school boards. No one. That is where we make decisions about how to educate our kids. But we do as a country have an obligation, I think, to begin asking the question: Should we not have some basic standard of measurement to find out what our children are achieving in our schools to be able to measure community to community, school to school, State to State? How are they doing? Are they able to read at the fourth grade level? Are they proficient in mathematics at the eighth grade level?

I want to read a couple of comments as we begin.

Jim Barksdale, the CEO and president of Netscape Communications, one of the new communications companies in our country, and L. John Doerr, a partner in the firm of Kleiner, Perkins, Caulfield & Byers, on behalf of 240 technology industry leaders in a bipartisan call for high national education standards in reading and math, say this:

> Every State should adopt high national standards, and by 1999, every State should test every fourth grader in reading and eighth grader in math to make sure these standards are met. President Clinton's national testing initiative offers a new opportunity to use widely accepted national benchmarks in reading and math against which States, school districts, and parents can judge student performance.

This national testing initiative is not about suggesting a national or Federal system by which anyone from up here can control someone down there.

The Senator from New Hampshire, I think, began by saying he was not opposed to developing some kind of national testing program. I think from that statement we ought to be able to find a way to develop a program of achievement standards. I am not wedded to the notion that it be here or there or with this money or that money. I am wedded to the notion that this country deserves to know what it is getting for the money it is spending for elementary and secondary education.

We spend a substantial amount of money sending our children to school. A substantial amount of money is spent sending our children into the classrooms of our country. The question is, what are we getting for that? What are we achieving? What kind of accomplishments exist at the fourth grade level? Are our fourth graders able to read? In which schools? In which States? And if not, why not? Before one can embark on a plan to improve education, you must first know where you are. And we don't have a basic approach by which we can measure achievement.

You get to 17 or 18 years of age, and guess what? You want to go to college. You are going to show up someplace, and you are going to have to take a test. That test is going to measure what you have achieved, what you know, what you have studied, and what you have retained from that. So when you get to be 17 or 18 and begin to take the college entrance tests, then at that point somebody is going to measure what you have been given, what you have learned, and what you are prepared to do. But by that point, we have spent a substantial amount of money.

Why don't we decide, as the U.S. Chamber of Commerce and literally hundreds of other business leaders in this country have, that we ought to get more for our education system by measuring whether our students, student to student and school to school and State to State, are reaching certain levels of achievement?

I am a parent. I have two little children sitting this afternoon in a public school classroom. They are the most wonderful kids in the world. I assume that every father would say that about their children. I want those children to have the best possible education that our school system can give them. But I, as one parent, believe that it is important for us to measure as we go along what our children have learned from that school system.

Things have changed. This is not 40 years ago when we as a country could tie one hand behind our back and beat anybody else in the world at almost anything, and do it easily. We now face shrewd, tough international competition in every direction that we look. We now face competition, yes, in the job market, yes, in our economies, in our schools, and we face competition with countries who send their kids to school 240 days a year. We send our kids to school 180 days a year.

You have seen and I have seen some of the comparisons of students in the United States with students from Japan, students from Korea, students from Jordan, and students from around the world.

What the business leaders in this country, the U.S. Chamber of Commerce, technology industry leaders, and others, including education leaders, are saying, is let us find a way by which we establish a measurement of achievement, by which we aspire to a goal that says that by the fourth grade children ought to be able to read competently, and let's measure to make

sure that our school system makes that happen so that by the eighth grade they have certain proficiency in math. That is what this is about.

From the discussion I just heard—I expect there will be a lot of it today—the issue is, should there be a Federal mandate by a Federal agency that federally enforces some Federal test? No, of course not. No one has proposed that. I would not support that.

If you say, however, that with the money we spend for education, we ought to measure the output as taxpayers, and as parents we ought to find out what are we getting, if you say that ought to be the goal—it is my goal, I expect it is probably your goal—then let's find a way to do that. Parents have a right to know whether their kids have mastered the basics in education, no matter what State they live in, no matter what city or school district they live in.

Those in this country who are concerned about our education system know that we must make some improvements. How do we make improvements? You create a blueprint, a plan, or a design for how you fix what is wrong. But before you can do that, you must assess what you have. What are the achievement levels? What are you getting for what you are now spending? That is what this is about.

I think that the debate—I guess I shouldn't prejudge; I will listen to it—will not be so much about whether it is useful for parents to learn how their kids or how their schools stack up against other kids or other schools in other cities or in other States. I think the debate will not be about that because I would expect most parents and taxpayers would want that kind of information.

Incidentally, this effort to develop tests to measure achievement is all voluntary. There is nothing here that is mandatory. Any school can opt out. Any student can opt out. Any State can opt out.

If there is heartburn over the question of who develops these benchmarks, let us find agreement on some independent entity that would establish appropriate goals for ourselves and for our children.

Occasionally, I—as I am sure everybody in the Senate does—get on a radio call-in show. Inevitably, someone will call in and say, ''This is some one-world international conspiracy. This is the Federal Government wanting to run the local school system.'' You have heard all of the debate about all of these issues. In fact, going back, that became the argument that was used to say, ''Let's get rid of the Department of Education at the Federal level.'' We do not hear much about that anymore. I don't expect we will see an amendment about that, although there may be Members in the Chamber who believe that we should offer that amendment and have that debate.

Does education reach a level of national importance sufficiently so that we have a Department of Education? I think so. Most of the American people think so. But we have had in the not-too-distant past those who say, ''Let's abolish the Department of Education. What on Earth should we be doing thinking nationally about education?'' Well, the American people know what we should be doing nationally about education. It is not running the school systems—not at all. What we should be doing nationally is worrying about whether we as a country are able to measure achievement—basic achievement in a range of areas, especially reading and mathematics, sufficient so that our students are prepared to be everything they can possibly be. Achievement that allows them to contribute not only to themselves but to this country, and to help us compete internationally. That is what all of this is about.

We are faced with tougher and tougher tests as a country. We are faced with a changing world economy and global markets. Companies these days are not national companies. They are international conglomerates. They want to produce where it is cheaper to produce. They want to go wherever they can find the skilled labor at the least cost, and so on. So it is tougher competitively for us than it was before. That is why our education system is so much more important now than it was. That is why it is so important that the education system work well. It is important that we as parents have information with which to measure what we are getting from this education system.

So let me, so that no one misinterprets what I have just said, say it again. I think parents and taxpayers have every reason to believe that we ought to be able to measure what we are getting from our education system student to student, school to school, school district to school district, or State to State. We ought to be able to measure that. The first standard ought not be when you reach 18 decide to take a test to go to college. But the development of achievement standards ought not be confused with some of the discussion about a Federal agency developing a federally enforced standard that they will use to mandate Federal policy for local education. That is totally hogwash. That is not what this effort is about.

I will be interested in listening to the later debate because my hope is that through this discussion perhaps we can find common ground to say, Yes, let's aspire to some achievement levels that we can measure across this country in order to better prepare our children for the future. If you measure achievement levels, you know how your children are doing relevant to other children; you know how your schools are doing; you know how your teachers are doing. If we aspire to do that and have the tools that give parents the ability to better manage the school, to better help their children, then we will be better off as a country. If that is a goal—and I hope it is—then we should be able to find a way to cooperate in reaching that goal through the development of some kind of entity that does not impose the specter of Federal control over local schools, because that is not the desire at all.

The proposal originally by the President was a proposal for a voluntary system in which any State, any school, or any student can opt out. But even if that causes heartburn because it has the specter of a Federal entity creating the tests, then let us find a method by which we create that same kind of measurement and give parents the same kind of opportunity without inciting the fear that some would ascribe to it as representing a Federal initiative. We can do that. I think we can do that. But we cannot do that if we stand up and mischaracterize the initiative in the first place. This is not about Federal control and a federally enforced test and Federal usurpation of local prerogatives with respect to education.

Having given that initial discussion, I will anxiously listen to the debate by two of the Members for whom I have the greatest respect. I think both are bright and interesting people who have contributed a great deal to this Senate, and while we might disagree on this, the purpose of my standing up is that my hope is perhaps we can find an area of agreement. Both of my colleagues are parents. I think they probably want the same output here that I want from this system, the best possible education our schools can give our children and along the way as parents the best opportunity to measure how our kids are doing and how our schools are doing. If we have those opportunities, we will improve not only our children's future but the future of this country.

Madam President, I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

AMENDMENT NO. 1071 TO AMENDMENT NO. 1070

(Purpose: To prohibit the development, planning, implementation, or administration of any national testing program in reading or mathematics unless the program is specifically authorized by Federal statute)

Mr. COATS. Madam President, let me first say I very much appreciate the efforts of the Senator from New Hampshire in addressing this issue. I think it is an important issue and one which goes to a topic which deserves and needs a great deal of discussion and debate.

Clearly, our public education system in this country has many cracks in the once solidly supported and, I think, respected position that it once had. We have many failing public schools, not just in our major cities, but across our land. The goal that we share, whether you are Republican, Democrat, liberal or conservative, is that we want to improve education in this country and we want to address some of the shortcomings that we find in education.

The Senator from North Dakota raised a point which in many instances I think I do not disagree with. We do want to find ways of assessing where we are educationally, and giving parents a better idea of where their schools are in terms of preparing their children for a successful future.

The proposal to look at reading levels of achievement at the end of the third grade in reading and in eighth grade in math is not necessarily a goal that we should not attempt to reach. The concern that was raised by the Senator from New Hampshire is that if we address this in a way in which the Department of Education controls and designs the way this will be tested and then potentially uses this to establish standards, we continue a process of Federal Government knows best in terms of how to fix the education system in this country.

Frankly, the positive changes that are being brought about in the education of the young people in this country are not coming from Washington. They are coming from local and State initiatives. We do not want to do anything that deters that. In fact, we want to do everything we can to encourage that. I think it is safe to say if the initiatives that have been proposed and tried and are being tested and used in a number of our local educational jurisdictions and in a number of our States had to have the approval of the Federal Government, we would have gotten nowhere. We would not have charter schools in this country if the Department of Education had to approve it. We would not have had many of the experimental programs aimed at better addressing the situation of our at-risk children who are learning very little, or not at all, in many of our public schools, and particularly our public schools in urban areas across this country, because the national education unions have a lock on the public school process and a lock on the Department of Education.

I have been in the Chamber proposing a number of new initiatives, most in the form of demonstration programs which merely ask that we test a new idea to gauge its effectiveness. I do this so often because the only thing we know about the current system for sure is that it is failing many of our children. So why not try something new, why not experiment with some new ideas? And if it works, then decide how we want to encourage it. And if it does not work, throw it out and try something else. But what we have is a Department of Education locked into a no-change system because the teachers unions, not merely the teachers but the teachers unions, say don't touch it—no merit pay for teachers, no changes in the rules on tenure. They just fight every change that is proposed.

And so when the idea comes along of OK, let's set a testing standard so that we know where we stand, it looks good on its face—I think we all want that information; it can be useful to local jurisdictions and useful to States. But what we do not want is to get into the situation we got into with the national history standards whereby Federal bureaucrats and the organizations that currently control funding for public education basically say we will define what those standards ought to be, and we will set those standards and then we will measure the test against those standards.

We don't want to get into that trap again. We went through that not a short time ago, and those standards were soundly rejected because they were taking us in absolutely the wrong direction.

Now, I think that we can address the goals raised by the Senator from North Dakota, which I think Senator GREGG and I share in, of trying to find a way to provide local educational institutions and States with information about where students stand relative at least to reading and to math at fourth and eighth grade levels without falling into the problem that we would have if the administration were allowed to go forward with its original plan.

What the Senator from North Dakota apparently was not aware of was that the Department of Education has already begun developing tests, and has already contracted with a consortium of testing agencies whereby the Department of Education defines how this is going to be done, without using an independent agency.

Now, the President just this past Saturday in his national radio address wisely concluded that was not the direction the American people wanted to go, or that was not the way in which we ought to pursue this concept of trying to find where we stand at certain levels in regard to the subjects of reading and mathematics. And so the President announced on Saturday that he would defer to the critics' complaints that this should be done by an independent agency and should not be administered or controlled by the Department of Education.

What Senator GREGG and I are trying to do is to hold the President to his word, so that it is not just something said on a radio address but it is something that is actually fulfilled by members of his own Department of Education. So the amendment that was offered was intended to prohibit the use of funds in this act, or any act, for the development or implementation of a national testing program.

Now, we know that the Department has already signed a contract to begin developing this testing program, and as a consequence of that we are now trying to send a signal to the Department encouraging them to slow down. This is something that the Congress should debate, as the Senator from North Dakota said. This is something that the Congress should authorize. This is something on which the will of the people should be heard, that the input from the education institutions at the local and State levels ought to be heard before we proceed with this national effort. This truly should be a decision that is not first made in Washington and imposed on the States, but rather one that is first supported in State capitols and local jurisdictions around the country and only then decided on by Congress.

Because there is a question raised about what the underlying amendment is intended to accomplish, I propose that we pause here, and agree to work together, as the Senator from North Dakota said, to achieve what many feel is a desirable goal. I think it would be helpful for local educational agencies and for States to have an assessment of where their students are. I think it would be helpful for parents to know how their schools are performing and measuring up in relation to other schools. I think that puts pressure for change on the system.

I am trying to avoid the situation that we have frequently encountered after the passage of education legislation of parents getting involved because they don't like what is going on in Washington. For instance, if we don't take the time to check whether parents really want national testing, if they are unhappy, they will call up their Congressman and they will call up their Senators. They'll say, wait a minute; we are not so sure about this new Federal initiative to fix the problem of poor student performance because it looks like more Federal control. Federal control in education hasn't worked very well in the past, and we are not sure it is going to work in the future. Besides how does the Department of Education conclude it knows what is best for the education system when it has been over 15 years since a blue ribbon commission came out with a shocking report talking about the mediocrity of public education in America, and since then the only real reforms that have taken place have not been at the Federal level; reforms have been at the local and the State level, and we want to preserve the right of local jurisdictions and States to make those reforms.

So I am offering a second-degree amendment to the underlying amendment which says that no Federal funds can be used for national testing until Congress has specifically authorized those tests. It does not say that we should not pursue the goal of some type of national testing. But what it does say is that the Congress ought to debate this and it ought to be authorized by the Congress before the administration, through the Department of Education, simply goes forward.

My second-degree amendment says that none of the funds made available in this act, or any other act, will be used to develop, plan, implement, or administer any national testing program in reading or mathematics unless the program is specifically authorized by Federal statute.

The operative phrase is that you can't go forward with this and use Federal funds unless it is specifically authorized by the Congress. That allows us to engage in the debate that the Senator from North Dakota thought we ought to engage in, and I agree that allows us to define how this testing will take place, that allows us to acknowledge the concern that the Senator from North Dakota expressed that maybe we do not want the Department of Education running this.

Having been involved in the issue of student loans over the past several years and raising objections to the Department of Education taking over the student lending business, which it says it can do more effectively and more efficiently than the private sector, I find it ironic that Congress Daily reports that the Department of Education has had to suspend all direct loan consolidation efforts because it is overwhelmed by the effort. It cannot handle the work. And so students who want to consolidate their loans in terms of paying them back are now not able to do so because the Department of Education cannot handle it.

A number of us, including Senator GREGG and many others, have raised concerns about the ability of the Department of Education to properly manage and administer the very complex business of making and collecting student loans. Frankly, we have never thought that they have the capacity to handle it. It is not that they are not well intended. The problem is there are no competitive pressures. They do their own thing. And it is the nature of bureaucracy—that is why it is called bureaucracy—to become bureaucratized and inefficient.

I remember when the First Lady was here promoting her health plan, and in her first presentation to the Congress to two of the committees here, one of which I sit on, I said it seems to me that this massive national health plan is based on a number of faulty assumptions, one of which is that Government can accomplish an objective more efficiently and effectively than the private sector. I said that in my experience in 18 years in government and in my reading over the history of this Government, I have not been able to identify an area where the Federal Government has performed a service more effectively or efficiently than the private sector. I said, can you name me one? And the First Lady said, ''Well, Senator, I think you are correct in terms of past performance of the Federal Government, but this time we think we have it right.'' We think, in terms of the health care plan that was being proposed here by Mr. Magaziner and herself, that we can avoid that problem.

As we have learned, that health care plan was rejected overwhelmingly by the American people because they had no faith that the Federal Government could take 15 percent of our economy, the entire health care system of the United States, and turn it over to Government to run with any assurance that it would be run effectively and efficiently. And, therefore, those of us who have a philosophy grounded in the free enterprise system are very skeptical about new proposals to inject the Federal Government further and further into those efforts handled by the private sector.

So, at the very time the Department of Education now admits that it can't handle a small fraction of the lending business that is the consolidation of loans, and that it is going to take months and months and months for it to get its act together, if then, it now wants to enter into a new area of national testing, who knows where this is going to take us. And of course, who knows how many additional people will have to be assigned to have to administer this, to oversee the contracts and define the standards.

Those are the concerns that Senator GREGG and I have, and those are the concerns we are trying to address. What we would like to do with this amendment, then, is simply follow up on the President's concession last Saturday and basically say, No. 1, this should not be done by the Federal Government, should not be done by the Department of Education, it ought to be done, if done at all, through an independent agency. And since we are dual players in this town, both the administration and the Congress, in doing the people's business, this is something the Congress ought to authorize. Therefore my second-degree amendment would prohibit funds from being used to further this national testing program until it is authorized by Federal statute.

The chairman of the relevant appropriations committee, Senator SPECTER, will be holding hearings as early as tomorrow whereby the Secretary of Education will come forward, as well as Mr. GOODLING, whom I deeply respect in terms of his experience with education. They will both come to testify as to the pros and cons of national testing. I think we need hear those pros and cons. I think we need to debate those pros and cons, and then I think we need to go forward and make a decision as to how we proceed.

Again, I say this as someone who is not unalterably opposed to national testing for reading in fourth grade and math at eighth grade. Frankly, one of the reasons I want these tests is because I think it will draw more attention to the failure of the public system to educate our children. When we look at the disparities that exist in public education in some of our schools and we look at some of our efforts, I think it will put additional pressure on the public system to open up, to try new alternatives, and parents will be demanding that we provide better education for their children and different ways of providing that education. So, from that standpoint, I think national testing can be of benefit.

With that, Madam President, I send my second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for himself and Mr. GREGG, proposes an amendment numbered 1071 to amendment 1070.

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

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

The amendment is as follows:

At the end of the pending amendment, add the following:

SEC. . None of the funds made available in this Act or any other Act, may be used to develop, plan, implement, or administer any national testing program in reading or mathematics unless the program is specifically authorized by Federal statue.

Mr. COATS. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. Madam President, I ask what is the current business before the Senate?

The PRESIDING OFFICER. The pending business is the second-degree amendment offered by the Senator from Indiana.

Mr. GRAMS. I ask unanimous consent the amendment be set aside and I be allowed to speak for up to 10 minutes as in morning business.

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

Mr. GRAMS. I thank the Chair.

(The remarks of Mr. GRAMS pertaining to the introduction of S. 1145 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, what is the pending business?

The PRESIDING OFFICER. The pending business is the second-degree amendment offered by the Senator from Indiana, Senator COATS, to Senator GREGG's amendment.

Mr. SPECTER. Madam President, I ask unanimous consent that amendment be temporarily set aside and the Kyl amendment, No. 1056, be temporarily set aside.

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

AMENDMENT NO. 1072

(Purpose: To fund demonstration projects on Medicaid attendant care services, within amounts available)

Mr. SPECTER. Madam President, I now offer an amendment and send it to the desk for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 1072.

The amendment is as follows:

On page 39, before the period on line 25, insert the following: '': *Provided further*, That $2,000,000 of the amount available for research, demonstration, and evaluation activities shall be available for carrying out demonstration projects on Medicaid coverage of community-based attendant care services for people with disabilities which ensures maximum control by the consumer to select and manage their attendant care services''.

Mr. SPECTER. Madam President, as noted, that $2 million will be utilized from an existing fund for a demonstration project to test the effectiveness of providing attendant care services to individuals with disabilities, regardless of age.

Every State in the country currently provides long-term services to eligible individuals who require the assistance of an attendant in nursing homes or other institutions. However, under a curious provision of the current Medicaid law, these individuals are not guaranteed the right to remain in their own homes and communities while receiving the assistance of an attendant as an alternative to institutional care.

I have sought to persuade the Secretary of Health and Human Services to change this provision in the Medicaid Program, and I wrote to Secretary Shalala accordingly on February 28, 1997. I ask unanimous consent a copy of that letter be printed in the RECORD at the conclusion of my statement.

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

(See exhibit 1.)

Mr. SPECTER. The amendment that I am introducing today directs the Department to test the cost effectiveness of this policy option to allow the disabled to remain at home and to obtain the Federal Medicaid benefits. It is clear that the current long-term care system is highly regulated and very costly. It is my thought that there is a clear-cut need for a program to be put into effect which will enable the disabled to stay at home or in the community as an alternative to institutional care.

On February 17 of this year, I had the privilege of visiting a group of disabled individuals, many of whom have substantial disabilities, struggling to live independent lives. They gave me a sweatshirt, and I now display it for my colleagues and for those on C–Span II, showing, ''Our Homes, Not Nursing Homes.'' And it is the symbol of someone who is disabled.

When I met with these individuals, who were struggling in their wheelchairs, with enormous disabilities, and found that they could not receive Medicaid benefits unless they were in an institution, it seemed to me manifestly unfair. It is clear that it would be less costly to have the disabled remain in their communities or in their own homes so they could care for themselves and could receive the Medicaid benefits.

So I said to these people in North Philadelphia that I would bring the matter to the Secretary of Health and Human Services with the view of having an administrative change. But I find that it is very complicated because the preliminary estimates from the Congressional Budget Office say that this would be an enormously expensive change to enable the disabled to have benefits to live in their communities or in their homes.

I wondered why. The best explanation which I have been able to receive so far is that, at the present time, these people, the disabled, are cared for by their relatives, by friends or somehow by themselves because they don't want to go into an institution, so they forgo the assistance which Medicaid offers the disabled. The Congressional Budget Office asserts that if these individuals were to have the ability to have this care outside of the institution, the costs would skyrocket.

It seems to me, Madam President, unfair that where the Medicaid law says the disabled are entitled to certain benefits if they are in an institution, that they should be compelled to be institutionalized when they want to live in their homes or their own communities. This is quite a conundrum, quite a Catch-22. So the best course that I see at the present time would be for us to undertake this program on a test basis, and to have a study, made to see what the costs would be in order to try to arrive at some fair determination.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, February 28, 1997.

Hon. DONNA SHALALA,
Secretary, Department of Health and Human Services, Washington, DC.

DEAR SECRETARY SHALALA: I am writing to alert you that I intend to raise with your at next week's Subcommittee hearing a matter concerning Medicaid coverage of attendant care services for people with disabilities.

It has been brought to my attention that considerable savings to the Medicaid program could be achieved by redirecting long-term care funding toward community-based attendant services, and by requiring States to develop attendant service programs meeting national standards to assure that people of all ages with disabilities have full access to such services. Please be prepared to summarize the current status of Medicaid services to the disabled population, and to discuss your views on establishing a national program of community-based attendant services. I would also appreciate your thoughts on what further could be done, both administratively and through legislative action, to better enable people with mental and physical disabilities to live independently.

I look forward to discussing this and other issues with you next Tuesday when you appear to present the Administration's fiscal year 1998 budget request for your Department.

My best.

Sincerely,

ARLEN SPECTER,
Chairman, Subcommittee on Labor, Health and Human Services, and Education.

Mr. SPECTER. Madam President, Senator HARKIN is now attending a committee meeting, and I have been advised by his staff that this amendment is agreeable to him, so I ask unanimous consent that it be adopted.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1072) was agreed to.

AMENDMENT NO. 1070 AND AMENDMENT NO. 1071

Mr. SPECTER. Madam President, now briefly addressing the amendments offered by Senator GREGG and Senator COATS, it is my hope that the amendments will be debated today for all those who have views and care to express them; that is, as I said earlier, because this is a complicated matter. In my conversation yesterday in a telephone call which I received from the Secretary of Education, he asked for my support, and I told him that I did not know enough about the matter to render a judgment and had said earlier it seems to me that testing is desirable, but I do not know that it ought to be undertaken by the Federal Government.

We have scheduled a hearing tomorrow which we have advanced from 9 o'clock to 8:30 in the morning because we have since had a request from Congressman GOODLING to testify at the hearing. So we are now going to have the Secretary of Education, Richard Riley, we are going to have the chairman of the House Education Committee, and we are looking, as a matter of balance, to find someone in opposition to the Department of Education program. So that hearing will be conducted from 8:30, hopefully until 10 a.m. It is my hope that we will complete action on the remainder of this bill today, with the exception of the vote on the Gregg amendment, and take that up tomorrow.

Madam President, I now call up amendment No. 1069.

AMENDMENT NO. 1069

(Purpose: To express the sense of the Senate that the Attorney General has abused her discretion by failing to appoint an independent counsel on campaign finance matters and that the Attorney General should proceed to appoint such an independent counsel immediately)

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

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 1069.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . SENSE OF THE SENATE REGARDING APPOINTMENT OF INDEPENDENT COUNSEL.

(a) FINDINGS.—The Congress finds that—

(1) press reports appearing in the early Spring of 1997 reported that the FBI and the

Justice Department withheld national security information from the Clinton administration and President Clinton regarding information pertaining to the possible involvement by the Chinese government in seeking to influence both the administration and some members of Congress in the 1996 elections;

(2) President Clinton subsequently stated, in reference to the failure by the FBI and the Justice Department to brief him on such information regarding China: ''There are significant national security issues at stake here,'' and further stated that ''I believe I should have known'';

(3) there has been an acknowledgment by former White House Chief of Staff Leon Panetta in March 1997 that there was indeed coordination between the White House and the DNC regarding the expenditure of soft money for advertising;

(4) the Attorney General in her appearance before the Senate Judiciary Committee on April 30, 1997 acknowledged a presumed coordination between President Clinton and the DNC regarding campaign advertisements;

(5) Richard Morris in his recent book, ''Behind the Oval Office,'' describes his firsthand knowledge that ''the president became the day-to-day operational director of our [DNC] TV ad campaign. He worked over every script, watched each ad, ordered changes in every visual presentation and decided which ads would run when and where;''

(6) there have been conflicting and contradictory statements by the Vice President regarding the timing and extent of his knowledge of the nature of a fundraising event at the Hsi Lai Buddhist Temple near Los Angeles on April 29, 1996;

(7) the independent counsel statute requires the Attorney General to consider the specificity of information provided and the credibility of the source of information pertaining to potential violations of criminal law by covered persons, including the President and the Vice President;

(8) the independent counsel statute further requires the Attorney General to petition the court for appointment of an independent counsel where the Attorney General finds that there is a reasonable likelihood that a violation of criminal law may have occurred involving a covered person;

(9) the Attorney General has been presented with specific and credible evidence pertaining to potential violations of criminal law by covered persons and there is a reasonable likelihood that a violation of criminal law may have occurred involving a covered person; and

(10) the Attorney General has abused her discretion by failing to petition the court for appointment of an independent counsel.

(b) It is the Sense of the Senate that the Attorney General should petition the court immediately for appointment of an independent counsel to investigate the reasonable likelihood that a violation of criminal law may have occurred involving a covered person in the 1996 presidential federal election campaign.

Mr. SPECTER. Madam President, this is the amendment that I had referred to earlier on sense of the Senate for independent counsel.

I ask unanimous consent that a letter from Senator MCCAIN to Attorney General Reno dated October 11, 1996, requesting independent counsel be printed in the RECORD.

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

U.S. SENATE,
October 11, 1996.

Hon. JANET RENO,
Attorney General, Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: I am writing to you to request that you use the authority granted to you in the Independent Counsel Reauthorization Act to immediately appoint an Independent Counsel to investigate charges raised in the media regarding the Democratic Party and Clinton-Gore Reelection Committee's use of soft money contributions which appear to have been in violation of election law.

These allegations charge that foreign nationals have been circumventing the law in order to funnel large campaign contributions to the Democratic party. I have enclosed copies of recent New York Times, Washington Post, and Wall Street Journal articles regarding this situation.

During this election season, I believe it is impossible for any Administration officials to determine whether any illegalities or ethical lapses have been committed regarding this situation. Therefore, it is crucial for the sake of the integrity of the Office of the President and the political party fundraising apparatus that this matter be investigated by an Independent Counsel.

Your immediate attention to this matter is appreciated.

Sincerely,

JOHN MCCAIN,
U.S. Senator.

Mr. SPECTER. I ask unanimous consent that a letter dated October 29, 1996, from five Members of the House of Representatives requesting independent counsel be printed in the RECORD.

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

CONGRESS OF THE UNITED STATES,
Washington, DC, October 29, 1996.

Hon. JANET RENO,
Attorney General, Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: We are writing to request that you immediately apply for the appointment of an Independent Counsel to investigate the serious allegation that Federal criminal laws may have been violated by a number of high ranking officials in the Clinton Administration and at the Democratic National Committee (''DNC'').

This investigation should include, but not be limited to, the following specific reports that indicate violations of Federal law may have taken place:

1. The involvement of President Clinton, Vice President Gore, and officials of the Democratic National Committee in the solicitation, acceptance, and receipt of $250,000 from Cheong Am America, when the corporation had little or no domestic income, in direct violation of the Federal Election Campaign Act, and in the solicitation or receipt of over $300,000 from Arief and Soraya Wiriadinata at a time when the Wiriadinatas no longer resided in the United States, violating the plain language in Federal law prohibiting contributions by non-citizens outside the United States. Although the Cheong Am America contribution was returned following media inquiries, the $300,000 from the Wiriadinatas has been retained by the DNC for use in influencing American elections.

2. Incorrect reporting to the Federal Election Commission by officials of the DNC of the residence address of Arief and Soraya Wiriadinata, which presented the public appearance that the Wiriadinatas were in the United States and potentially intended to conceal the fact that their contributions were in fact unlawful. News reports indicate that the contributions apparently came after the Wiriadinatas had returned to Indonesia and that the Vice Chairman of Finance of the Democratic National Committee knew that the Wiriadinatas were out of the country (Los Angeles Times, 10/14/96). Property records on file in Fairfax County, Virginia show that the home reported on DNC Federal Election Commission (''FEC'') Reports as the Wiriadinata home address was sold by the Wiriadinata family on December 15, 1995, yet contributions received as late as July, 1996 continued to be reported as coming from that address.

3. The solicitation, acceptance and receipt of contributions from individuals, including Arief and Soraya Wiriadinata ($450,000), Yogesh Gandhi ($325,000), and individuals who made contributions in connection with the April 29, 1996 event at the Hsi Lai Temple in Hacienda Heights, California (an estimated $140,000) and a fundraiser at the Hay-Adams Hotel in Washington, D.C., in February 1996 (an estimated $1,000,000), when DNC officials involved in fundraising may have had good reason to know that these contributors did not have the financial resources to make contributions in the large amounts reported, and the contributors may therefore have been conduits for prohibited funds from foreign sources.

4. Fundraising activities on behalf of the DNC by John Huang while he was a Presidential appointee at the Department of Commerce, possibly with the knowledge of officials of the DNC, in violation of the Hatch Act. Contributions from the Wiriadinatas to the DNC were received in November of 1995, while Huang was serving as Deputy Assistant Secretary of Commerce for International Economic Policy. DNC Press Secretary Amy Weiss Tobe has stated to the press (Washington Post, October 12, 1996) that Arief and Soraya Wiriadinata contributed to the DNC after meeting John Huang in 1995, during the time he was employed at the U.S. Department of Commerce.

5. Possible improper influence on official government decisions as a result of large contributions made to the DNC or other entities by associates and allies of the Riady family and the Lippo group of foreign-owned and foreign-controlled corporations. Press reports indicate that a series of events, which would economically benefit the Lippo Group and the Riady family, took place after meetings between President Clinton, Clinton Administration officials, John Huang and James Riady. Federal bribery statutes prohibit the performing of any official government act in return for campaign contributions or other payments.

6. Knowing use of tax-exempt facilities at the Hsi Lai Temple by the DNC for fundraising purposes and knowing solicitation and acceptance of prohibited in-kind contributions from a non-profit entity to a political campaign through the DNC's failure to reimburse the Temple for its expenses in connection with the event until questioned by the media. Further, despite statements by Vice President Gore that the event was not a fundraiser, news reports have indicated that Mr. Huang called it a fundraiser, contributions were collected at the event, and attendees believed that they had to pay to attend.

7. The possible attempt by Mr. John Huang, an employee of the DNC, with either the knowledge or implicit approval of the DNC, to obstruct any investigation of his activities by evading the service of a subpoena for the purpose of preventing the release of information about his fundraising activities until after the November 5, 1996 election. Mr. Huang is reported to have raised as much as

$5 million in contributions for the DNC, and has so far refused to answer questions in public about his fundraising activities. Until a U.S. District Court Judge intervened, the DNC refused to cooperate or assist in having its employee, John Huang, provide information which would resolve questions as to the legality of the contributions which he solicited and which the DNC is now using to influence American elections.

8. Reports filed by the DNC with the Federal Election Commission for the period ending September 30, 1996 list the home address of at least thirty-one contributors to the DNC (with contributions totaling over $225,000) as 430 South Capitol Street SE, Washington, D.C. This address is not a residence, it is the address of the business offices of the DNC. By filing false and misleading information with the FEC, DNC officials may have sought to conceal and impede investigation into the true source and nature of these contributions.

Equally important as each of these individual acts is the overall pattern of questionable fundraising activity and the apparent deliberate flaunting of federal election law and usurpation of power and official privilege by the DNC's Vice Chairman of Finance, John Huang, for the benefit of and with the apparent cooperation of President Bill Clinton, Vice President Gore, and the Democratic National Committee. The magnitude of the funds involved, the high-rank of the officials involved and the potential knowing and willful violations committed make it impossible for any officials of this Administration's Justice Department to carry out an investigation that will be considered fair and free of outside influence!

Therefore it is crucial for the sake of the integrity of the Office of the President and the Office of the Vice President that this matter be investigated promptly by an independent counsel.

We look forward to a reply to this communication by Friday, November 1, 1996. Your early reply will reassure the American people that you are committed to preserving the integrity and independence of the Department of Justice.

Sincerely,

BILL THOMAS,
Chairman, Committee on House Oversight.
BEN GILMAN,
Chairman, Committee on International Relations.
BILL CLINGER,
Chairman, Committee on Government Reform and Oversight.
GERALD B. SOLOMON,
Chairman, Committee on Rules.
JOHN MCCAIN,
U.S. Senator.

Mr. SPECTER. I ask unanimous consent that a letter dated March 13, 1997, from the 10 Republican members of the Senate Judiciary Committee requesting independent counsel be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, March 13, 1997.

Hon. JANET RENO,
Attorney General of the United States, U.S. Department of Justice, Washington, DC.

DEAR MADAM ATTORNEY GENERAL: This letter serves as a formal request, pursuant to 28 U.S.C. §592(g)(1), that you apply for the appointment of an independent counsel to investigate possible fundraising violations in connection with the 1996 presidential campaign. The purpose of this letter is not to provide an exhaustive list of the particular allegations that, we believe, warrant further investigation. Indeed, since the Department of Justice has been conducting an extensive investigation into fundraising irregularities for several months now, you presumably have far greater knowledge than do we of the various matters that are being, and will need to be, investigated, and we presume that your judgment as to the necessity of an independent counsel is based on all of the information before you. Rather, the purpose of this letter is to articulate why we believe this investigation should be conducted by an independent counsel. As you know, the Senate Committee on the Judiciary has, to date, refrained from joining the assortment of other individuals who have called upon you to initiate an independent counsel appointment. Recent developments over the past few weeks, however, have persuaded us that such an appointment is now necessary.

When you appeared before the Senate in 1993 when we were considering reenactment of the Independent Counsel statute, you stated:

''There is an inherent conflict of interest whenever senior Executive Branch officials are to be investigated by the Department of Justice and its appointed head, the Attorney General. The Attorney General serves at the pleasure of the President. Recognition of this conflict does not belittle or demean the impressive professionalism of the Department's career prosecutors, nor does it question the integrity of the Attorney General and his or her political appointees. Instead, it recognizes the importance of public confidence in our system of justice, and the destructive effect in a free democracy of public cynicism.''

You further testified that:

''It is absolutely essential for the public to have confidence in the system and you cannot do that when there is conflict or an appearance of conflict in the person who is, in effect, the chief prosecutor. * * * The Independent Counsel Act was designed to avoid even the appearance of impropriety in the consideration of allegations of misconduct by high-level Executive Branch officials and to prevent * * * the actual or perceived conflicts of interest. The Act thus served as a vehicle to further the public's perception of fairness and thoroughness in such matters, and to avert even the most subtle influences that may appear in an investigation of highly-placed Executive officials.''

We believe that, in light of recent developments, a thorough Justice Department investigation into possible fundraising violations in connection with the 1996 presidential campaign will raise an inherent conflict of interest, and that the appointment of an independent counsel is therefore required to ensure public confidence in the integrity of our electoral process and system of justice.

First recent revelations have demonstrated how officials at the highest level of the White House were involved in formulating, coordinating and implementing the DNC's fundraising efforts for the 1996 presidential campaign. Recent press reports, the files released by Mr. Ickes, and public statements by very high ranking present and former Clinton Administration officials indicate how extensively the Administration was involved in planning, coordinating, and implementing DNC fundraising strategy and activities. All this has led The New York Times to a conclusion which we find hard to challenge; namely, that ''the latest documentation shows clearly that the Democratic National Committee was virtually a subsidiary of the White House. Not only was [President] Clinton overseeing its fund-raising efforts, not only was he immersed in its ad campaigns, but D.N.C. employees were installed at the White House, using White House visitors' lists and communicating constantly with [President] Clinton's policy advisers.'' The New York Times, February 27, 1997. As a consequence, we believe that a thorough investigation of all but the most trivial potential campaign fundraising improprieties necessarily includes an inquiry into the possible knowledge and/or complicity of very senior White House officials in these improprieties. We believe that, without questioning in the slightest the integrity, professionalism or independence of the Attorney General or the individuals conducting the present Justice Department fundraising investigation, the fact that the Department's investigation will inescapably take it to the highest levels of the Executive Branch presents an inherent conflict of interest calling for the appointment of an independent counsel under 28 U.S.C. §591(c).

Moreover, these revelations raise new questions of possible wrongdoing by senior White House officials themselves, including but not limited to whether federal officials may have illegally solicited and/or received contributions on federal property; whether specific solicitations were ever made by federal officials at the numerous White House overnights, coffees, and other similar events, and whether these events themselves, often characterized in White House and DNC memoranda as ''fundraising'' events, constituted improper ''solicitations'' on federal property; whether government property and employees may have been used illegally to further campaign interests; and whether the close coordination by the White House over the raising and spending of ''soft''—and purportedly independent—DNC funds violated federal election laws, and/or had the legal effect of rendering those funds subject to campaign finance limitations they otherwise would not be subject to. It seems to us that, even accepting the narrow constructions of some of the governing statutes that have been suggested—which are not necessarily the constructions an independent counsel would render—the answer to whether criminal wrongdoing has occurred will of necessity turn on the resolution of disputed factual, legal, and state of mind determinations. Because the inquiry necessary to make these determinations will inescapably involve high level Executive Branch officials, we believe they should be left to an independent counsel in order to avoid a real or apparent conflict of interest. Moreover, where individuals covered by the independent counsel statute are involved, as they plainly were here, see 28 U.S.C. §591(b), the Ethics in Government Act requires that these inquiries be conducted by an independent counsel. Whether the Act simply permits or requires the appointment of an independent counsel, however, we believe that prudence and the American people's ability to have confidence that the investigation remains free of a conflict of interest, requires it.

Second, the emerging story regarding the possibility that foreign contributions were funneled into U.S. election coffers to influence U.S. foreign policy further highlights the conflict of interest your ongoing investigation inescapably confronts. A March 9, 1997, Washington Post article quoted ''U.S. government officials''—presumably familiar with the Department's ongoing investigation—as stating that investigators have obtained '''conclusive evidence' that Chinese government funds were funneled into the United States last year,'' and quoted one official as stating that ''there is no question that money was laundered.'' This article reported that U.S. officials described a plan by China ''to spend nearly $2 million to buy influence not only in Congress but also within

the Clinton Administration.'' If the FBI truly is investigating these allegations, as is reported, and this investigation extends to high level Executive Branch officials, it raises an inherent conflict of interest.

Moreover, a closer look at the activities and associations of some of the particular individuals who are reported to be the principal figures in the ongoing investigation further illustrates why this investigation ultimately must involve high levels of the Executive Branch. Especially troubling is the information revealed to date regarding the Riady family and their associate, Mr. John Huang, but serious questions are also raised by the activities and associations of Mr. Charles Yah Lin Trie, Ms. Pauline Kanalanchak, and Mr. Johnny Chung, among others. Taken together, these reported events raise a host of serious questions warranting further investigation: To what extent were illegal contributions from foreign sources, in particular China, being funneled into the United States, and with whose knowledge and involvement? To what extent was U.S. policy influenced by these contributions, and with whose knowledge and/or involvement? To what extent were the decisions to hire Huang at the Commerce Department, to support most-favored-nation status for China and Chinese accession to the World Trade Organization, or to normalize relations with Vietnam, influenced by contributions, and with whose knowledge and/or involvement? To what extent was the standard NSC screening process for admission to the White House waived or modified so as to permit special access to large donors and their guests where it would ordinarily be denied, and with whose knowledge and/or involvement? To what extent was John Huang placed at the DNC to raise money in exchange for past and future favors, and with whose knowledge and/or involvement?

It is evident that these questions cannot be properly investigated without a conflict of interest, since investigating most of these questions will require inquiring into the knowledge and/or conduct of individuals at the highest levels of the Executive Branch. Moreover, several of the principal figures in this investigation, including the Riadys and the Lippo Group and Charlie Trie, reportedly have longstanding ties to President Clinton.

Indeed, the conflicts at issue here are precisely the sort of ''inherent conflict[s] of interest'' to which you testified during Senate hearings in 1993 on the re-enactment of the Independent Counsel Act. Avoiding an actual or perceived conflict of interest was the basis not just for your application for the appointment of an independent counsel to investigate James McDougal, but also for your recent requests to extend that counsel's jurisdiction to include investigations of Anthony Marceca and Bernard Nussbaum. The same concern warrants your application for an independent counsel here, where public confidence can be assured only by the appointment of an independent counsel to investigate any alleged wrongdoing in connection with DNC, Clinton Administration, and Clinton/Gore Campaign fundraising during the 1994–1996 election cycle. As you yourself testified, applying for an independent counsel, and our request that you make such an application, in no way detracts from the integrity and independence of the Attorney General or the career prosecutors presently investigating these allegations.

Pursuant to the statute, please report back to the Committee within 30 days whether you have begun or will begin a preliminary investigation, identifying all of the allegations you are presently investigating or as to which you have received information, and indicating whether you believe each of these allegations are based on specific information from credible sources, and either pertain to a covered individual or present a conflict of interest. Please also provide your reasons for those determinations. See 28 U.S.C. §592(g)(2). In the event you conduct a preliminary investigation, but do not apply for the appointment of an independent counsel, or apply for an independent counsel but only with respect to some of the various allegations on which you have received information, please identify all those allegations which in your view do not warrant appointment of an independent counsel, and explain your view whether those allegations warrant further investigation, pertain to a covered individual, and/or present a conflict of interest. See 28 U.S.C. §592(g)(3).

Sincerely,

Orrin Hatch, Chuck Grassley, John Ashcroft, Spencer Abraham, Mike DeWine, Strom Thurmond, Arlen Specter, Jon Kyl, Fred Thompson, Jeff Sessions.

Mr. SPECTER. And I ask unanimous consent that a copy of the letter from Attorney General Reno dated April 14, 1997, responding to Senator HATCH be printed in the RECORD.

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

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, April 14, 1997.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On March 13, 1997, you and nine other majority party members of the Committee on the Judiciary of the United States Senate wrote to me requesting the appointment of an independent counsel to investigate possible fundraising violations in connection with the 1996 presidential campaign. You made that request pursuant to a provision of the Independent Counsel Act, 28 U.S.C. §592(g)(1), which provides that ''a majority of majority party members [of the Committee on the Judiciary] * * * may request in writing that the Attorney General apply for the appointment of an independent counsel.'' The Act requires me to respond within 30 days, setting forth the reasons for my decision on each of the matters with respect to which your request is made. 28 U.S.C. §592(g)(2).

I am writing to inform you that I have not initiated a ''preliminary investigation'' (as that term is defined in the Independent Counsel Act) of any of the matters mentioned in your letter. Rather, as you know, matters relating to campaign financing in the 1996 Federal elections have been under active investigation since November by a task force of career Justice Department prosecutors and Federal Bureau of Investigation (FBI) agents. This task force is pursuing the investigation vigorously and diligently, and it will continue to do so. I can assure you that I have given your views and your arguments careful thought, but at this time, I am unable to agree, based on the facts and the law, that an independent counsel should be appointed to handle this investigation.

1. THE INDEPENDENT COUNSEL ACT

In order to explain my reasons, I would like to outline briefly the relevant provisions of the Independent Counsel Act. The Act can be invoked in two circumstances that are relevant here:

First, if there are sufficient allegations (as further described below) of criminal activity by a covered person, defined as the President and Vice President, cabinet officers, certain other enumerated high Federal officials, or certain specified officers of the President's election campaign (not party officials), see 28 U.S.C. §591(b), I must seek appointment of an independent counsel.

Second, if there are sufficient allegations of criminal activity by a person other than a covered person, and I determine that ''an investigation or prosecution of [that] person by the Department of Justice may result in a personal, financial or political conflict of interest,'' see 28 U.S.C. §591(c)(1), I may seek appointment of an independent counsel.

In either case, I must follow a two-step process to determine whether the allegations are sufficient. First, I must determine whether the allegations are sufficiently specific and credible to constitute grounds to investigate whether an individual may have violated Federal criminal law. 28 U.S.C. §591(d). If so, the Department commences a ''preliminary investigation'' for up to 90 days (which can be extended an additional 60 days upon a showing of good cause). 28 U.S.C. §592(a). If, at the conclusion of this ''preliminary investigation,'' I determine that further investigation of the matters is warranted, I must seek an independent counsel.

Certain important features of the Act are critical to my decision in this case:

First, the Act sets forth the only circumstances in which I may seek an independent counsel pursuant to its provisions. I may not invoke its procedures unless the statutory requirements are met.

Second, the Act does not permit or require me to commence a preliminary investigation unless there is specific and credible evidence that a crime may have been committed. In your letter, you suggest that it is not the responsibility of the Department of Justice to determine whether a particular set of facts suggests a potential Federal crime, but that such legal determinations should be left to an independent counsel. I do not agree. Under the Independent Counsel Act, it is the Department's obligation to determine in the first instance whether particular conduct potentially falls within the scope of a particular criminal statute such that criminal investigation is warranted. If it is our conclusion that the alleged conduct is not criminal, then there is no basis for appointment of an independent counsel, because there would be no specific and credible allegation of a violation of criminal law. See 28 U.S.C. §592(a)(1).

Third, there is an important difference between the mandatory and discretionary provisions of the Act. Once I have received specific and credible allegations of criminal conduct by a covered person, I must commence a preliminary investigation and, if further investigation is warranted at the end of the preliminary investigation, seek appointment of an independent counsel. If, on the other hand, I receive specific and credible evidence that a person not covered by the mandatory provisions of the Act has committed a crime, and I determine that a conflict of interest exists with respect to the investigation of that person, I may—but need not—commence a preliminary investigation pursuant to the provisions of the Act. This provision gives me the flexibility to decide whether, overall, the national interest would be best served by appointment of an independent counsel in such a case, or whether it would be better for the Department of Justice to continue a vigorous investigation of the matter.

Fourth, even this discretionary provision is not available unless I find a conflict of interest of the sort contemplated by the Act. The Congress has made it very clear that this provision should be invoked only in certain narrow circumstances. Under the Act, I must conclude that there is a potential for an actual conflict of interest, rather than merely an appearance of a conflict of interest. The Congress expressly adopted this higher standard to ensure that the provision

would not be invoked unnecessarily. See 128 Cong. Rec. H 9507 (daily ed. December 13, 1982) (statement of Rep. Hall). Moreover, I must find that there is the potential for such an actual conflict with respect to the investigation of a particular person, not merely with respect to the overall matter. Indeed, when the Act was reauthorized in 1994, Congress considered a proposal for a more flexible standard for invoking the discretionary clause, which would have permitted its use to refer any ''matter'' to an Independent Counsel when the purposes of the Act would be served. Congress rejected this suggestion, explaining that such a standard would ''substantially lower the threshold for use of the general discretionary provision.'' H.R. Conf. Rep. No. 511, 103rd Cong., 2nd Sess. 9 (1994).

2. COVERED PERSONS—THE MANDATORY PROVISIONS OF THE ACT

Let me now turn to the specific allegations in your letter. You assert that there are ''new questions of possible wrongdoing by senior White House officials themselves,'' and you identify a number of particular types of conduct in support of this claim. While all of the specific issues you mention are under review or active investigation by the task force, at this time we have no specific, credible evidence that any covered White House official may have committed a Federal crime in respect of any of these issues. Nevertheless, I will discuss separately each area that you raise.

a. *Fundraising on Federal Property*. First, you suggest that ''federal officials may have illegally solicited and/or received contributions on federal property.'' The conduct you describe could be a violation of 18 U.S.C. §607. We are aware of a number of allegations of this sort; all are being evaluated, and where appropriate, investigations have been commenced. The Department takes allegations of political fundraising by Federal employees on Federal property seriously, and in appropriate cases would not hesitate to prosecute such matters. Indeed, the Public Integrity Section, which is overseeing the work of the campaign financing task force, recently obtained a number of guilty pleas from individuals who are soliciting and accepting political contributions within the Department of Agriculture.

The analysis of a potential section 607 violation is a fact-specific inquiry. A number of different factors must be considered when reviewing allegations that this law may have been violated:

First, the law specifically applies only to contributions as technically defined by the Federal Election Campaign Act (FECA)—funds commonly referred to as ''hard money.'' The statute originally applied broadly to any political fundraising, but in 1979, over the objection of the Department of Justice, Congress narrowed the scope of section 607 to render it applicable only to FECA contributions. Before concluding that section 607 may have been violated, we must have evidence that a particular solicitation involved a ''contribution'' within the definition of the FECA.

Second, there are private areas of the White House that, as a general rule, fall outside the scope of the statute, because of the statutory requirement that the particular solicitation occur in an area ''occupied in the discharge of official duties.'' 3 Op. Off. Legal Counsel 31 (1979). The distinction recognizes that while the Federal Government provides a residence to the President, similar to the housing that it might provide to foreign service officers, this residence is still the personal home of an individual within which restrictions that might validly apply to the Federal workplace should not be imposed. Before we can conclude that section 607 may have been violated, we must have evidence that fundraising took place in locations covered by the provisions of the statute.

Thus, while you express concerns about the possibility of ''specific solicitations * * * made by federal officials at the numerous White House overnights, coffees, and other similar events,'' we do not at this time have any specific and credible evidence of any such solicitation by any covered person that may constitute a violation of section 607.

We do not suggest, of course, that our consideration of information concerning fundraising on Federal property is limited to whether the conduct constituted a violation only of section 607. However, at this point in time, we have no specific and credible evidence to suggest that any crime was committed by any covered person in connection with these allegations.

b. *Misuse of Government Resources*. You next assert that Government property and employees may have been used illegally to further campaign interests—conduct which might, in some circumstances, constitute a theft or conversion of Government property in violation of 18 U.S.C. §641. Again, we are actively investigating allegations that such misconduct may have occurred. However, we are unaware at this time of any evidence that any covered person participated in any such activity, other than use of Government property that is permitted under Federal law, such as the reports that the Vice President used a Government telephone, charging the calls to a nongovernment credit card. Federal regulations permit such incidental use of Government property for otherwise lawful personal purposes. See, e.g., 5 C.F.R. §2635.704; 41 C.F.R. §201–21.601 (personal long distance telephone calls). Thus, for example, allegations that a Government telephone or telefacsimile machine may have been used on a few occasions by a covered person for personal purposes does not amount to an allegation of a Federal crime. To the extent that there are allegations warranting investigation that individuals not covered by the Independent Counsel Act diverted Government resources, it is my conclusion, as I explain below, that there is at present no conflict of interest for the Department of Justice to investigate and, if appropriate, prosecute those involved in any such activity.

c. *Foreign Efforts to Influence U.S. Policy*. You next cite reports suggesting the possibility that foreign contributions may have been made in hopes of influencing American police decisions. These allegations are under active investigation by the task force. The facts known at this time, however, do not indicate the criminal involvement of any covered person in such conduct.

It is neither unique nor unprecedented for the Department to receive information that foreign interests might be seeking to infuse money into American political campaigns. That was precisely the scenario that underlay the criminal investigations, prosecutions and congressional hearings during the late 1970s involving allegations that a Korean businessman was making illegal campaign contributions, among other things, to Members of Congress to curry congressional support for the Government of South Korea. In a more recent example, in 1996 an individual was prosecuted and convicted for funneling Indian Government funds into Federal elections through the cover of a political action committee.

Absent specific and credible evidence of complicity by a covered person, it has never been suggested that the mere allegation that a foreign government may have been trying to provide funds to Federal campaigns should warrant appointment of an independent counsel. Nor can it be the case that an independent counsel is required to investigate because campaign contributors or those who donated to political parties believed their largesse would influence policy or achieve access. The Department of Justice routinely handles such allegations, and because of its experience in reviewing and investigating these sensitive matters, embracing, among other things, issues of national security, is particularly well-equipped to do so.

d. *Coordination of Campaign Fundraising and Expenditures*. You also suggest that the ''close coordination by the White House over the raising and spending of 'soft'—and purportedly independent—DNC funds violated Federal election laws, and/or had the legal effect of rendering those funds subject to campaign finance limitations they otherwise would not be subject to.'' We believe this statement misapprehends the law. The FECA does not prohibit the coordination of fundraising or expenditures between a party and its candidates for office. Indeed, the Federal Election Commission (FEC), the body charged by Congress with primary responsibility for interpreting and enforcing the FECA, has historically assumed coordination between a candidate and his or her political party.

Of course, coordinated expenditures may be unlawful under the FECA if they are made with funds from prohibited sources, if they were misreported, or if they exceeded applicable expenditure limits. However, we presently lack specific and credible evidence suggesting that any covered person participated in any such violations, if they occurred.

With respect to coordinated media advertisements by political parties (an area that has received much attention of late, the proper characterization of a particular expenditure depends not on the degree of coordination, but rather on the content of the message. Indeed, just last year the FEC and the content of the message. Indeed, just last year the FEC and the Department of Justice took this position in a brief filed before the Supreme Court, in a case decided on other grounds. See generally, Brief for the Respondent, *Colorado Republican Federal Campaign Committee* v. *FEC* (S. Ct. No. 95–489), at 2–3, 18 n. 15, 23–24. In this connection, the FEC has concluded that party media advertisements that focus on ''national legislative activity'' and that do not contain an ''electioneering message'' may be financed, in part, using ''soft'' money, i.e., money that does not comply with FECA's contribution limits. FEC Advisory Op. 1995–25, 2 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 6162, at 12,109–12,110 (August 24, 1995); FEC Advisory Op. 1985–14, 2 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5819, at 11,185–11,186 (May 30, 1985). Moreover, such advertisements are not subject to any applicable limitations on coordinated expenditures by the party on behalf of its candidates. AO 1985–14 at 11–185–11,186.

We recognize that there are allegations that both presidential candidates and both national political parties engaged in a concerted effort to take full advantage of every funding option available to them under the law, to craft advertisements that took advantage of the lesser regulation applicable to legislative issue advertising, and to raise large quantities of soft political funding to finance these ventures. However, at the present time, we lack specific and credible evidence suggesting that these activities violated the FECA. Moreover, even assuming that, after a thorough investigation, the FEC were to conclude that regulatory violations occurred, we presently lack specific and credible evidence suggesting that any covered person participated in any such violations.

3. CONFLICT OF INTEREST—THE DISCRETIONARY PROVISIONS OF THE ACT

In urging me to conclude that the investigation poses the type of potential conflict of interest contemplated by the Act, you rely heavily on my testimony before the Senate Committee on Government Affairs in 1993 in support of reauthorization of the Independent Counsel Act. I stand by those views and continue to support the overall concept underlying the Act. My decisions pursuant to the Act have been, I believe, fully consistent with those views.

The remarks you quote from my testimony should be interpreted within the context of the statutory language I was discussing. When, for example, I referred to the need for the Act to deal with the inherent conflict of interest when the Department of Justice investigates ''high-level Executive Branch officials,'' I was referring to persons covered under the mandatory provisions of the Act. With respect to the conflict of interest provision, my testimony expressed the conviction that the Act ''would in no way preempt this Department's authority to investigate public corruption,'' and that the Department was clearly capable of ''vigorous investigations of wrongdoing by public officials, whatever allegiance or stripes they may wear. I will vigorously defend and continue this tradition.'' While I endorsed the concept of the discretionary clause to deal with unforeseeable situations, I strongly emphasized that ''it is part of the Attorney General's job to make difficult decisions in tough cases. I have no intention of abdicating that responsibility[.]'' These principles continue to guide my decisionmaking today.

There are times when reliance on the discretionary clause is appropriate, and indeed, as you point out, I have done so myself on a few occasions. However, in each of those cases, I considered the particular factual context in which the allegations against those persons arose and the history of the matter. Moreover, even after finding the existence of a potential conflict, I must consider whether under all the circumstances discretionary appointment of an independent counsel is appropriate. In each case, therefore, the final decision has been an exercise of my discretion, as provided for under the Act.

I have undertaken the same examination here. Based on the facts as we know them now, I have not concluded that any conflict of interest would ensue from our vigorous and thorough investigation of the allegations contained in your letter.

Your letter relies upon press reports, certain documents and various public statements which you assert demonstrate that ''officials at the highest level of the White House were involved in formulating, coordinating and implementing the [Democratic National Committee's (DNC's)] fundraising efforts for the 1996 presidential campaign.'' You suggest that a thorough investigation of ''fundraising improprieties'' will therefore necessarily include an inquiry into the ''knowledge and/or complicity of very senior White House officials,'' and that the Department of Justice would therefore have a conflict of interest investigating these allegations.

To the extent that ''improprieties'' comprise crimes, they are being thoroughly investigated by the agents and prosecutors assigned to the task force. Should that investigation develop at any time specific and credible evidence that any covered person may have committed a crime, the Act will be triggered, and I will fulfill my responsibilities under the Act. In addition, should that investigation develop specific and credible evidence that a crime may have been committed by a ''very senior'' White House official who is not covered by the Act, I will decide whether investigation of that person by the Department might result in a conflict of interest, and, if so, whether the discretionary clause should be invoked. Until then, however, the mere fact that employees of the White House and the DNC worked closely together in the course of President Clinton's reelection campaign does not warrant appointment of an independent counsel. As I have stated above, the Department has a long history of investigating allegations of criminal activity by high-ranking Government officials without fear or favor, and will do so in this case.

I also do not accept the suggestion that there will be widespread public distrust of the actions and conclusions of the Department if it continues to investigate this matter, creating a conflict of interest warranting the appointment of an independent counsel. First, unless I find that the investigation of a particular person against whom specific and credible allegations have been made would pose a conflict, I have no authority to utilize the procedures of the Act. Moreover, I have confidence that the career professionals in the Department will investigate this matter in a fashion that will satisfy the American people that justice has been done.

Finally, even were I to determine that a conflict of interest of the sort contemplated by the statute exists in this case—and as noted above I do not find such a conflict at this time—there would be a number of weighty considerations that I would have to consider in determining whether to exercise my discretion to seek an independent counsel at this time. Because invocation of the conflict of interest provision is discretionary, it would still be my responsibility in that circumstance to weigh all the factors and determine whether appointment of an independent counsel would best serve the national interest. If in the future this investigation reveals evidence indicating that a conflict of interest exists, these factors will continue to weigh heavily in my evaluation of whether or not to invoke the discretionary provisions of the Act.

I assure you, once again, that allegations of violations of Federal criminal law with respect to campaign financing in the course of the 1996 Federal elections will be thoroughly investigated and, if appropriate, prosecuted. At this point it appears to me that that task should be performed by the Department of Justice and its career investigators and prosecutors. I want to emphasize, however, that the task force continues to receive new information (much has been discovered even since I received your letter), and I will continue to monitor the investigation closely in light of my responsibilities under the Independent Counsel Act. Should future developments make it appropriate to invoke the procedures of the Act, I will do so without hesitation.

Sincerely,

JANET RENO.

Mr. SPECTER. Madam President, I have circularized my intent to pursue this amendment, and there is no other Senator on the floor now who seeks recognition. Before suggesting the absence of a quorum, let me say that we had talked earlier about having a vote on the Kyl mendment at 5 o'clock this afternoon. We have not yet locked in that amendment, but it is now being hot lined. It is my expectation that we will vote at 5 o'clock this afternoon on the Kyl amendment.

I now ask, Madam President, that anybody who opposes the sense-of-the-Senate resolution for independent counsel come to speak, anybody who favors it come to speak, or if somebody has another amendment, come to speak. We will be glad to set this aside and proceed with the business.

We also ask there be a hot line looking for a unanimous consent agreement later this afternoon, perhaps early evening, 6 o'clock, 6:30, to limit any further amendments which may be offered so that we may get a calendar as to what we are going to do on this bill to proceed to third reading and final disposition, because it is the intention of the managers to move for third reading if no other amendments are pending.

I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR

Mr. MCCAIN. Mr. President, I ask unanimous consent that Ann McKinley, a fellow on my staff, be granted the privilege of the floor during consideration of the fiscal year 1998 Labor-HHS appropriations bill.

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

Mr. MCCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1056

Mr. WELLSTONE. I thank the Chair. Mr. President, I actually will be brief. I had a chance yesterday to speak in opposition to the amendment of my colleague from Arizona, Senator KYL. I know that other Senators have spoken about this as well.

I was on the floor early this morning when both Senator SPECTER and Senator HARKIN spoke about it. Mr. President, the part of the Kyl amendment which I am sympathetic to, and my guess is that a good many other Senators are sympathetic to it as well, would be the effort to try to expand funding for the Pell Grant Program. And, Mr. President, as my colleague, Senator HARKIN from Iowa, said earlier this morning, interestingly enough, the Pell Grant Program, named after Claiborne Pell, our Senator—I think all of us really came to admire and believe in Claiborne Pell—really does represent a kind of positive role for the public sector, for Government, because what we as a country have decided is that there are certain decisive areas of life in a

nation where you do not just leave it up to a market verdict.

If, in fact, you have a family, a young person or not such a young person who cannot afford higher education, there is a role to make sure that man or that woman can afford to go on to college, especially since this is becoming more and more important in determining how they will do economically or how their families will do.

Indeed, there is a statistic that is a shameful statistic that we have had since the late 1970's, about an 8-percent graduation rate from colleges and universities of those men and women from families with incomes under $20,000 a year, the main reason being that they have not been able to afford to go on and get their higher education.

I said this yesterday—and I will have an amendment that will try to speak to this today or tomorrow—it is also true that with all the discussion about HOPE scholarships and tax credits, since they are not refundable, all families with incomes below $28,000 a year are not going to become eligible. So we still have a huge hole, especially for those students from moderate- and low-income families. So it seems to me, if we are going to be talking about providing support for higher education and for families and for young men and women and older men and women—many of our students are older now in our community colleges—we ought to make sure that low-income are included.

The problem with the Kyl amendment is that he takes the funding from the LIHEAP, the Low-Income Energy Assistance Program, which is a lifeline program for very vulnerable families, especially for those of us who represent cold weather States, although part of low-income energy assistance is also, I say to the Chair, since he is from the great State of North Carolina, some of it also is for cooling assistance. I think it was two summers ago that we had a number of people in Chicago, poor people, who died, elderly people, from exposure to heat. They just could not afford air conditioning.

So, Mr. President, what the Kyl amendment does is it rescinds about $500 million, takes about half of what is in a $1 billion program—it has already been cut way down—and it essentially ends the program.

Mr. President, I just want people to know, my colleagues to know—I think they do—I think we are going to have a strong vote in opposition to the amendment, and that the vast majority of the recipients of an energy grant is maybe $300 a year, or thereabouts. It is a lifeline program. It just enables an elderly person to be able to afford heat and not have to then spend more than she can afford and, therefore, not be able to get ahold of a prescription drug she needs or maybe have to cut back on food on the table.

It is not much. It is extremely important. The vast majority of the citizens—there are about 110,000 households in Minnesota that have participated, have incomes under $8,000 a year. These are not wealthy people or middle-income people. These are people who are hard pressed. This is a lifeline program. It represents the goodness in us. And we cannot be gutting this program.

I have been involved in this fight to kind of maintain or protect the LIHEAP program for the last 3 or 4 years. I do not know why we have to go through this every time.

Mr. President, let me just make it clear that if you wanted to expand the Pell Grant Program, I can think of other ways to do it. I mean, now we know that with the B–2, the stealth bomber program, we have planes that cannot fly in the rain or the snow. I mean, I will have an amendment later on that will say, let us not build any more of these turkeys. And you can just transfer that funding for the Pell Grant Program. But do not take it out of low-income energy assistance.

I see my colleague from Pennsylvania here. I thank him for his graciousness in allowing me to have some time to speak about this. But again, colleagues have heard it from the Senator from Pennsylvania, Senator SPECTER, Senator HARKIN, any number of Senators who have come to the floor on this. And, again, I hope there will be a strong vote against the amendment.

It is extremely important. It is a matter of elementary decency, if you will, to provide people with some support that they need. It is a lifeline support program. And I tell you, to a cold weather State like Minnesota, it is very important. We already know in Minnesota right now that we are going to have to ask for some additional emergency energy assistance. We did last winter. That is what happens. This is an underfunded program, not overfunded. The only reason I do not have an amendment calling for more funding is I know the White House, the administration, has been good about providing that emergency funding for States that need it.

So, Mr. President, the last thing in the world that makes any sense is to essentially gut this program by rescinding $500 million. To all my colleagues, I hope you will vote against this amendment. To Senator KYL, who is a Senator that I like and respect, I think you are profoundly mistaken with this amendment, as much as I appreciate your good work here. I hope that we will have a very strong bipartisan vote against this amendment.

Mr. KENNEDY. Mr. President, I oppose the amendment offered by Senator KYL. I am reluctant to do so because I strongly support changes in the eligibility rules for independent and dependent students for Pell grants.

Congress needs to make changes in the eligibility rules for these students. Both independent students and dependent students are unfairly disadvantaged by the rules now in effect. Today, single independent students at public 4-year institutions are not eligible for a Pell grant if their income is over $10,000. Many of these students will not benefit from the HOPE tax credit and the tax credit for lifelong learning. Federal funds should be available to help them meet their most basic college expenses.

A similar problem faces dependent students. The income protection allowance is so low for them that it has become a disincentive for college students to work part-time to help them contribute to college costs. Over three-quarters of undergraduates work part-time while enrolled in college. The current system penalizes students who work during the summer and part-time through the school year by reducing their Pell grant eligibility. We should be encouraging students to take part-time jobs, rather than take out additional loans.

The budget agreement contains a commitment to allocate $700 million for changes to the needs analysis formula under the Pell grants. The House appropriations subcommittee provided over $500 million toward this commitment, but the Senate bill contains no funds for this needed change.

I am working with others in Congress and with the Department of Education to ensure that a satisfactory appropriation level is contained in the final bill.

Senator KYL supports making funds available to reform the needs analysis. But unfortunately, to pay for the reform, he makes a deep cut in the Low-Income Home Energy Assistance Program.

For the 5 million beneficiaries of LIHEAP across the Nation, including 120,000 in Massachusetts, it will be an unnecessarily harsh winter if this important program is slashed.

Some 95 percent of the households receiving LIHEAP assistance have annual incomes below $18,000. They spend an extremely burdensome 18 percent of their income on energy, compared to the average middle-class family, which spends only 4 percent.

Researchers at Boston City Hospital have documented a ''heat or eat effect.'' Higher utility bills during the coldest months force low-income families to spend less money on food. The result is increased malnutrition among children.

Almost twice as many low-weight and undernourished children were admitted to Boston City Hospital's emergency room immediately following the coldest month of the winter. No family should have to choose between heating and eating.

Low-income elderly will be at the greatest risk if LIHEAP funds are slashed, because they are the most vulnerable to hypothermia. In fact, older Americans accounted for more than half of all hypothermia deaths in 1991.

In addition, the elderly are much more likely to live in homes built before 1940, which are less energy efficient and put them at greater risk.

Low-income elderly who have trouble paying their fuel bills are often driven

to rely on room heaters, fireplaces, ovens, and wood-burning stoves to save money. Between 1986 and 1990, these higher-risk heating sources were the second leading cause of fire deaths among the elderly. In fact, elderly citizens are up to 12 times more likely to die in heating-related fires than adults under 65.

LIHEAP is a lifeline for Massachusetts and many other cold weather States. I hope we can work together to make the needs analysis changes in the Pell grants, without denying this lifeline to a very vulnerable group. I urge that the Kyl amendment be defeated.

Mr. JEFFORDS. Mr. President, I rise today to join with the distinguished chairman of the Labor, Health and Human Services, and Education Appropriations Subcommittee, Senator SPECTER and the subcommittee's ranking member Senator HARKIN, in opposition to Senator KYL's amendment to cut funding for the Low-Income Home Energy Assistance Program [LIHEAP]. While I applaud the Senator from Arizona's goal to increase funding for Pell grants, I can not sanction a move that would essentially gut the LIHEAP program, effectively depriving millions of the disadvantaged, elderly, and disabled of critical assistance.

Mr. President, the appropriation for LIHEAP has declined more than 50 percent over the past decade, down from $2.1 billion in fiscal 1985. During that time, the eligible population has grown from 23 to 30 million. In Vermont, Federal cutbacks have forced the State to push back the deadline for applying for fuel aid to September 2. Mr. President, I strongly disagree with the contention that the need for fuel assistance has declined since the program's founding. Last winter, two-thirds of the 1,400 Vermonters who missed the State's benefits deadline were denied assistance; and the number of people who ran out of fuel and requested emergency aid doubled.

Mr. President, Federal cutbacks since 1995 have reduced the number of families in Vermont that receive assistance from over 24,000 to around 12,000 this year. These families should not face the prospect of further cutbacks.

Mr. President, I want to emphasize to the program's critics that LIHEAP helps the neediest of the needy. As others have already stated, almost 70 percent of recipient families have an annual income of less than $8,000, and 44 percent have at least one member who is elderly and 20 percent have one member who is disabled. Currently, only 5 million families are being served nationally, a million less than 2 years ago.

Mr. President, this is a time to increase funding for LIHEAP not decrease it. Last month, as cochair of the Northeast-Midwest Senate Coalition, I spearheaded a letter to Senators SPECTER and HARKIN that asked for an increase in regular funding for LIHEAP so that the program is not forced to rely on releases of emergency funds to meet basic needs. Fifty-five Senators signed on to this letter.

Mr. President, the Appropriations Committee should be commended for recognizing that the need for LIHEAP is greater than current resources. The committee has included $1.2 billion in so-called advance funds for fiscal 1999. I urge my colleagues to overwhelmingly reject this amendment to cut LIHEAP and support Senators SPECTER and HARKIN in their effort to increase LIHEAP funding in fiscal 1999.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SPECTER. Mr. President, there has been a hotline run, that is to say, Senators on both sides of the aisle have been notified, and I now ask unanimous consent that a vote occur on or in relation to the pending Kyl amendment at 5 p.m. today.

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

Mr. SPECTER. Mr. President, I again renew the request that any Senator who has an amendment to offer should come to the floor. And again I say that we are going to be seeking a unanimous-consent agreement to limit amendments which were filed, trying to get that accomplished by late afternoon or early evening.

Again, in the absence of any Senator on the floor seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. 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. CONRAD. Mr. President, I rise to discuss the pending amendment. I understand we will soon vote on the amendment of the Senator from Arizona, Senator KYL. I wanted to take just a moment to address that amendment that is before the body.

Mr. President, Senator KYL has suggested that we increase Pell grant funding by $528 million. That is a worthy goal. That is something that I would like to see done. But he suggests paying for it by taking that money out of the low-income heating assistance program.

The Senator from Arizona experiences a different reality than the one I experience. The Senator from Arizona says the energy crisis is over; the need for low-income heating assistance has ended. I could not disagree more. We have just had in my State the worst winter in our history. In fact, we saw heating oil prices spike significantly, with natural gas hitting an all-time high. Propane spiked dramatically, hitting an all-time high.

Mr. President, this is not the time to end the low-income heating assistance program. We just went through a winter in which not only did we have the worst winter in terms of snowfall in our history, but we had, if I am not mistaken, eight blizzards and nine major winter storms. We also had the most powerful winter storm in 50 years in the first week of April.

Mr. President, that was devastating in my State. In fact, this collection of storms was devastating in my State. Low-income heating assistance played a key role in helping people who are faced with the choice between heating and eating. That is not a choice anybody should have to make in this country.

So, while I certainly support the underlying intention of the Senator from Arizona to increase assistance for Pell grants, I would simply point to the record of what we have already done.

We have a $1 billion increase for Pell grants in this legislation; funding of $6.9 billion for Pell grants. Again, I would like to see that increased further. But I don't think the way to fund it is to dramatically reduce what is available for low-income heating assistance. This bill has $1 billion for fiscal year 1998 in low-income heating assistance and $300 million in an emergency contingency fund. To cut back by $528 million to add to Pell grants I don't think can be justified.

So I ask my colleagues to join me in opposing the Kyl amendment, not because I am opposed to an increase in Pell grants but because I am opposed to taking it out of low-income heating assistance at a time when we have just experienced in the northern plains the worst winter in our history, and, if the almanac is to be believed, we may be faced with another tough winter this year. I hope that is not the case, but if it is, low-income heating assistance may make the difference between people making a decision of heating versus eating. Again, that is not a decision anybody should have to make.

I thank the Chair.

I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. 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. HATCH. Mr. President, I ask unanimous consent that we be given an extra 5 minutes past 5 o'clock to make statements.

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

NATIONAL DAY OF RECOGNITION FOR THE HUMANITARIAN EFFORTS OF DIANA, PRINCESS OF WALES

Mr. HATCH. Mr. President, today I am offering for myself, Senator LEAHY, Senator SPECTER, Senator LANDRIEU, Senator MIKULSKI, and I am sure others, a resolution that designates Saturday, September 6, 1997, as a National Day of Recognition for the Humanitarian Efforts of Diana, Princess of Wales.

Death is always difficult to accept. It is, however, more difficult when it captures someone in the prime of her life as it has Princess Diana. It is safe to say that events surrounding her death will make us all take a closer look at the handling of this event by the press, its responsibilities, and the role it should play in the future.

As a mother, humanitarian, and a goodwill ambassador, Princess Diana was an inspiration to many people throughout the world who admired her strength in adversity, her dedication to those less fortunate, and her devoted love to her children.

The extraordinary outpouring of grief and affection is a true testament to the legacy that she leaves. The stunning array of flowers, candles, and notes in front of the British Embassy is just one indication of the high esteem in which the Princess was held here in the United States. Our country rejected a monarchy a long time ago, but we know a true friend when we see one.

In a town accustomed to the art of issue advocacy, the Princess of Wales was clearly one of the most persuasive and compelling advocates to have graced our Nation's Capital. Much has already been said about her efforts to raise awareness and attention to breast cancer and AIDS. She recently took up the cause of banning the deployment of antipersonnel landmines. She was informed and articulate and committed to these causes.

Many people can make speeches, and many people can throw gala benefits. What set Diana apart from others working for these same causes was the gentleness of her spirit. To break the back of intolerance and to help to dispel unfounded notions about AIDS, Diana broke tradition, and held babies afflicted with AIDS in her arms and to offer her hands to comfort AIDS patients.

We understood that she participated in these activities not just out of a sense of duty but because she genuinely cared. She delighted in children, commiserated with the rank and file, and listened to the elderly or less fortunate. Her vulnerability was also her strength. She could connect with people like few people ever could. She was indeed the people's Princess.

Although she was a symbol of glamour and celebrity, she taught us all that the quality of life is measured by what you do for others and how you treat others. By that measure, Diana's all too short life was very rich indeed. Her warmth and joie de vivre transcended wealth and power.

Along with my fellow Utahns and millions of people around the world, Elaine and I were shocked and saddened to hear the tragic news of her untimely and tragic death. We want to extend our sincere and heartfelt condolences and sympathy to her family, and especially to her two sons, Prince William and Prince Harry.

In offering this resolution, Mr. President, Senator LEAHY and I believe it is appropriate to extend the sympathy of all Americans to the people of the United Kingdom on the death of such an extraordinary lady.

Mr. President, we expect to pass this today and I urge the support of all of our colleagues.

This is a sad event. This was a sad day. This is a tremendous loss for the world. And this is the least we can do.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I am proud to cosponsor with the senior Senator from Utah this resolution that designates September 6, 1997, as a National Day of Recognition for the Humanitarian Efforts of Diana, Princess of Wales.

What we try to do with this resolution is to convey a sense of the tremendous sorrow that Americans—indeed, people around the world—felt at the shocking news of her death in Paris.

I was with my wife in Vermont, and was called out of a gathering to be given the preliminary news of the accident. The two of us went back to our home that evening praying that the injuries were not life threatening. Of course, within a matter of hours we learned that she had died.

We have all been moved by the outpouring of affection by people everywhere, who remember the Princess of Wales as an extraordinary humanitarian who gave voice to the most vulnerable people. I remember the conversations I had with her about the scourge of landmines. This was an issue that I was honored to work with her on. She and Elizabeth Dole, the wife of our former distinguished majority leader and President of the American Red Cross, and myself and others, held a fundraiser for the victims of landmines earlier this year, and raised over half a million dollars for people who had lost arms and legs or their eyesight from landmines. She could do that, by simply spending an evening talking about the plight of landmine victims. She said about her trip to Angola, ''Before I went to Angola, I knew the facts but the reality was a shock.'' I wish more people would go see what she saw, and walk where she walked. Landmines would be banned tomorrow.

A lot of us can give speeches about landmines. Many people around the world have worked to stop the scourge of landmines, but Diana brought a human face to the crusade to ban them. She gave a voice to landmine victims. When she visited them, in Angola, or Bosnia, the whole world saw those victims. When she held in her arms a child maimed by a landmine, the whole world saw that child. And when they saw her walk into a minefield, the whole world saw the danger so many people face every day.

There was never a question in my mind, in my conversations with her, about the sincerity of her compassion. She saw the victims of landmines through the eyes of a mother, a mother who cared not only for her own two sons, but for the sons and daughters of those dying worldwide.

This week and next week nations of the world meet in Oslo to take the final steps toward an international treaty banning landmines. I hope each of them will think of what this woman did, in calling attention to the victims of landmines. There would be no more fitting memorial to this great woman than a treaty that bans anti-personnel landmines from this Earth forever.

I thank my distinguished colleague. I have appreciated working with him on this. He spoke about the many other humanitarian causes the Princess was involved in. I mentioned landmines, of course, because I saw first-hand how she became involved not as a Princess but as a mother, a mother who knew how other mothers suffered when their children suffered. She spoke for all of us.

I yield the floor.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1056

The PRESIDING OFFICER (Mr. ABRAHAM). Under the previous order, the Senate will now vote on amendment No. 1056 offered by the Senator from Arizona. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arkansas [Mr. MURKOWSKI] is necessarily absent.

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

The result was announced—yeas 25, nays 74, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—25

Allard	Gramm	McCain
Ashcroft	Hatch	McConnell
Breaux	Helms	Nickles
Brownback	Hutchinson	Roberts
Cochran	Hutchison	Sessions
Coverdell	Inhofe	Shelby
Faircloth	Kyl	Thurmond
Feinstein	Lott	
Gorton	Mack	