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## Senate

The Senate met at 9 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, help us to listen to Your fear-dispelling words: "Fear not, I am with you, I will never leave nor forsake you. You are mine for eternity."

Lord, You remind us to seek to please only You and we will have nothing or no one to fear. Help us to face our fears, allow You to displace them with Your indwelling presence, and erase them with Your forgiving love. Free us to love ourselves as loved by You. Banish any frightening memories.

Holy Love, cast out our fear. You are our strength, wisdom, and courage. When we endure the qualified love of others, we can be sure of Your unqualified love.

We surrender our own control and trust You to guide us each step of the way. We need not manipulate people, but motivate them with Your love. We can trust Your guidance in decisions and Your solutions to the most complicated problems. Use our imaginations to picture and live Your best for our lives. We have nothing to fear. Thank You, Father, through our Lord and Saviour. Amen.

### RECOGNITION OF THE ASSISTANT MAJORITY LEADER

The PRESIDENT pro tempore. The assistant majority leader is recognized.

Mr. NICKLES. Mr. President, thank you.

### SCHEDULE

Mr. NICKLES. Mr. President, on behalf of the majority leader, I announce that this morning the Senate will resume consideration of S. 1061, the Labor-HHS appropriations bill. As under the order reached last evening, there will be 30 minutes of debate equally divided on the Nickles amend-

ment, No. 1081, regarding Teamsters elections, to be followed by 30 minutes of debate equally divided on the Gregg amendment, No. 1070, regarding educational testing.

Following that debate time, at approximately 10 a.m. there will be a series of four stacked rollcall votes, including final passage of the Labor-HHS appropriations bill.

Following those votes, the Senate will begin consideration of S. 830, the FDA reform bill. Under the previous order, there will be 1 hour of debate under the control of Senator JEFFORDS, and 1 hour of debate under the control of Senator KENNEDY.

In addition, a cloture motion is expected to be filed on the FDA reform bill today. Also, it is anticipated that the Senate will begin consideration of H.R. 2107, the Interior appropriations bill.

Subsequently, following the ordered votes, which begin at approximately 10 a.m. this morning, additional votes are expected.

I wish to thank my colleagues for their attention.

### MEASURE READ FOR THE SECOND TIME—S. 1160

Mr. NICKLES. Mr. President, I understand that there is a bill at the desk that is due for its second reading.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1160) to provide for educational facilities improvement.

Mr. NICKLES. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

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

The PRESIDENT pro tempore. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 1061) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gregg amendment No. 1070, to prohibit the use of funds for national testing in reading and mathematics, with certain exceptions.

Coats-Gregg amendment No. 1071 (to amendment No. 1070), 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.

Nickles-Jeffords amendment No. 1081, to limit the use of taxpayer funds for any future International Brotherhood of Teamsters leadership election.

Craig-Jeffords amendment No. 1083 (to amendment No. 1081), in the nature of a substitute.

Harkin-Bingaman-Kennedy amendment No. 1115, to authorize the National Assessment Governing Board to develop policy for voluntary national tests in reading and mathematics.

Domenici (for Gorton) modified amendment No. 1122, to provide certain education funding directly to local educational agencies.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY addressed the Chair.

The PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, as I understand it, the time between now and 9:30 is evenly divided on the Nickles and Gregg amendments. Am I correct?

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



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The PRESIDENT pro tempore. That is correct.

Mr. KENNEDY. How much time then on each side?

The PRESIDENT pro tempore. Fifteen minutes on each side.

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Minnesota.

The PRESIDENT pro tempore. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Chair. Mr. President, I thank Senator KENNEDY.

AMENDMENT NO. 1081, AS AMENDED

Mr. WELLSTONE. Mr. President, we had an extensive discussion on the Nickles amendment last time. I just want to speak for a very brief period of time about it this morning.

Pending before a Federal court in New York, scheduled to be considered next Friday, is a motion by the election officer of the 1996 Teamsters election. A judge will make a decision then. And the problem with this amendment, Mr. President, is that it essentially tells the judge what to do.

I would like to say this morning that in many ways this reminds me of yesterday. This is an overreach. I think we are getting a little bit carried away with our power here.

My colleague from Oklahoma is a fine Senator. But he is not a judge. It is Senator NICKLES. It is not "Judge NICKLES." We don't really have the right to tell a judge what kind of decision he should make regarding the 1989 consent decree. That is for the judge to decide next week.

Mr. President, it is true that we had an election, and it is true that it was not satisfactory. And, indeed, the investment that we made to make sure it was a clean and fair election lead to a report, and the election officer essentially saying there has to be a rerun; that this has to be done again. That is the way it is supposed to be. An election which is not a fair election means that you have to have another election. That is where we are heading.

Mr. President, my colleague from Oklahoma has said that the consent decree was neutral as to whether there would be any more money spent on the election—silent on that matter. If so, on the Kennedy amendment, what my colleague from Massachusetts has talked about is right on the mark; that we make a commitment that we will not do anything here that will overturn, or essentially contradict, that consent decree.

The judge makes the decision in New York next week. What are we as a U.S. Senate doing trying to tell that judge how he should decide? That is an overreach. That is not our business. I think it raises constitutional questions. But I also think it raises another set of questions. I said this last time. I will repeat it in the last minute or two that I have.

Whatever the intentions of my colleague—and I know they are good intentions—the fact of the matter is that

there is a whole lot of people in the country who find the timing of the Nickles amendment to be suspect. I mean it comes in a relatively short period of time after a very successful justice struggle by UPS workers and by the Teamsters. It just looks like pay-back time. That is, I am sure, not his intention.

But the point of it is the timing is off. It doesn't look good for the U.S. Senate to be coming out on the floor of the Senate with an amendment like this short on the heels of this great victory for working people. And, in addition, it is an overreach. I mean we should not be telling the judge what kind of decision a Federal district judge in New York makes next week. I don't think it is constitutionally the right thing to do. I think it is probably unconstitutional. I don't think it is appropriate, and I hope that there will be a very strong vote against the Nickles amendment.

I yield the floor.

Mr. KENNEDY addressed the Chair.

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

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

Mr. President, the fact of the matter is, whether it is the intention or not the intention of those that propose this amendment, one can reach no other conclusion that this amendment is on the floor of the U.S. Senate because of the success of the Teamsters in the recent UPS strike. For the first time in many years, the Nation focused on the particular needs of part-time workers—their future, their security, and their well-being.

During that UPS strike, one of the key points that was made—and which I think resonated across the country—was that part-time workers don't have part-time mortgages, don't have part-time bills when they are feeding their children, don't have part-time bills when they are trying to work for their families, and bring up their families, and that in this Nation with our growing and expanding economy—and with the strongest economy that we have had in many years—part-time workers should not be excluded. That is the key issue. There are many of those that fought that issue. But, nonetheless, as a result of collective bargaining, part-time workers' needs were recognized. I think America understood this issue much better. Pension issues were resolved to try to ensure that we are not going to only have Social Security to rely on when they retire but at least have some benefit in terms of their pensions for men and women that work hard over a long period of time.

Those were the negotiations. Now there are many, and many in this body, that do not like the outcome of that particular measure. They have put this measure that is before us, which I think is really a reflection of that success.

The fact is, Mr. President, if we accept this amendment of Senators NICK-

LES and GREGG, we will be directly interfering with a consent decree that was agreed to by a Republican administration, agreed to by a Republican Attorney General, Attorney General Thornburgh, and it was heralded at that period of time as a great success by Republicans in trying to clean up corruption in a particular union. The fact is that when the Teamsters have a Teamster Union election, the Teamsters pay for it. But under that consent decree, if there are going to be Federal supervisors involved in this, and the Federal Government is going to be involved in ensuring that the election is going to be fair, then the Federal Government is going to be paying for this and participating.

We are not saying now and in the future when this matter is before the courts what the future is going to be, or whether there is going to be another election and who ought to pay for it. All we are saying is let the consent decree that is in place now continue to be respected and not be undermined by actions by the legislative body which is a direct interference into the separation of powers and into the judicial decision to have a consent decree by which the executive body agreed to.

That is the issue, Mr. President, and there are many important scholars that agree that, if we do have this kind of interference in a consent decree, we are going to subject this body to a contempt action because we will be interfering in a consent decree.

Mr. President, it seems to me that we ought to follow the regular order. This overall agreement consent decree is before the Southern District Court in New York. Briefs are being required by the middle of this month. There will be a judgment to be made by the judge in that decision. And we ought to respect that particular decision which has been agreed on and it is now a matter of consent decree. We should not interfere with a consent decree with a legislative intrusion. There are no funds in this appropriations affecting that particular settlement. And we have no business, as the Senator from Alaska has pointed out, a Republican, to be adding these kinds of extraneous issues into an appropriations bill. It makes no sense.

I withhold the remainder of my time.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, in listening to my colleagues, I heard, "Well, the reason why this amendment is offered is because the Teamsters strike against UPS was a phenomenal success." I have never commented on that. But I don't know that I could consider success that they have 15,000 fewer workers today after the strike than they had before the strike.

I know that some people characterize it. But I will tell my colleagues, you can question my integrity or not, that is not the reason I am offering this amendment. I am offering this amendment because I read that taxpayers

paid \$22 million for it. I don't know who won that strike. With strikes I think basically everybody loses. I think the company loses, and the workers lose. And if you have 15,000 fewer jobs, that is a loss. And certainly the company loses lots of money and lots of customers. So that is a loss.

But that is not the purpose of my amendment. The purpose of my amendment is that I didn't know that the taxpayers were paying for that election.

I thought, why did we pay for that election? Well, there was a consent decree order in 1989 that said we will have a couple of elections to deal with, 1991 and 1996. And they agreed in the consent decree to supervise all future Teamsters elections. It is in the consent decree. They said, in 1991, the Teamsters will pay for it. They said, in 1996, the taxpayers will pay for it. They were silent on any subsequent elections.

I want to make sure that we do not pay for it. I do not think we should have paid for the one in 1996. I did not know about it until after the fact. So if anybody wants to question my motives, I almost could put out—I am not questioning other people's motives. I have not raised the fact the Teamsters put in so much money in these elections, and so on. I have never said people are out here defending this because they received support. I am not going to do it. I am not questioning other people's motives.

I am a little sensitive to that statement because it was made last week, and I did not respond to it earlier this week and now it is repeated. That is infringing, or very close to infringing on Senate rules.

We have a right to say how money is appropriated in this body. My colleague from Minnesota said, well, maybe in this institution a consent decree overrides the Constitution. I do not think so. In the Constitution of the United States, article I, section 9 says, "No money shall be drawn from the Treasury but in consequence of appropriations made by law."

That is by Congress. Article I of the Constitution says, under congressional powers, Congress has the right to appropriate money. We have the right basically not to appropriate money, and that is what this amendment says. This amendment says we do not want to spend another \$22 million. We can supervise the election. Frankly, we have to supervise the election. The consent decree says we will supervise the election.

What happened in the last election? According to the report that was done by the election officer of the Teamsters' last election, "The violation of the rules described above were not merely"—this is a quote from her report, and I will put it into the record. "The violations of the rules described above were not merely technical but products of schemes to funnel union and outside money into the election

and thus change the outcome. These were egregious violations by high level functionaries who believed that winning at all costs was more important than abiding by the rules and the law. Members cannot have confidence in their union or its leaders if they see that their choice of officers has been manipulated by outsiders. The election officer has searched for means of properly remedying the violations while at the same time avoiding the burden on the union and its members inherent in holding a new election. Unfortunately, no such path is apparent."

Mr. President I will ask unanimous consent that at least these two pages of the report of the election officer be printed in the RECORD.

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

ELECTION OFFICER FOR THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

In re: Jeraldine Cheatem; Robert H. Spearman; Jim Hoffa—No dues increase—25 and out slate; Jerry Halberg; James P. Hoffa.

DECISION CORRECTION

The first full paragraph on page 130 should read as follows:

An order of the Election Officer, unless otherwise stayed, takes immediate effect against a party found in violation of the Rules. *In Re: Lopez*, 96—Elec. App.—73 (KC) (February 13, 1996). However, the fines levied in Part III(C) of the decision are not final and are not to be paid until such fines are ordered by the Court upon application of the Election Officer.

Dated: August 21, 1997.

BARBARA ZACK QUINDEL,  
*Election Officer.*

ELECTION OFFICER FOR THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

In re: Jeraldine Cheatem; Robert H. Spearman; Jim Hoffa—No dues increase—25 and out slate; Jerry Halberg; James P. Hoffa.

SUMMARY OF DECISION<sup>1</sup>

The Election Officer for the International Brotherhood of Teamsters ("IBT") was appointed by the U.S. District Court for the Southern District of New York to supervise and conduct the rank-and-file election for International officers to ensure a free, fair and informed process. Her duties arise from the 1989 Consent Decree approved by the District Court in a case brought by the government under federal racketeering laws. The ballot count in the 1996 International officer election concluded on February 27, 1997. This decision follows the investigation of numerous post-election protests.

Part I of the decision addresses several protests which challenged the fairness and accuracy of the ballot count. Following a detailed explanation of the receipt, processing, and count of the ballots, those protests are denied.

Parts II and III of the decision address allegations that non-IBT members made \$221,000 in improper contributions to Teamsters for a Corruption Free Union ("TCFU"), a fundraising committee of the Ron Carey Campaign. The Election Officer concludes that the contributions violated the Election Rules' prohibition against employer and IBT contributions.

<sup>1</sup>This summary has been prepared by the Office of the Election Officer for the convenience of the parties and the general reader. The summary is not part of the decision and may not be cited before the Election Appeals Master, the District Court, or any other tribunal.

The TCFU contributions were used by the Carey Campaign to fund approximately 40% of a direct mail get-out-the-vote program. Given the small margins between the winning candidates on the Carey slate and the losing candidates on the Hoffa slate, the \*\*\*

\*\*\* in their attacks on the positions, records, and integrity of the opposing candidates. One may question whether such campaigns are the most effective in winning votes or even building democratic institutions, but no one can question that this campaign was as open and competitive as any undertaken in an American labor union in recent history.

Preserving the new open spirit within the IBT requires some sacrifice. Certainly the hardship on the candidates and the members of rerunning so massive an election is a factor to weigh in this decision. A rerun election inevitably affects the Union as an institution, as many of its leaders, at both the local and national level, become diverted from the central work of bargaining and enforcing contracts and organizing new members. Many members of this Union want nothing more than to return to the basic tasks of trade unionism and have looked forward to a respite from the almost ceaseless campaigning of the past two years. However, there are even greater dangers if strong action is not taken when employers secretly attempt to influence the election of IBT officers. The violations of the Rules described above were not merely technical, but products of schemes to funnel Union and outside money into the election and thus change the outcome. These were egregious violations by high level campaign functionaries who believed winning at all costs was more important than abiding by the Rules and the law. Members cannot have confidence in their Union or its leaders if they see that their choice of officers has been manipulated by outsiders. They cannot have confidence in the Consent Decree if Court officers do not take effective action to prevent and remedy such misconduct.

The Election Officer has searched for a means of properly remedying the violations while at the same time avoiding the burden on the Union and its members inherent in holding a new election. Unfortunately, no such path is apparent. The election of International officers is the clearest expression of the control of members over their union; it is also the key to insuring that organized crime, employers, or any other outsiders do not use the Union for their own purposes. To avoid a rerun because of the disruption it brings could allow this union to lose its most valuable resource: the support, participation, and confidence of its membership. Such a result cannot be allowed.

Because the violations of the Rules described above may have affected the outcome of the election and further threatened the integrity of the process, the Election Officer hereby orders a rerun election for all International officer positions except Central Region Vice \*\*\*

Mr. NICKLES. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Oklahoma has 9 minutes 30 seconds; the Senator from Massachusetts controls 6 minutes and 30 seconds.

Mr. NICKLES. I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks the floor?

Mr. KENNEDY. How much time remains again?

The PRESIDING OFFICER. The Senator from Massachusetts controls 6 minutes and 30 seconds.

Mr. KENNEDY. And the other side?

The PRESIDING OFFICER. Nine minutes and fifteen seconds.

Mr. KENNEDY. I yield 4 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 4 minutes.

Mr. SARBANES. Mr. President, I urge my colleagues to oppose the Nickles amendment. This represents an unjustified intrusion by the Congress into the decades-long effort by Federal prosecutors to rid the International Brotherhood of Teamsters of corrupt influences.

That is what is involved here, it is the effort to drive corrupt influences out of the Teamsters Union. Now, that effort has been vigorously pursued by both Republican and Democratic Departments of Justice. It culminated in litigation and ultimately a consent decree between the International Brotherhood of Teamsters and the United States. This was a consent decree entered into by the Bush administration and Attorney General Thornburgh, who hailed this as a major achievement, which I concede it was. And now Congress, with this amendment, is seeking to interfere in that law enforcement effort at a vital moment.

In the 1989 consent decree, the Federal Government effectively entered into a contract to pay for the supervision of the 1996 election. In fact, the consent decree is very clear in stating, "The union defendants consent to the election officer at Government expense to supervise the 1996 elections." And the rerun election we are talking about is the 1996 election, which has not been certified. It is now back before the court.

Now, this amendment breaches that agreement. It in effect violates the consent decree.

It is asserted that unions typically pay for their own elections. That is quite true. But in those elections they do not have election officers, and they do not have Federal supervision of the election. What the consent decree said was that the union would pay for the 1991 election and that the 1996 election would be supervised under the consent decree at Government expense.

Now, the Teamsters already pay \$3 to \$4 million annually for consent decree activities related to the effort to prevent corruption. Between 1990 and 1995, they incurred costs in excess of \$40 million in complying with its obligations and responsibilities under the consent decree.

The danger with this amendment is that if the Government goes back on its undertaking to pay for the supervisory costs of the 1996 election, you will take the Teamsters out from under the necessity of having an election officer. You do not ordinarily get election officers to supervise union elections.

My colleagues on the other side will say, well, what did we get out of it? What we got out of it was the continued supervision of the union elections into the 1996 election to help ensure

that corrupt influences would not creep back into the union and affect its legitimate operations. The executive branch agreed to this consent decree.

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

Mr. SARBANES. It is embodied in a court order.

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

Mr. SARBANES. And this amendment blatantly violates that court order. I urge my colleagues to reject this amendment.

Mr. President, we reserve the remainder of our time.

The PRESIDING OFFICER. Who seeks the floor?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I heard the comments of my colleague from Maryland, but he is incorrect. The consent decree that was agreed to in 1989 stated that the Teamsters would pay for the election. I will just read it. "The union defendants further consent to U.S. Department of Labor"—this is from the consent decree, page 16—"supervising any IBT"—that is the Teamsters, International Brotherhood of Teamsters—"elections or special elections to be conducted after 1991 for the office of President, Secretary, Treasurer, Vice President and Trustee."

They have agreed to supervision. And the Federal Government supervised the 1991 and 1996 elections. What was unique about the 1996 election, we paid for it as well. We conducted it. We paid \$22 million. I hope all my colleagues understand that. We paid \$22 million, the Federal taxpayers paid \$22 million for the 1996 election. It was the one that was determined to be corrupt. We did not do that in 1991.

What was the difference? I think people are a lot more willing to cheat maybe if it is somebody else's money. And they did. There was corruption with the taxpayers' money.

We will still have supervision. My amendment does not prohibit supervision. It does not abrogate the consent decree. The consent decree, frankly, was silent on who would pay for any subsequent elections. I even called the former Attorney General and asked him. No, we did not say anything about that. I read this section. It is not there.

Now, some people would like to interpret it as, oh, the taxpayers will pay for this forever. If there is corruption in the next election, the taxpayers will pay for it. If there is corruption in the next election, we are going to continue having taxpayers get stiffed. In this case, the Teamsters got hurt. I am talking about members of the Teamsters. Union members got hurt because they had a fraudulent election. They have to have it again. And the taxpayers got hurt. I am trying to say it wasn't the taxpayers' fault there was fraud last time. We should not have taxpayers getting ripped off again.

What is the cost of this? Twenty-two million dollars. Every other union in

the country pays for their own election. Every other union in the country. This is not a group that is not doing well. Senator KENNEDY and Senator WELLSTONE have been bragging how well they did in the contract. I do not know what kind of improvements they got. I did check; I think the average wage is about \$27 an hour, wages and benefits. That is pretty good. That is \$50,000-some a year. In the last election, the taxpayers paid \$22 million; there are 1.4 million Teamsters; a little less than 500,000 voted. That is a cost to the taxpayers of about \$45 a vote. That is pretty high. If the Teamsters have to pay for this themselves, I calculate it is about \$15 a member. That is about a half-an-hour's pay. But they should have to pay for it. When any other union has an election, when the Teamsters have an election, they pay for it. The taxpayers should not have to pay for this.

So, Mr. President, this amendment is consistent with the consent decree. We are just trying to make it perfectly clear we are not going to pay for the next one. And for anyone to say, well, wait a minute; we don't have the right to do that, they are not reading the Constitution. The consent decree does not say anything about a future election. Maybe they would like to have the discretion, and if the Teamsters have a good attorney they can convince some judge, well, maybe this will be a continuation and therefore taxpayers should pay for it, but that is not in the consent decree. And frankly that should not happen.

By passing this amendment—and I am optimistic that we will pass this amendment—we say we are not going to pay for it again. We got ripped off once. We paid \$22 million for a fraudulent election. We, being the taxpayers, paid \$22 million for a fraudulent election last time. We should not do it again. Frankly, we are not going to do it again.

Do we have the right to do this? Somebody said the consent decree supersedes law. No way in the world. I will read a memo that came from Deputy U.S. Attorney Jamie Gorelick. This is dealing with the Antideficiency Act, but she said, "You should be particularly mindful of this restriction if you are contemplating entering into any consent decree. Please ensure the terms of the consent decree do not obligate the government to spend funds beyond your office litigation budgets or beyond the current fiscal year."

They know that. The CRS did some study on the 1989 consent decree, and this was dated May 18, 1995. "Legislation enacted by Congress limiting or restricting funds for the 1996 election would be Federal law and Government parties would be bound to take appropriate action in reliance of that law."

That would be if we had denied funding for the 1996 election. We didn't do that. What this amendment will do is say we are going to deny taxpayers' subsidy to the 1998 election. We can

still have supervision. As a matter of fact, there will be supervision. There will be supervision on any subsequent election, but it will not be paid for by the taxpayers. Let the Teamsters pay for it. They are the ones who engaged in this corruption. And if anyone looks at the report of the election observer, she talks about "outside money into this election and thus change the outcome." She said there "were egregious violations by high level campaign functionaries who believed winning at all costs was more important than abiding by the rules and the law."

I do not want to repeat that. If we allowed the opponents of this amendment to prevail, we could have the exact same thing happen again. We could have another election. We could have more corruption, and they would be coming back to say, oh, we want you to pay for it again.

There is no end to what they say would be the outflow of Government dollars. I do not think it is needed. I do not think it is necessary. We got ripped off once. We should not be ripped off again. And so I urge my colleagues to adopt the Nickles-Jeffords-Gregg amendment.

Mrs. BOXER. Mr. President, I rise today in opposition to the Nickles amendment to prohibit Federal funding to the Teamsters election an amendment to the Labor-HHS appropriations bill. I believe this amendment is a clear violation of the 1989 consent decree entered into by the Department of Justice and the International Brotherhood of Teamsters.

The consent decree required, among other things, that the 1996 Teamsters' election be subject to the supervision of a court-appointed election officer, at Government expense. Due to problems uncovered related to the campaign of the elected president, however, the court-appointed election officer has refused to certify the 1996 election and has asked a Federal court in New York to formally order a new election. Inasmuch as any court ordered election is a continuation of the 1996 election, it seems clear that the rerun election must also be subject to the terms of the consent decree—including the portion of the decree which provides "The union defendants consent to the election officer, at Government expense, to supervise the 1996 elections."

I think it is important to recognize that this is not, or at least should not, be a partisan issue. It was a Republican administration and thus, a Republican-controlled Department of Justice, that obligated the Federal Government to the financial obligations outlined in the 1989 consent decree—not a Democratic administration. Rather, the Democratic administration, under President Clinton, is simply living up to the obligations of the consent decree. If the Nickles amendment passes, the Government would be prohibited from paying for the rerun election and thus, could be held in contempt of court for failing to adhere to the terms

of the consent decree. Again, this rerun election is not a new election; rather, it is necessary to complete the 1996 election, and thus is subject to the 1989 consent decree.

So I urge my colleagues to oppose the Nickles amendment and to support this very important consent decree to which the Government obligated itself in 1989. Thank you Mr. President.

Mr. NICKLES. Mr. President, what is the situation on time?

The PRESIDING OFFICER. The Senator from Oklahoma controls 2 minutes 45 seconds; the Senator from Massachusetts controls 2 minutes and 30 seconds.

Mr. NICKLES. Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I yield the remaining time to the Senator from Maryland.

Mr. SARBANES. Mr. President, I have been listening very carefully to my colleague from Oklahoma. I am beginning to wonder, what is happening to this tremendous effort to drive corruption out of the Teamsters union? The Senator quoted a memorandum from Deputy Attorney General Jamie Gorelick, which is dated after the 1989 consent decree. I say to my colleague from Oklahoma, you cited this memorandum of Deputy Attorney General Gorelick which comes after the 1989 consent decree. The consent decree was entered into by Attorney General Thornburgh and the Bush Administration. So, now we are told that a later memorandum is going to vitiate the earlier consent decree. How is that for undoing the law?

The Senator is playing with fire. If this rerun is not the 1996 election, then the results of the 1996 election ought to hold and there should not be a further election. This is not a new election. This is a rerun of the 1996 election.

The Senator selectively quotes from the consent decree. The consent decree is very clear. It says, "The union defendants consent to the election officer, at Government expense, to supervise the 1996 IBT election." He omitted that part of the consent decree. My colleague then quotes, "The union defendants further consent to the Department of Labor supervising IBT elections." That supervision, I say to my colleague, by the Department of Labor, does not encompass an election officer and it does not encompass the severe degree of supervision that comes with an election officer. What is the objective here? Is the objective to get the Teamsters out from under the consent decree so they don't have to use an election officer in doing this rerun of the election? If that is the objective, I strongly disagree with it. Having an election officer serves a public interest.

Then we are told every other union pays for its own elections. We have heard that time again and again, but they don't have an election officer to supervise their elections.

The PRESIDING OFFICER. All time has expired.

Mr. SARBANES. I urge my colleagues to oppose this amendment.

AMENDMENT NO. 1070

The PRESIDING OFFICER. There will now be 30 minutes of debate equally divided on amendment No. 1070.

Who seeks the floor? The Senator from Indiana.

Mr. COATS. Mr. President, we are debating, here, under this limited time agreement, an issue that has received considerable discussion. There is considerable controversy over the issue of national testing. It has received enormous attention.

When the issue was first raised in the context of this appropriations bill, Senator GREGG and I offered an amendment expressing our concern that we were going forward, here, with an issue of considerable controversy, without it being authorized and without hearings and without discussion as to the implications of this. We felt it deserved a full public discussion because there was great controversy over the idea of national testing.

Unfortunately, the decision that was made on the part of the administration was to go forward with this initiative without congressional authorization. We attempted to address that issue with our amendment. But last August, without congressional approval or statutory authority, the Department of Education announced that it would develop a national test to be implemented in the spring of 1999, and went forward and awarded a \$13 million contract to a consortium of testing companies. Instead of turning the proposed test program over to the National Assessment Governing Board, an entity with 10 years of experience in this area, the administration intended to bypass this procedure. Senator DORGAN spoke on the floor. We raised the issue. Senator DORGAN responded by saying he agrees with us that we would be far better off getting this out of the hands of the Department of Education and into the hands of an independent assessment agency to address some of this controversy about the Federal direction of how the test is derived and how it is administered and so forth.

The President, in his radio address a week ago, stated that he would concede to the argument that many were posing, that this would be better if not designed and directed by the Federal Government. That, then, opened the door to our trying to find a way to constitute an outside independent agency to write the test and administer the test. Many of us, even with that, expressed real concerns about the whole concept of a national testing program versus allowing these decisions to be made at State and local levels. But it was clear that the issue was going forward. So, in response to that, what we attempted to do was negotiate with the administration, with our Democrat colleagues and others, to comply, essentially, with what Senator DORGAN was suggesting we do and what the President was suggesting we do. The initial proposal that the President had outlined maintained what we thought was

a link with the Harvard education administration, which simply fueled the controversy.

So, over the last several days we have had considerable discussion and negotiation with the administration on this, attempting to improve this process and really to reserve further debate, on whether there ought to be national testing or not be national testing, for the conference committee and for this body. There is a division of opinion on that, a division all along the ideological spectrum. Former Secretary of Education Bill Bennett said national testing can be beneficial if done the right way, if not manipulated to achieve a certain result or to drive a curriculum, but as an assessment tool.

I quote from an article written by his former assistant, Chester Finn, Jr., who says:

Properly done, standards-based national tests would provide useful information to students and their parents and put pressure on schools to improve.

Congress, which created the National Assessment Group, NAGB, could easily design a program which would achieve the goals of national testing, being a useful tool in improving public education.

The crucial questions [he says] about any test are who decides what's on [the test] and who sets the standards by which student performance is judged.

We have set out to do that. I am pleased to announce that late last evening we were able to achieve agreement with the administration on the conditions upon which this would go forward. Under the agreement, and I will briefly explain it, no school or school district will be forced to use the national test if they don't want to. It is strictly voluntary.

We also have provided that no school not using the test will in any way be denied the Federal funds that come to that school for various purposes. So, receipt of Federal funds is not conditioned on their using or not using the test.

Further, we have provided that no private or parochial school or home-schooled individuals are forced to take a test without their consent. That was a legitimate response to some questions raised by home-schoolers and private and parochial schools. This is a key provision. Currently, States are using a variety of testing instruments to determine how their students are performing. Yet, according to many experts, this patchwork of tests does not provide a common yardstick by which parents and educators can compare results. And while it is true that testing won't help children learn more, it is equally true that testing can give us valuable information about how we are doing, and will ultimately be useful in providing tools for parents to use in holding schools accountable for their results.

Second, the changes that we have made allow the National Assessment

Governing Board the exclusive authority over all policies, directions, and guidelines for establishing voluntary national tests for fourth-grade English reading and eighth-grade mathematics. To assure NAGB's independence, the amendment provides that NAGB shall have the sole authority to award grants and contracts and otherwise operate independently of the Department of Education. The compromise which we reached gives NAGB 90 days to review and make substantial changes, if needed, in the contract negotiated by the Department of Education.

Third, we have directed NAGB to ensure that the content and the standards for the national test are the same as those for the National Assessment of Educational Progress test, the NAEP tests. The President has stated on numerous occasions his intention to have voluntary national tests based on the well-respected, high standard of the NAEP test, and this amendment accomplishes that.

Fourth, we have made numerous changes to the composition of the 25-member board, NAGB, to ensure bipartisanship and a new focus on locally elected officials rather than the so-called Washington experts. These changes include the addition of a current or former Governor, bringing the total number of Governors on the board to three; the addition of a new category, allowing participation of two mayors; two additional representatives of business or industry, bringing the total of that to three; and the elimination of five curriculum or testing experts who were employed by the board but should not have had voting privileges, a potential conflict of interest there. We have also increased the length of the terms on the board from 3 to 4 years in order to provide for more continuity.

Fifth, the amendment returns to NAGB the authority it had prior to 1994 to nominate individuals to fill vacancies which occur on the board. Under this process, the Secretary must select from candidates nominated by NAGB. The amendment provides a 30-day transition, so that current vacancies and newly created positions are filled by the Secretary after consultation with the House and the Senate.

These changes are critical to ensuring that national testing is under the supervision of an independent, bipartisan agency and not the Federal Department of Education.

There is no doubt that standardized tests assess performance, but they do not generate it. Yet I am increasingly convinced that giving parents a better and possibly more accurate picture of their child's academic performance will help them obtain the best education for their child. These tests are simply another tool for parents to use in holding local schools and local systems accountable for providing the kind of opportunities for educational achievement that all children in America deserve.

Mr. President, I have other Members who wish to speak on this. I reserve my time at this particular point.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me start by complimenting the Senator from Indiana for the compromise that we have worked out here. I am pleased to cosponsor that compromise amendment with him. I do think the essential point to be made here is that through this amendment, this compromise amendment, we transfer control of the development of voluntary national tests over to this independent governing board that is referring to as NAGB, the National Assessment Governing Board. This is essentially the same approach that was suggested by Secretary Riley and proposed by myself, Senator DORGAN, Senator HARKIN, and offered in the amendment 1115 which we offered last week. More important, the amendment will allow the test development process to continue without any undue delay.

Let me say a word about what NAGB is, because it would now be the organization or the entity with this responsibility. The governing board that now will oversee the development of these tests is the National Assessment Governing Board. It was established in 1988 by the Congress. It is bipartisan. It is independent. As Senator COATS indicated, it contains Governors, legislators, superintendents—now it will contain some mayors, business people, experts in education as well; and the core responsibility of this group has been to oversee the development and execution of NAEP, the National Assessment for Educational Progress. This test that we are talking about here, which will be available on an individual student basis, is to be an outgrowth of that National Assessment of Educational Progress test, which is well respected and has been for a long time.

Let me point to two charts here, and then I know Senator KENNEDY wishes to speak, Senator WELLSTONE and Senator DORGAN. I want to defer to them.

Mr. President, how much time remains, and is the time controlled or is it uncontrolled at this point?

The PRESIDING OFFICER. Time is equally divided. The Senator from New Mexico has 11 minutes.

Mr. BINGAMAN. I yield myself an additional 5 minutes, and then I will divide the remaining 6 minutes among the three Senators I indicated before.

Let me first point to this chart which I think makes the case for these tests that the President is talking about and that many of us have supported. At the present time, we have a hodgepodge of tests that have been developed around the country that are given to students and then the results of which are given to parents, and they are told that this is an accurate description of how their child is doing in school.

The reality is that some parents and some students are led to believe that

they are performing at acceptable levels and are led to believe that the education they are receiving is an appropriate education. They don't find out the reality until they apply to college or get in the workplace and find they do not have the skills or the training they need.

This chart shows a comparison between the standards that have been adopted by many States and the standards set by this National Assessment for Education Progress, or NAEP. You can see the dramatic difference. For example, in the case of Wisconsin, 35 percent, according to the National Assessment for Education Progress, which is the standard we are trying to give people information on, 35 percent of their students were performing at acceptable levels. According to the standard used by the State of Wisconsin, 88 percent of the students were performing at acceptable levels.

In the case of Louisiana, the disparity is even greater. The State of Louisiana indicated that 88 percent of their students are doing fine. When you look at what the National Assessment for Education Progress given to students in Louisiana indicates, only 15 percent of their students were doing fine. So there is a dramatic disparity there.

What we are trying to do is get good objective information to parents throughout the country.

This is strictly voluntary. No State needs to use this test. No school district needs to use this test. No individual student needs to take this test. And if parents want to ignore the results of the comparison, they can, but it needs to be available to those who want to use it.

This other chart I want to show is a listing of the States that have already chosen to use this voluntary test once it is developed. There are several States listed here: Alaska, Kentucky, Maryland, Massachusetts, Michigan, North Carolina, and West Virginia. There are many other States, including my own, which are thinking seriously about it. They have not taken any formal action to commit themselves to use this test, but they are looking at it and they are very interested.

There are 15 school districts in our major urban areas that have indicated they wish to have the advantage of the benefit of taking this test or using it in their schools.

All this amendment will do is to allow the development of the test, allow us to go forward with the development of the test so that it will be available to these States and to these school districts to the extent that they choose to use it.

I believe this is a very good course to follow. I think this is the right thing to do for our students, it is the right thing to do for the parents of these students so that they can show with some accuracy whether their children are getting the kind of education that they are going to need in later life.

I very much support the effort the Senator from Indiana has made here. I

hope we can adopt this amendment with a large margin.

Mr. President, I defer to the Senator from Massachusetts for a couple of minutes for him to make his statement.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first of all, I congratulate Senator COATS, Senator GREGG, and our Republican friends for working with the administration and working with concerned Members in fashioning this compromise.

I think there are basically two fundamental approaches that we ought to be doing for our children. One is we ought to have support systems and, secondly, we ought to have accountability.

What we are trying to do with this testing program is empower parents, empower parents so that they know how their children are doing, and then to ensure that we are going to have support systems to help those parents.

We are seeing an expansion, hopefully, of our literacy program. We have an expansion of our basic skills program with the math and science, with the title I programs. We have seen the support for our technology program. Under Senator JEFFORDS, we are going to see an expansion of teacher training. Under our Goals 2000 program, 90 percent of the money goes locally to help the local schools meet these standards.

So what we are trying to do is have the support systems for our children, but on the other end we want to have accountability for parents and for children so they know how they are doing. If children do not know how to read, as 40 percent of them do not at the fourth grade level, they are going to be in trouble in terms of continuing their education, the problems of dropping out and all the other challenges which they are going to face.

This is really an enormously important effort to try and address that very considerable concern for every family in this country. We welcome the strong bipartisan effort we are seeing reflected on the floor at this time.

I thank the Senator from New Mexico.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, can I inquire how much time is available on each side?

The PRESIDING OFFICER. Five minutes to each side.

Mr. COATS. I yield 2 minutes to the Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank the Senator from Indiana. I rise to indicate my opposition to a national individualized testing system that could lead to a one-size-fits-none curriculum dictated from Washington. Once you let Washington decide what kids should know, it will effectively control what and how they are taught.

President Clinton's initiative for a federally funded testing system already is headed down this slippery slope—work on the tests is currently underway. Here is what we know about them:

First, there is the eighth grade math test. Instead of measuring competence in basic computational skills directly, the test under construction would allow students to use calculators at all times. Some local parents, organizations, and States might decide they don't want to be controlled by a curriculum that only has reference to calculators. They might really want their young people to learn how to do mathematics absent calculators.

Furthermore, the content being tested, which ignores algebra, would not promote higher achievement or hold up to international competition.

Hundreds of mathematicians, teachers, school board members, parents and others recently signed a letter to President Clinton protesting the failed design of this math exam.

In testing reading, when you have a national uniform test, one size fits none. The proposed fourth grade reading test is predicated on the same philosophy of reading that drives what is known as whole language instruction. Under this philosophy, it is not as important for children to learn the difference between nouns and verbs as it is for students to analyze an author's feelings about what is written.

If a national test imposes a whole language approach to reading and rejects the phonics approach, what are we saying to parents about the potential for local control if those parents don't have a capacity to say we want our kids to learn reading by using phonics and we want a test that reinforces that kind of learning? Parents at the local level need to be able to decide if they want their fourth graders to learn the basics of the English language, not merely get in touch with an author's feelings.

I understand that the Nation needs to know where we are academically as a nation. However, we already have a capacity to assess student performance on a national level. Since 1969, the National Assessment of Educational Progress has tested a representative sample of students in 4th, 8th, and 12th grades in reading, U.S. history, geography, math, and science. NAEP has provided the Nation an understanding of overall student performance while allowing decisions on appropriate tests for individual students to be made at the local level. While NAEP allows a measure of student performance by sampling, an individualized testing system threatens local control substantially.

In my judgment, national uniform individualized testing will ultimately direct curriculum, curriculum which will become nationalized and uniform. This will take from the system the energy of the kind of curriculum that can be developed to suit local needs and will involve parents in education.

The real test before us today is whether or not the President is willing to trust parents and teachers at the local level to determine what their children should learn. The single most important factor in educational achievement is parental involvement. It is more important than computers, than blackboards, than teacher salaries, than the nature of the school facility. Whether parents are actively engaged means a lot.

If we nationalize our system of education for elementary and secondary students, we will have made it far less likely that parents will be actively involved. Parents can and should get good information about the progress of their children. That is possible at the State and local level. However, national, individualized tests would seriously threaten parental involvement and control and lead to more Washington intermeddling in our schools.

I just want to indicate that I think nationalizing the testing process for our schools will drive us to a national curriculum and drive us to national teacher certification. I believe States ought to have the authority to certify teachers and develop a just curriculum, particularly as it relates to trying new methods of teaching.

Many of America's schools are failing; they are failing to teach our kids how to read, write, and count; they are failing to offer them the skills to compete effectively in the information age; they are failing to teach them what America is and what she represents in the long history of the world.

Involved parents controlling and directing schools that teach basic academic skills have been, and should always be, the foundation of our educational system. These are the building blocks that made America's schools the envy of the world. They are the standards upon which we must base their return to greatness.

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

Mr. COATS. Mr. President, I yield 1 minute to the Senator from Vermont. Before I do, let me just say that I recognize the legitimate concerns that the Senator from Missouri has raised, and that is why we negotiated a totally voluntary process and exemption for any school, any individual, any school district that does not want to participate does not have to participate without any jeopardy of losing any funds.

So whether it is a home school, private school, parochial school, individual school district, whatever, if they agree with the Senator from Missouri—and I believe he raises some legitimate concerns—they don't have to participate in this at all.

I now yield to the Senator from Vermont.

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

Mr. JEFFORDS. Mr. President, I rise only to commend those who have brought about this very reasonable

compromise. This could have been a very divisive issue, but Senator BINGAMAN, especially Senator COATS and Senator GREGG have worked very long and hard to make this into a reasonable compromise which will be of assistance to us rather than something that could have been detrimental. I yield the floor.

Mr. BINGAMAN. Mr. President, I yield 2 minutes to the Senator from Minnesota.

Mr. WELLSTONE. Thank you, Mr. President.

I congratulate my colleagues. I am going to vote for this, but it is a close call. I have some sympathy for the comments made by the Senator from Missouri. I would like to, in the midst of people feeling good about this work, sound a cautionary note. There are different ways of measuring accountability rather than just standardized tests. If teachers have to use the standardized tests, it will be educationally deadening, and I worry about the worksheets becoming the primary way we are teaching.

The second point I want to make, I say to my colleagues, is it is true, we have to have standards in accountability, but if we don't do anything to dramatically transform the concerns and circumstances of these children's lives, we already know which children are going to do well on these tests and which children are going to fail. If I had a criticism to level, it would be more at my party and more at the administration.

The fact of the matter is, we are investing not anything in rebuilding crumbling schools. Where is the President and the administration on this? The fact of the matter is, we are not even reaching 1 million Head Start students. I was out here on the floor yesterday talking about that. The White House did not even ask for enough money to cover 1 million. Why can't we do more by way of Head Start, early childhood development, reinvest and build schools as opposed to having these dilapidated crumbling schools in this country? What did we do when we cut food stamps, which is the major food nutrition program for children, 20 percent by 2002?

In all due respect, these tests are a small move in the right direction, but they are use just a technical fix and are just symbolic and do not do much until we finally make a commitment to make sure there is equal opportunity for every child in this country. We are a long, long, long way away from that in the U.S. Senate or the U.S. House of Representatives. I call on the President to show much more leadership when we are talking about children and education.

Mr. BINGAMAN. Mr. President, I ask unanimous consent to have Senators DORGAN and HARKIN added as cosponsors.

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

Mr. BINGAMAN. I yield the remainder of my time to the Senator from North Dakota.

Mr. DORGAN. Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from North Dakota has 3 minutes.

Mr. DORGAN. Mr. President, while I agree with my colleague, the Senator from Minnesota, on the entire discussion about deteriorating schools and equal opportunity and a range of other things, this issue is very simple. This issue is about national testing. It is not about a national curriculum. It is not about investing in schools. It is national testing.

The reason I support this is we can either decide as a country to figure out what we are getting from this educational system and have some kind of national testing to determine are we reaching achievement levels in the fourth grade and eighth grade or we can have no such approach.

The other body is passing legislation that would prohibit any approach of this point. "We don't want to evaluate what is happening," they say. That is a very strange position.

It seems to me you ought to evaluate if children can read sufficiently at the fourth-grade level because these are gateways to the rest of their educational life. If you can't read sufficiently at that level, you are not going to do well the rest of your educational life. So we are talking about can children read in fourth grade. Do they have a mastery of the mathematics principles in the eighth grade they need? This is what this is about: national testing to evaluate in these two areas.

It is voluntary. Any child may opt out. Any school may opt out. Any State may opt out. It is purely voluntary, but it does say, as a country, we aspire to reach achievement levels and aspire to give our parents across this country the opportunity to understand what are we getting for the education dollar we are spending, where are the problems and how do we fix them. That is what you get with this kind of national testing opportunity.

Again, it is not about national curriculum. It is not about a national requirement. It is a voluntary approach to national testing to determine whether our children can read sufficiently in the fourth grade and perform the basic tests of mathematics in the eighth grade. To the extent we do that as a country, we will aspire to better understand our education system, better understand what we are getting for our education dollar, and in that way I think will be able to improve the system of education in this country.

I appreciate very much the cooperation of the Senator from Indiana, the Senator from New Hampshire, and others, and especially the leadership of the Senator from New Mexico. Doing this today I think is a step forward for the American people and is in marked contrast to what we are going to see come

from the other body. I hope when we go to conference we will accept the Senate provision because it is moderate, thoughtful and the right thing for this country and its children.

Mr. President, I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I appreciate the remarks by the Senator from North Dakota. He raised the issue, and in a sense extended the offer to make the adjustments necessary to make this truly an independent effort and a constructive effort. His support in all of this is much appreciated, along with the Senator from New Mexico.

AMENDMENT NO. 1070, AS MODIFIED

Mr. COATS. Mr. President, on behalf of Senator GREGG and myself, I send a modification to the desk. I ask for its modification.

The PRESIDING OFFICER. The amendment is modified.

Mr. COATS. Do I need to ask unanimous consent that the amendment be modified?

The PRESIDING OFFICER. The amendment has been modified.

The amendment (No. 1070), as modified, is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . (a) Notwithstanding any other provision of law, the Office of Educational Research and Improvement shall submit to the Committee on Appropriations of the Senate a spending plan for activities funded under this title under the heading "EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT", prior to the obligation of the funds.

(b)(1) Notwithstanding any other provision of law, the National Assessment Governing Board established under section 412 of the National Education Statistics Act of 1994 (20 U.S.C. 9011) (hereafter in this section referred to as the "Board") shall hereafter have exclusive authority over all policies, direction, and guidelines for establishing and implementing voluntary national tests for 4th grade English reading and 8th grade mathematics: *Provided*, That the tests shall be made available to a State, local educational agency, or private or parochial school, upon the request of the State, agency, or school, and the use of the tests shall not be a condition for receiving any Federal funds: *Provided further*, That within 90 days after the date of enactment of this Act, the Board shall review the national test development contract in effect on the date of enactment of this Act, and modify the contract as the Board determines necessary: *Provided further*, That if the contract cannot be modified to the extent determined necessary by the Board, the contract shall be terminated and the Board shall negotiate a new contract, under the Board's exclusive control, for the tests.

(2) In exercising the Board's responsibilities under paragraph (1) regarding the national tests, and notwithstanding any action undertaken by the Department of Education or a person contracting with or providing services for the Department regarding the planning, or the development of specifications, for the tests, the Board shall—

(A) ensure that the content and standards for the tests are the same as the content and standards for the National Assessment;

(B) exercise exclusive authority over any expert panel or advisory committee that will be or is established with respect to the tests;

(C) ensure that the tests are linked to the National Assessment to the maximum degree possible;

(D) develop test objectives, test specifications, and test methodology;

(E) develop policies for test administration, including guidelines for inclusion of, and accommodations for, students with disabilities and students with limited English proficiency;

(F) develop policies for reporting test results, including the use of standards or performance levels, and for test use;

(G) have final authority over the appropriateness of all test items;

(H) ensure that all items selected for use on the tests are free from racial, cultural, or gender bias; and

(I) take such actions and make such policies as the Board determines necessary.

(c) No State or local educational agency may require any private or parochial school student, or home-schooled individual, to take any test developed under this Act without the written consent of the student or individual.

(d) Section 412 of the National Education Statistics Act of 1994 (20 U.S.C. 9011) is amended—

(1) in subsection (b)(1)—

(A) by amending subparagraph (A) to read as follows:

"(A) three Governors, or former Governors, of whom not more than 1 shall be a member of the same political party as the President;"

(B) by amending subparagraph (B) to read as follows:

"(B) two State legislators, of whom not more than 1 shall be a member of the same political party as the President;"

(C) in subparagraph (H), by striking "one representative" and inserting "three representatives";

(D) by amending subparagraph (I) to read as follows:

"(I) two mayors, of whom not more than 1 shall be a member of the same political party as the President;"

(E) by striking subparagraph (J); and

(F) by redesignating subparagraphs (K), (L), and (M) as subparagraphs (J), (K), and (L), respectively;

(2) in subsection (c)—

(A) in paragraph (1), by striking "and may not exceed a period of 3" and inserting "and shall be for periods of 4"; and

(B) in paragraph (2), by inserting "consecutive" after "two";

(3) by amending subsection (d) to read as follows:

"(d) VACANCIES.—As vacancies on the Board occur, new members of the Board shall be appointed by the Secretary from among individuals who are nominated by the Board after consultation with representatives of the individuals described in subsection (b)(1). For each vacancy, the Board shall nominate at least 3 individuals who are qualified by experience or training to fill the particular Board vacancy."; and

(4) in subsection (e) by adding at the end the following:

"(7) INDEPENDENCE.—In the exercise of its functions, powers, and duties, the Board shall be independent of the Secretary and the other offices and officers of the Department. The Secretary shall by written delegation of authority, authorize the Board to award grants and contracts, and otherwise operate, to the maximum extent practicable, independent of the Department."

(e) Not later than 30 days after the date of enactment of this Act, the Secretary of Education, in consultation with the Speaker and Minority Leader of the House of Representatives, and the Majority Leader and Minority Leader of the Senate, shall appoint individ-

uals to fill vacancies on the National Assessment Governing Board caused by the expiration of the terms of members of the Board, or the creation of new membership positions on the Board pursuant to amendments made by this Act.

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

Mr. BINGAMAN. Mr. President, I ask unanimous consent, at this point, now that the modification is pending at the desk, that myself, Senator DORGAN and Senator HARKIN be added as cosponsors.

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

AMENDMENT NO. 1122, AS FURTHER MODIFIED

The PRESIDING OFFICER. Before the Senate now is the amendment by the Senator from Washington, amendment No. 1122. The time limit is 2 minutes to be equally divided.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Have the yeas and nays been ordered on this amendment?

The PRESIDING OFFICER. They have not been.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. GORTON. Mr. President, I ask unanimous consent that Senator HELMS and Senator COATS be added as cosponsors to the amendment.

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

Mr. GORTON. Mr. President, the issue involved in this amendment is extremely simple. If you believe that the regulation of our public schools is best conducted through hundreds of pages of detailed regulations, imposed by the Department of Education in Washington, DC, on all school districts alike, you will vote against this amendment.

If you believe that teachers, parents, principals, and elected school board members in the thousands of school districts across the country can best determine how money coming from the Federal Government ought to be spent to advance their children's education, you will vote for the amendment.

No State will lose money under the terms of this amendment. Every State will gain money under the terms of this amendment, because the administrative costs, amounting to more than a billion dollars, will no longer be withheld by the Department of Education in Washington, DC, but will be transferred to the local school districts.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I rise in strong opposition to this amendment. This amendment goes under the presumption that the Federal Government controls these programs. The fact that the author of the amendment has already taken three-quarters of the money out of his amendment and continues to give it to the States recognizes that.

The additional funds that would go for these programs will no longer go to these programs, but will go directly to local governments—Goals 2000; school-to-work; technology; reading, school improvement programs like “Reading is Fundamental”; arts education; magnet schools; women’s equity, et cetera, et cetera.

Drug-free schools will just go to local governments. Indian education, bilingual education, vocational rehabilitation—50 percent going to rehab will instead go to local governments to do with as they want. Vocational education, they will do the same. Yes, it goes to education, but there is no maintenance of effort here, therefore, the local governments may well decide to replace their present educational money.

Mr. KYL. Mr. President, I rise in support of the Gorton amendment which would give the States more flexibility and resources to create quality education reform plans that address the specific needs of their particular students.

As reported recently by the Heritage Foundation, the Federal Government annually spends \$100 billion in direct and indirect education costs, of which only \$13.1 billion makes it to local school districts. If the majority of these funds went to the States and local school districts, I believe the concerns of parents about the quality of their children’s education would be more effectively addressed than by the faceless bureaucracy in the Department of Education.

Polls taken in Arizona and across America consistently demonstrate that Americans consider the quality of education to be their most serious concern. Further, a survey reported in the Washington Post in September 1996 shows that Americans consider the decay of the public schools to be the country’s most pressing problem. A surprising 62 percent of those surveyed felt that “the American educational system will get worse instead of better.” In my view, nothing is more important to the future of our country than whether our children are academically well-prepared.

We fail the fundamental tests of parenthood and good citizenship if we let our children down by failing to impart to them the skills and values they need to govern themselves and this country, and to compete in the global marketplace of the 21st century. Yet, poll after poll shows that Arizonans and Americans alike are concerned about the dumbing down of the politically correct education their children are receiving, the safety of the schools they attend, the general lack of discipline meted out in those schools, and parents’ inability to choose to send their children to the school that best fits their kid’s individual needs.

The State of Arizona has taken some important steps to address these concerns and to come up with solutions. For instance, Arizona, using a creative

legislative approach, recently enacted a law creating an income-tax credit available for donations to private schools. The private schools will pool the tax credit money in a scholarship fund to be used to finance full or partial scholarships for any students on a first-come, first-served basis.

The Gorton Amendment, by giving states even more control over their education resources, would allow States more latitude to implement creative education reform plans specifically tailored to their particular needs.

What the Gorton Amendment would do, with some exceptions, would bundle all funds from the Federal Government which go to support K-12 education and send those funds directly to school districts.

Why do we need the Gorton Amendment? There are too many Federal education programs. So many in fact, no one seems to be able to agree on exactly how many there are. One count discovered 760 education programs totaling several billion dollars. With such a large number of programs funded by the Federal Government, it’s no wonder there is such a concern about undue Federal influence over the operation of local schools, or whether they are being administered in an efficient way.

The people best equipped to make decisions regarding the education of our children are the parents, teachers, principals, school board members and administrators of our local schools. It’s not that Members of Congress don’t have an interest in the education of children. It’s just that we don’t have the best information upon which to base decisions.

Congress is simply not close enough to the problems school districts face to be able to dictate through Federal mandates how they should address their concerns. This is not to say the Congress does not have a responsibility assisting in the education of America’s children. However, we also must see to it that those who are closest to our students have the resources they need.

Also, we must ensure that they are not hamstrung by the rules and regulations set by a group of individuals who have never set foot in their school.

In sum, Mr. President, the Gorton amendment would empower States, school districts, and parents to take a more active role in the education of their children.

Mr. KERREY. Mr. President, I am deeply concerned about the passage of the Gorton amendment today. This amendment, which gives approximately \$12 billion directly to local school districts in the form of a block grant, threatens to undermine some of the most valuable educational programs in existence.

I am a strong supporter of creative school reform, and I believe in getting rid of programs that do not work. But this amendment is an attack on programs that do work. I have worked with these programs firsthand, and I

know they work. Through my extensive involvement in Nebraska with early-childhood programs such as Head Start and school-to-work programs such as Careers 2000, I have seen effective programs in action.

Many of us in Congress have worked hard over the years to help build and sustain programs such as vocational education, education technology, Goals 2000, adult literacy, and safe and drug-free schools. As a result, millions of students have benefited from the opportunity to improve their achievement levels and enhance their skills portfolios. With the concerted effort of teachers, school administrators, parents, State governments, and Congress, we have been able to ensure that these opportunities remain available to all students, regardless of their particular school district. Under the Gorton amendment, only the lucky would benefit. For example, under this provision, money that once would have been designated for technological training in an inner-city high school could be used instead to build a new basketball court if local administrators saw fit. As we move toward the 21st century, the demand for technological skills in the marketplace is increasing rapidly. Therefore, it is crucial that all students have the skills necessary to compete for jobs once they leave school.

In bypassing the State entirely and giving funds directly to local school districts, the Gorton amendment is analogous to amputating the whole head in order to cure a headache. In doing so, it harms the very people it claims to help, America’s children. Federal taxpayers deserve to know that a sufficient portion of their tax dollars is being used to support effective educational programs. State governments are equipped to make sure this happens.

Mr. President, I voted for passage of this bill today because, for the most part, it represents a good bipartisan effort to ensure the well-being of American citizens. But because I believe strongly that we must continue the work of education reform in an effective and measurable way, I will strongly oppose the bill if it comes back from conference with this provision intact. I will not stand by and watch American children suffer the consequences of poor legislation.

I move to table the amendment.

The PRESIDING OFFICER. Are the yeas and nays requested?

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to lay on the table the amendment No. 1122, as further modified. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

[Rollcall Vote No. 232 Leg.]

YEAS—49

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

NAYS—51

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

The motion to lay on the table the amendment (No. 1122), as further modified, was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

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

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

The question is on agreeing to the amendment.

The amendment (No. 1122), as further modified, was agreed to.

AMENDMENT NO. 1081, AS AMENDED

The PRESIDING OFFICER. The business before the Senate is now amendment No. 1081 by the Senator from Oklahoma. There are 2 minutes in regard to the time limit to this amendment, equally divided. The Senate will be in order.

The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I ask unanimous consent that the remaining votes in this series of three votes be limited to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. NICKLES. Mr. President, the amendment that I have before the Senate, cosponsored by myself, Senator JEFFORDS, and Senator CRAIG basically would say that the taxpayers would not have to pay for a subsequent Teamsters election. The last one cost \$22 million, and only 500,000 people voted.

My amendment does not prohibit supervision. There can still be supervision. My amendment says that if the President certifies to Congress that the Teamsters don't have the money for

the election, taxpayers could pay for it, but the Teamsters would have to pay it back, and pay it back with interest.

I might mention, in 1991, there was an election that the taxpayers didn't pay for, supervised by the Government, and it was fair, it worked. In 1996, the election was supervised and paid for by the taxpayers, and there was corruption. It was a mistake and we should not repeat that mistake. This would protect taxpayers and, in my opinion, the Teamsters as well.

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

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I yield a minute to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, this is an incredibly mischievous amendment. The Teamsters are operating under a court order. This would violate the consent decree. The reason the Government pays for the election is so they can have an election officer supervise the election in order to ensure that we drive corruption out of the Teamsters Union.

This consent decree was entered into by Attorney General Thornburgh in the Bush administration and heralded at the time as a great and significant accomplishment.

The Nickles amendment violates the consent decree and it carries with it the very severe risk of resulting in an unsupervised election. Now, it is asserted that other unions pay for their own elections. That is quite true, but they don't have an election officer to supervise the election. The agreement in the consent decree provided for this payment.

I urge a vote against the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The yeas and nays have been ordered. The Chair reminds Senators that this is a 10-minute vote.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 58, nays 42, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—58

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

NAYS—42

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

The amendment (No. 1081), as amended, was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1070, AS MODIFIED

The PRESIDING OFFICER. The business before the Senate is now amendment No. 1070, the amendment of the Senator from New Hampshire. There is a 2-minute time limit on this amendment to be equally divided. The Senator from New Hampshire is recognized.

The Presiding Officer observes that there appears to a natural garrulousness in the well of the Senate. The Presiding Officer would urge a reversal of the garrulousness into the Cloakroom where Senators can certainly enjoy their conversations in private and other Senators will be able to hear the Senator from New Hampshire.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, this amendment, which we are now considering, is one which has been discussed already. It is something that has been worked out by the various parties involved. And certainly Senator COATS from Indiana has been the lead in trying to design this settlement of the matter.

It essentially resolves the matter by making sure that the testing will be done by a totally independent organization, and it will in no way be influenced monetarily—by the monetary involvement of the Federal Government—by the Department of Education, or those forces in the Department of Education who are pushing for a national curriculum. It is, therefore, a totally voluntary effort, and something which I believe deserves our support as an attempt to try to move forward on this issue.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, let me commend the Senator from New Hampshire and the Senator from Indiana for working in bringing this compromise together. I support it. I think it is important to give effective information. It is purely voluntary. It is a step forward. I urge very much that the Senate adopt this with a large margin so that we can stick to this position in conference.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The assistant legislative clerk called the roll.

The result was announced—yeas 87, nays 13, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—87

Abraham	Enzi	Lott
Akaka	Faircloth	Lugar
Baucus	Feingold	Mack
Bennett	Feinstein	McCain
Biden	Ford	McConnell
Bingaman	Frist	Mikulski
Bond	Glenn	Moseley-Braun
Boxer	Gorton	Moynihan
Breaux	Graham	Murkowski
Bryan	Grassley	Murray
Bumpers	Gregg	Reed
Burns	Harkin	Reid
Byrd	Hatch	Robb
Campbell	Hollings	Roberts
Chafee	Hutchison	Rockefeller
Cleland	Inouye	Roth
Coats	Jeffords	Santorum
Cochran	Johnson	Sarbanes
Collins	Kempthorne	Smith (NH)
Conrad	Kennedy	Smith (OR)
Coverdell	Kerrey	Snowe
Craig	Kerry	Specter
D'Amato	Kohl	Stevens
Daschle	Kyl	Thomas
DeWine	Landrieu	Thurmond
Dodd	Lautenberg	Torricelli
Domenici	Leahy	Warner
Dorgan	Levin	Wellstone
Durbin	Lieberman	Wyden

NAYS—13

Allard	Hagel	Sessions
Ashcroft	Helms	Shelby
Brownback	Hutchinson	Thompson
Gramm	Inhofe	
Grams	Nickles	

The amendment (No. 1070), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. HELMS. Mr. President, as always, we are sometimes called on to be two places at one time with two or three committee meetings going on. I was recorded—and it was my fault. It was not the clerk's fault. It was my fault because I thought it was a tabling motion when it was not. In any case, on rollcall vote No. 234, I voted "yea," and it was my intent to vote "nay."

Therefore, I ask unanimous consent that I be permitted to change my vote, which will in no way change the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

AMENDMENT NO. 1115, WITHDRAWN

Mr. HARKIN. Mr. President, I ask unanimous consent that amendment No. 1115 to S. 1061 be withdrawn.

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

The amendment (No. 1115) was withdrawn.

AMENDMENT NO. 1122

Mrs. MURRAY. Mr. President, today the Senate has passed the Gorton amendment to the Fiscal Year 1998 Labor, Health and Human Services, and Education Appropriations Act. This amendment seeks to block-grant certain Federal education funds and send them directly to school districts across the country. I appreciate my colleague Senator GORTON's intent to pass as much responsibility as possible for making educational and funding decisions to those levels closest to the classroom. This is also a goal of mine.

However, with all due respect to my colleague, this is one issue where we fundamentally disagree. His amendment, like many ideas, sounds good in theory because it oversimplifies the practical reality in our schools and communities.

As a former school board member, I agree with my Republican colleagues that our local elected school officials and educators are fully capable of deciding what their local needs and priorities are, and directing funds to those areas.

But those local school board members and superintendents and principals and educators will tell you that the Federal Government does indeed have a role in education in this country—in setting priorities and assuring equity.

Despite the occasional difficulties of writing a grant or filling out a form, Federal programs such as School-to-Work, or Safe and Drug-Free Schools, or STAR schools or other Federal technology programs, have made very real differences in the lives of students in schools across this Nation.

They will tell you that equity protection efforts, such as providing funds for magnet schools, funds for Indian education, or funds for bilingual or migrant education, should continue to be uniquely within the purview of the Federal Government. This is because despite the best intentions, we all know that some school districts in this country have not always been able to do best by all the students all of the time. Equity funds must continue to go to the students and school districts which need them, and must not be watered down and spread across all school districts, regardless of need, as it appears the Gorton amendment would require.

My problem with the Gorton amendment is that it may cost significantly more to educate one student than another, but this amendment will send them both the same Federal allocation—and ignore the intent of the Federal education program set up to recognize the specific needs associated with the higher cost.

Every child deserves an effective, relevant education. Not all children have the same opportunity to get it. This amendment will assure that we increase the disparities between the haves and have-nots in our Nation's schools.

Federal education funds leverage State and local money, as they do in my State, in the area of technology funding. Federal programs include caps on administrative expenditures, and maintenance of effort requirements—so we do not allow States to supplant or misuse funds. Federal education efforts safeguard equity concerns important to the Nation, and set important national goals priorities.

The Gorton amendment is bad policy. It uses a meat-ax approach to educational reform when what is needed is the precision of a scalpel and a careful ear listening to what local people are really saying. No one likes bureaucracy. Everyone believes our schools can be improved. But educators and taxpayers across the country will grumble more loudly about the potential ill-effects of the Gorton amendment than they ever have over redtape.

Local control is the goal; the Gorton amendment is fundamentally the wrong way to go about reaching it.

FUNDING FOR THE BUREAU OF LABOR STATISTICS

Mr. SARBANES. I would like to commend the committee and subcommittee for their hard work on the Labor-HHS Appropriations bill. I am particularly pleased that the committee has seen fit to honor the administration's request for funding of the efforts of the Bureau of Labor Statistics [BLS] with respect to its review of the Consumer Price Index.

However, I am concerned about the level of funding provided in the Labor-HHS bill for the remainder of the BLS budget, which is \$6.8 million below the administration's request.

BLS has suffered substantial funding reductions in past years, and consequently has had to eliminate or reduce the scope of several important programs—programs which produced valuable information on the Nation's labor markets and economy as a whole. It would not serve the national interest for BLS to have to undertake similar reductions as a result of the funding level in this appropriations bill.

For example, high school guidance counselors around the country who help young graduates find work in growing sectors of the economy rely on Occupational Outlook Handbook, Occupational Outlook Quarterly, and other special reports produced by the BLS Employment Projections Program. The proposed cuts in this bill, however, may make the continued publication of these important materials less likely in the future.

Similarly, to excel in the increasingly competitive global economy American businesses and trade officials need reliable international comparison statistics on employment, labor costs,

and productivity. The proposed level of funding in this legislation jeopardizes our ability to receive such information.

Finally, another consequence of the committee's proposed BLS funding level could be a delay in the implementation of the new industrial classification system—the so-called NAICS—that BLS has been working on. Updating the current system, which dates back to the 1930's, to reflect an economy approaching the 21st century is critical to the ability of our business leaders and policymakers to understand the challenges our economy will be facing in the upcoming years.

I understand that the House funds all BLS activities at a level consistent with the administration's request. Would the Senator from Pennsylvania, as ranking member of the Labor-HHS Appropriations Subcommittee, be willing to accept the House funding levels in conference?

Mr. SPECTER. The concerns of the Senator from Maryland are well founded. I will look closely at fully funding BLS programs as we move to conference with the House.

Mr. SARBANES. I thank the Senator from Pennsylvania, and appreciate his attention to this important matter.

#### AIDS PROGRAMS

Mr. HATCH. Would the distinguished chairman yield for a question?

Mr. SPECTER. I would be pleased to yield to my colleague.

Mr. HATCH. Many of us have been reading the excellent series in the Washington Post this week about the changing face of the AIDS virus. The article on Monday, if I am correct, highlighted the dramatic gains that have been made with new AIDS therapies, particularly the so-called triple drug therapy or cocktails which seem to have so much promise, at least in the short term. We are all keeping our fingers crossed.

Could you tell me how the bill addresses this issue?

Mr. SPECTER. Funding for the Ryan White AIDS programs was a priority for the committee this year, and I worked very hard to make sure that we provided an adequate level for the Health Resources and Services Administration service programs, as well as, I might add, for research at the National Institutes of Health.

I am pleased to assure you that S. 1061 contains \$1.077 billion for the Ryan White AIDS programs, which is \$41 million above the administration's request, and over \$80 million higher than the current year's level. That includes \$469.9 million for HIV health care and support services, of which \$217 million is dedicated to AIDS medications under the State AIDS drug assistance program [ADAP]. That \$217 million figure for ADAP compares to \$167 million in fiscal year 1997, so it is a substantial increase in an atmosphere of budget constraints.

Mr. HATCH. As the original author of the Ryan White CARE Act with Senator KENNEDY in 1990, I am extremely

pleased to hear of the committee's action to provide such a high level of support for the CARE Act. There is no doubt we have come a long way in the past 7 years. A good deal of that progress has been made because you, Senator SPECTER, have had the foresight and the courage to provide the funding HHS needs to operate the program. And I hope all of our colleagues recognize that fact.

But, despite our best efforts at both research and services, AIDS is still a serious problem in the United States. The most promising development we have had in years are the protease inhibitors and the combination therapies which are giving thousands of people literally a new lease on life. In fact, as you have noted, we are now seeing lower mortality rates for individuals for the first time in the history of the HIV/AIDS epidemic.

Let me ask you one final question. Are you satisfied that the committee's recommendation for the ADAP program will be sufficient?

Mr. SPECTER. I am not sure we will ever have enough money in the Labor-HHS bill. It is a constant struggle. I have to say that one thing which alarmed the committee is the high cost of these new AIDS medications. Pharmaceutical research, as you well know, is extremely time intensive and costly, and this is especially true for AIDS drugs.

The committee was very concerned about the lack of timely national data available to estimate the demands for AIDS medications funded by the ADAP program, and also, I might add, about the wide variation in State Medicaid policies on individual eligibility, benefits, and drug availability. We have asked the Secretary to develop benchmarks to measure progress in this area and to increase data collection and information sharing, and so we hope to have a better guideline in the future.

Mr. HATCH. I thank the Senator for this information. It is clear that we are all going to have to work harder—both the government and the private sector—in making AIDS medications available to those who need them. It is one of the modern paradoxes that the new AIDS drugs can defer an HIV infected individual's progression to disability. Yet, it may only be that the individual can get financial assistance when disabled, a situation we would clearly like to prevent.

I am aware of a Pharmaceutical Research and Manufacturers of America study which indicated that, as of December 1, there were 122 medicines in testing for AIDS. The cost, which the Senator alluded to, is astounding. One company spent more than \$1 billion over a 10-year period to develop a protease inhibitor. American technological gains are nothing short than miraculous, but we all have to recognize they are expensive as well.

I am heartened by the Senator's remarks about funding for the State ADAP programs. I am fully supportive

of your efforts and I thank you for your substantial interest in this area.

#### RURAL HEALTH TRANSITION GRANTS

Mr. BURNS. I would like to clarify the intent of the Appropriations Subcommittee on Labor, Health and Human Services and Education, and the full Appropriations Committee, with respect to the Rural Health Transition Grant Program. This program provides small, 3-year grants to assist financially troubled small rural hospitals as they attempt to adjust to changes brought on by new medical technology, changing practice patterns, and replacement of cost-based reimbursement with prospective, or fixed, payments. Last year Congress discontinued funding for rural health transition grants, but several facilities around the country were already in their grant cycle, having received their first or second year grants. These small hospitals were promised 3-year grants, and had relied on those grants, when the funds were cut off.

Is it the intention of the Appropriations Committee to urge the Secretary of Health and Human Services to provide, from the funds appropriated for program management, continuation grants to those rural hospitals which have received first or second year grants?

Mr. SPECTER. I respond to the Senator from Montana that it is the intention of the committee to urge the Secretary to provide, from the program management account, continuation grants to those rural hospitals which have received first or second year grants. The committee believes that an undue hardship could be brought upon these hospitals if their 3-year grants are not completed as promised. I thank the Senator from Montana.

Mr. BURNS. I thank the subcommittee chairman for his clarification.

#### AMENDMENT NO. 1098

Mr. KERREY. Mr. President, I share the interest of my colleague from Georgia in enhancing food safety not only for children but for all consumers. I note that several provisions in my colleague's amendment appear to be related to the types of research efforts that are undertaken by the U.S. Department of Agriculture.

Based on those ongoing efforts, I suggest that the Secretary of Health and Human Services should consult and coordinate with the Secretary of Agriculture in carrying out the provisions of this amendment. I ask my colleague from Georgia if this is his expectation as well.

Mr. COVERDELL. Yes; I agree that the Department of Agriculture has spearheaded efforts in this area, and that the Department of Health and Human Services should consult and coordinate with the Department of Agriculture so that these funds are utilized in the most effective and efficient manner.

Mr. KERREY. I thank my colleague from Georgia for both his interest in ensuring and improving the safety of

our food and for agreeing that the two Departments should work together in implementing the provisions of his amendment.

STUDY ON IODINE-131 RELATED THYROID CANCER

Mr. BENNETT. Mr. President, I would like to bring to the Senate's attention the recent National Cancer Institute recommendation that followup studies be conducted regarding American's exposure to radioactive iodine-131. During the 1950's and 1960's the Nevada test site conducted a number of atomic tests. The radioactive fallout from such tests was significant. I believe that a number of Utahns were exposed to this radioactive fallout.

The University of Utah has conducted several studies to assess the impact of this fallout. In doing so the University of Utah collaborated with the Public Health Service, the National Cancer Institute, and the Department of Energy. Although these studies concluded that there is an increase in the incidence of thyroid cancers among the examined group and that further research was needed. Many of those exposed are just now coming to the age where thyroid cancer is manifested. As a result, I believe it is important that Congress fund the next phase of this study.

I would like to ask Chairman SPECTER if he would work with me to find the necessary resources to fund the next phase of this study. I am well aware of the limited resources available to this subcommittee. I also understand that there are many competing needs and important programs and projects. However, I am hopeful that we can work together to find the necessary resources to fund this study.

Mr. SPECTER. Mr. President, I say to my friend from Utah that I am aware of his concerns with regard to atomic tests performed at the Nevada test site and the fallout of radioactive iodine-131. I also understand that the University of Utah has done some outstanding research in this area. I would like to ask Senator BENNETT what resources would be required to complete this phase of the study?

Mr. BENNETT. I am told that this would be a 5-year study that would require about \$1.9 million per year.

Mr. SPECTER. Senator BENNETT is correct that resources are limited. However, I would be pleased to work with Senator BENNETT to try to find the resources necessary to fund this important study.

Mr. BENNETT. Mr. President, I thank my friend Senator SPECTER for his willingness to work with me on this important and I look forward to working with him on this matter.

FUNDING FOR RURAL DRUG ABUSE PREVENTION PROGRAMS FOR DISTRESSED YOUTH

Mr. DASCHLE. Mr. President, during a recent visit to rural South Dakota, I had the profoundly moving experience of meeting with a heroic individual who is working to keep deeply distressed kids off alcohol and drugs. Durein Chase works to build opportuni-

ties for distressed children by providing them with drug-abuse prevention counseling in a safe, drug-free recreation center. My hope for these children and excitement about the Crow Creek Four Winds Youth Center Program were cut short when I learned that Federal funding for this program was abruptly terminated because Congress ended its authorization in fiscal year 1996. The Homeless and Runaway Youth Drug Abuse Prevention Program, known as DAPP, had previously supported as many as 184 local programs around the country at an annual cost of \$15 million. When DAPP lost its appropriation, the program was incorporated into a new comprehensive program for homeless youth. Unfortunately, the new initiative does not help those programs, like the one on Crow Creek Reservation, that do not run residential facilities. Simply put, the children of Crow Creek have slipped through the cracks. Durein's heroic effort to help particularly vulnerable kids avoid drugs will disappear without our support. Fortunately, the Appropriations Committee has included in its fiscal year 1998 bill \$10 million for SAMHSA, the Substance Abuse and Mental Health Services Administration, to support youth drug prevention programs. It is my understanding that the Crow Creek Four Winds Youth Center and facilities like it are eligible for a portion of the \$10 million provided to the Department of Health and Human Services and it is my hope that the Department will seriously consider funding the Crow Creek Youth Center in fiscal year 1998. With adequate funding, the Crow Creek Youth Center will be able to provide help for isolated and distressed youth who come from areas distinguished by historically high rates of teen suicide.

Mr. SPECTER. I join my colleague from South Dakota in recognizing the importance of drug prevention efforts in rural America. It is my understanding that the Crow Creek Youth Center would be eligible for these funds and I encourage the Secretary of Health and Human Services to give serious consideration to funding such efforts out of the money appropriated under this bill.

Mr. HARKIN. It is our intention to support programs which provide such essential drug abuse prevention services to youth. It strikes me that the Crow Creek Youth Center meets that criteria, and I join with my colleagues in encouraging the Secretary to identify funding for the South Dakota program and similar programs in rural and isolated areas plagued by high rates of alcohol and drug abuse.

FLUORIDATING COMMUNITY WATER SUPPLIES

Mr. DASCHLE. Mr. President, I note with pleasure that both the Senate and House reports accompanying the Labor/HHS appropriations bills reflect strong support for community water fluoridation in preventing tooth decay among children. These reports clearly state that we can both save money and improve children's health through fluo-

ridation. Tooth decay remains the single most common disease of childhood and is highest in low-income children. Millions of Medicaid dollars currently used to repair these children's teeth could be saved through fluoridation. After 50 years, water fluoridation remains the hallmark public health preventive intervention. In my own State of South Dakota, water supplies for communities as small as 500 persons are fluoridated. It is my hope to extend similar benefit to children throughout the country.

Both the House and Senate reports direct the Department of Health and Human Services to support implementation plans for additional community water fluoridation. The House provides \$1,000,000 for this effort while the Senate directs the Department to fund this effort at a level no less than last year. Unfortunately, last year the Department allocated only \$200,000 for this purpose, which did not meet the need.

It is my hope that the conferees will be able to provide sufficient resources in the conference report to address this serious problem. The House level of \$1,000,000 for community water fluoridation strikes me as a reasonable amount to accomplish this important purpose. Anything the Senate conferees could do to work with the House conferees to achieve this level in the final conference report would be enormously appreciated by beneficiaries of this program throughout the Nation.

Mr. SPECTER. The benefits of fluoridated water to our Nation's children are well known and appreciated. I will work with my colleagues on the House and Senate conference to provide the resources to implement this program more broadly.

Mr. HARKIN. The National Institutes of Health reports that more than half of 6 to 8 year olds already suffer tooth decay. There are few things that the Federal Government can do directly to decrease this disease in children. Fluoridation is one of them. I, too, will work with my colleagues to provide the necessary funding in the conference report.

FUNDING FOR BREAST CANCER RESEARCH

Mr. DASCHLE. Mr. President, I note the committee is recommending a significant increase in funding for the National Institutes of Health as a whole, and for the National Cancer Institute in particular. I applaud the committee for its dedication to tapping the full potential of medical research. Such research represents hope for millions of Americans with cancer and other devastating illnesses, and in that sense it is far more valuable than any dollar figure we may attach to it.

I understand that in its report, the committee stated that breast cancer research is among its top priorities, and asserted that the National Cancer Institute should strengthen its budgetary commitment to breast cancer. In light of these statements, I believe it is the committee's expectation that the substantial increase in NCI funding

should be reflected in additional funding for breast cancer research. It is reasonable that NCI would increase its funding commitment to breast cancer research in order to respond to the committee's concern that more research is needed to better understand the underlying mechanisms of breast cancer and to improve the ability to detect, diagnose and treat this pervasive, life-threatening disease.

Mr. SPECTER. I agree with your interpretation of the committee's report. Our intent was to convey the need to redouble our efforts to successfully prevent, detect and treat breast cancer. Sufficient funding to push the boundaries of breast cancer research is essential if we are truly committed to these goals. Increased funding for the National Cancer Institute should indeed be reflected in a larger financial commitment to breast cancer research.

Mr. HARKIN. I, too, fully concur with Senator DASCHLE's assessment. NCI must not forsake this important opportunity to expand its breast cancer research agenda. I anticipate that NIH and NCI will give this critical avenue of research every consideration as they make their fiscal year 1998 funding decisions.

FULFILLING THE PROMISE OF THE BREAST AND CERVICAL CANCER MORTALITY PREVENTION ACT (P.L. 101-345)

Mr. DASCHLE. Mr. President, I am grateful that this bill provides an increase in funding for the Centers of Disease Control and Prevention's National Breast and Cervical Cancer Early Detection Program. The program was implemented in accordance with the Breast and Cervical Cancer Mortality Prevention Act of 1990 to reduce morbidity and mortality from two cancers that will claim the lives of an estimated 500,000 women during the 1990's. It is structured as a State and Federal partnership to provide screening and diagnostic help and assure followup care for low-income uninsured women.

Under the 1990 act, Federal funding is restricted to screening and diagnostic services. To ensure that women diagnosed with cancer receive treatment, States are expected to arrange access to treatment through whatever means they have at their disposal. The CDC's National Breast and Cervical Cancer Early Detection Program is now active in all 50 States, and as of January 1997, the program has screened more than 1.5 million American women. Unfortunately, too many women are not being provided the screening, diagnostic help, and treatment they need to save their lives.

At the current level of funding, the program can provide screening to only 15 percent of the eligible low-income population, meaning that roughly 10 million low-income uninsured American women are not provided access to critical screening services. Moreover, as in many other States, the program in my home State of South Dakota faces another critical resource constraint: Insufficient resources to pro-

vide diagnostic services for women who have been screened by the program and require additional diagnostic treatment. It is tragic to think that some women are told they may have breast or cervical cancer, and then informed that their diagnosis cannot be confirmed. Additional funding for this program is critically needed to complete the task of diagnosing women as early as possible so that they can receive potentially life-saving treatment, and to fulfill the promise of the 1990 bill for all eligible women, not just a small fraction of them.

In addition to our inability to provide screening and diagnostic services to all low-income women, we have not yet been able to establish a program to ensure the necessary treatment for those who are diagnosed with cervical or breast cancer. When you consider that the fundamental goal of the 1990 act is to prevent mortality, it becomes clear that we need to take greater steps to secure treatment for affected women. Since passage of the 1990 act, CDC and the States have been working diligently to ensure that all women diagnosed with breast or cervical cancer receive appropriate treatment. However, the resources that are available to fulfill this task—often an uneven patchwork of free clinics, charity care from hospitals, and pro bono services donated physicians—makes the job extremely difficult.

To meet this challenge, it is essential that we determine accurately the extent to which women diagnosed with cancer under the CDC Program lack access to the care they need and how we can overcome the remaining barriers to providing all women with care they need. I understand that the CDC is conducting a comprehensive study of State-level efforts to provide appropriate treatment. Based on the results of that study, which should be available within the next few months, Congress and the administration have a responsibility to determine whether additional measures are necessary to help States ensure proper treatment for women who are diagnosed with cancer through the CDC screening program. It is my hope that when the results of the CDC study become available, the administration will evaluate them and make recommendations to Congress on ways the Federal Government can better help States ensure that women diagnosed with cervical or breast cancer obtain the treatment they need.

Additionally, it is my hope that the Department of Health and Human Services will utilize whatever unexpended or discretionary funds that are available in fiscal year 1998 to expand the number of women who are provided screening or diagnostic assistance for cervical or breast cancer.

Mr. HARKIN. Mr. President, I couldn't agree more. Providing crucial early detection and diagnostic screening services to uninsured women is a high priority for me. It is essential that women who are diagnosed with

breast cancer through our efforts are not abandoned without hope of appropriate treatment. I know that our committee, with the chairman's support, will work hard to support CDC's National Breast and Cervical Cancer Early Detection Program and strongly encourage the administration to develop recommendations to Congress to ensure broader access to followup treatment.

Mr. SPECTER. Mr. President, I very much agree. I recognize the importance of providing early detection and diagnostic screening services to as many uninsured women as possible, and agree that the Department of Health and Human Services should consider providing the screening and diagnostic program with any unexpended or otherwise available funds under this bill in fiscal year 1998. Also, Congress and the administration should take a close look at the current program and be willing to consider further efforts to provide followup treatment for all women diagnosed with cancer through the screening program.

RESEARCH AIMED AT DETECTING, PREVENTING, AND TREATING OSTEOPOROSIS

Mr. DASCHLE. Mr. President, it is estimated that up to 50 percent of the women alive today will experience at least one serious osteoporosis-related fracture during the remainder of their lives. Approximately 25 percent of men alive today will also experience a serious fracture related to osteoporosis. It is clear that osteoporosis is becoming a greater and more expensive public health problem with each passing year. Medicare and other publicly funded health care programs are spending an estimated \$28 billion per year to treat osteoporosis-related conditions.

Osteoporosis is both preventable and treatable. There are a number of FDA-approved therapies that have been demonstrated to be effective in preventing the disease in those at risk, as well as treatments that can arrest or retard the progress of the disease in individuals who already have it. Good nutrition, including sufficient calcium, has also been shown to help protect against the illness. If programs can be put into place soon that will help detect and combat this illness, we can make a tremendous difference in the quality of life of seniors, and effectively reduce the spiraling cost of osteoporosis-related health problems.

I understand that in its report, the committee has encouraged the National Institute of Arthritis and Musculoskeletal and Skin Diseases [NIAMS] and the Agency for Health Care Policy Research [AHCPR] to use competitive grants and other mechanisms to plan and carry out definitive studies, including epidemiological studies, that will enable us to better understand the nature and scope of osteoporosis and design more effective prevention and treatment programs. I commend the committee for its action, and would like to reinforce the urgency of moving forward with the planning

and execution of such studies and the importance of using competitive grants as appropriate to tap the skills and expertise of the Nation's academic and research communities. I would also like to emphasize the importance of including, as part of this effort, an analysis of policies and programs that should be pursued to prevent osteoporosis in the future. It is critical that we have an accurate sense of the dimensions of this widespread health problem and take every possible step to lessen its destructive impact.

I hope the committee's well-articulate views, which clearly recognize the value of a comprehensive assessment of osteoporosis, and acknowledge the important contribution NIAMS and AHCPH can make to that effort, are incorporated into the conference report.

Mr. SPECTER. I agree that osteoporosis should be the focus of aggressive detection, prevention and treatment activities. We owe it to our own and future generations to tackle the root cause of so much injury and debilitation in later life, and to reduce the growing financial burden it imposes on individuals and the public alike. I agree that NIAMS and AHCPH should pursue, within the funds provided, strategies to detect, prevent, and treat osteoporosis in both women and men, and I look forward to working with the conferees to include such language in the conference report.

Mr. HARKIN. I also recognize the value of a comprehensive research strategy aimed at detecting, preventing and treating osteoporosis, and I encourage NIAMS and AHCPH to give this research every consideration as they make their fiscal year 1998 funding decisions.

#### AGING RESEARCH AND ALZHEIMER'S DISEASE

Mr. GRASSLEY. I would like to take this opportunity to commend the distinguished chairman of the subcommittee, Senator SPECTER, for his leadership in crafting what is arguably one of the most difficult and perhaps the most complex appropriations bills Congress must deal with each year.

I share his concerns that while there are so many worthwhile programs covered by this legislation, we are unfortunately constrained by limited resources.

As chairman of the Senate Special Committee on Aging, I am especially concerned about one item in the bill—the recommended appropriation for the National Institute on Aging.

As baby boomers shoulder their way into the 21st century, nearly 35 million Americans will be age 65 or older, compared to just 3.1 million at the start of this century. This tremendous growth is due in large part to better living standards as well as this Nation's commitment to medical research. As a result of past research investments we now have new and more effective treatments for arthritis, high blood pressure, stroke, and other diseases.

But as you know, many critical challenges remain—not the least of which is the scourge of Alzheimer's disease.

Alzheimer's disease and related disorders present one of the greatest threats to the health and economic security of the generation that will enter retirement in the 21st century. It has already stricken 4 million Americans. And if left unchecked, 14 million will fall victim to Alzheimer's by the middle of the next century. It will defeat all of our best efforts in Congress and as a nation to control health care costs and assure the quality of health care in general.

I know that the distinguished chairman of the subcommittee shares my concern. As in my State of Iowa, his home State has a high proportion of elderly.

I note that this legislation recommends \$520.7 million for the National Institute on Aging. While that represents an increase over this year's funding and the House level, the rate of increase is below the average increase to NIH as a whole.

I would like to ask the distinguished chairman that he keep in mind the importance of adequate funding of the National Institute on Aging. The challenges, and the opportunities, surrounding our aging population have never been greater.

Mr. SPECTER. I would like to thank Senator GRASSLEY, the distinguished chairman of the Aging Committee for his leadership on this important issue. The Senator can be certain that I understand the importance of maintaining adequate funding for the National Institute on Aging. I will certainly keep this in mind as the appropriations process continues.

#### EARLY HEAD START PROGRAM

Mr. HARKIN. Mr. President, the pending legislation increases funding for Head Start by \$324 million and directs that 10 percent of the fiscal year 1998 increase be dedicated for further expansion of the Early Head Start Program which serves children from 0-3 years of age. The appropriations bill does not amend the underlying Head Start statute, therefore, there is no change to the 5 percent set-aside for the Early Head Start Program as prescribed by that law for fiscal year 1998.

I would ask the chairman if he could clarify the intent of the legislation with respect to the Early Head Start Program. It is my understanding that the 10 percent from the fiscal year 1998 increase is in addition to the 5 percent set-aside already provided by law.

Mr. SPECTER. The Senator is correct. The pending legislation does not change the 5 percent set-aside for the Early Head Start Program provided by current law for fiscal year 1998 and the 10 percent provided by the bill is additional funding to expand programs for children from 0-3 years of age.

Mr. HARKIN. I thank the chairman for clarifying this point.

#### MUSIC EDUCATION

Mr. KENNEDY. Mr. President, in the past the Senate has supported, through the Labor-HHS appropriations bill, music training as an educational tool.

I support the continuation of support for this type of program.

I urge the Department of Education, through its fund for the improvement of education, to give favorable consideration to a proposal that will stimulate students' interest in and attention to music by airing the work of young and gifted student performers and which will also involve the public through supplemental educational tools. A young performance series, which affords 6-18-year-old musicians the opportunity to publicly demonstrate their talents would be especially suited to carry out such a demonstration.

If we are to encourage innovation and talent, we must foster that talent by recognizing the developing skills of our Nation's youth. Public broadcasts of a quality young performance program will encourage youth involvement in classical and other serious music.

Mr. SPECTER. I note the Senator's support for music programs for young people with interest and agree that we should encourage education and learning through the use of the arts. I would also encourage the Department of Education to consider this proposal.

#### STUDENT/PARENT MOCK ELECTIONS

Mr. KENNEDY. Mr. President, every Member of Congress understands the importance of elections. The votes cast on election day determine the leadership and direction of communities across the country, and of the Nation as a whole. We know that informed voters are the essence of our democracy.

The National Student-Parent Mock Election helps young students learn about the importance of the election process. It also offers parents and teachers across the country an opportunity to help students learn about democracy, make decisions about key issues, and understand the meaning of the citizen responsibility on which democracy thrives.

On October 30, 1996, millions of students and parents across the country cast their votes for President, Vice President, Senators, Representatives, Governors, and local officials as part of the National Student-Parent Mock Election. Every State called in its votes on who would win the elections and its recommendations on key national issues to the National Mock Election Headquarters, while over 20 million viewers watched on television.

The National Student-Parent Mock Election is an on-going project that received \$125,000 in Federal funding in fiscal year 1997.

I understand that it is the intention of the chairman and ranking member of the Labor-HHS-Education Appropriations Subcommittee to fund the National Student-Parent Mock Election at \$225,000 for the fiscal year 1998 so that it can continue to educate students on key issues and the principles of democracy.

Mr. SPECTER. That is true. It was our intention to include in report language that the National Student-Parent Mock Election be funded at \$225,000 this fiscal year. I, too, believe that this is an important and worthy program.

Mr. HARKIN. I also agree that it was our intention to fund the program at \$225,000 this fiscal year, and I comment the National Student-Parent Mock Election program of its continued success.

Mr. KENNEDY. I thank the Senator for the clarification. The lessons that students and their parents learn in the mock elections will benefit American politics for years to come. If the next generation of Americans is well prepared for the challenges of democracy, our liberties will be in good hands.

FUNDING FOR THE CENTERS FOR DISEASE CONTROL AND ITS SUICIDE PREVENTION INITIATIVES

Mr. COVERDELL. Mr. President, I would like to direct the attention of my colleagues to the work of the Centers for Disease Control [CDC] located in Atlanta, GA. As you all are aware, the CDC is dedicated to the public health—providing valuable resources for disease research and prevention from cancer and infectious disease research to diabetes control to suicide prevention.

Mr. SPECTER. Yes, I think our colleagues will all agree that the CDC performs valuable public health services. There is widespread support for the CDC and its missions, and I believe it is a worthwhile use of Federal funds.

Mr. COVERDELL. I thank the Senator from Pennsylvania for his remarks. Let me add that a number of my constituents have contacted me regarding CDC funding, particularly in regard to the National Center for Injury Prevention and Control's research on suicide prevention.

While both the House and Senate bills provide funding for the CDC above the administration's request, my constituents fear that the CDC's research potential will not be attained under the Senate's lower appropriation level. As you may know, I joined with several of my colleagues in sponsoring S. Res. 84 which recognizes suicide as a national problem. I share my constituents' interest in promoting efforts to prevent suicide, and as deliberations on S. 1061 continue, I respectfully request that the Chairman consider my constituents' request to fund the CDC at the House level.

Mr. SPECTER. I appreciate the Senator from Georgia's comments regarding fiscal year 1998 CDC funds. Let me assure him that the subcommittee will take his comments into careful consideration.

Mr. COVERDELL. Once again, I would like to thank the Senator for his and his subcommittee's support. I yield the floor.

Mr. SPECTER. I appreciate the distinguished Senator from Georgia bringing to the attention of this Senate his interest in the valuable work of the

CDC. I will ensure that the conference committee considers the Senator's interest in these important public health programs.

Mr. COVERDELL. I thank the distinguished chairman for his attention to my interest in these matters.

DEPARTMENT OF LABOR JOB SEARCH INITIATIVE

Mr. DOMENICI. Mr. President, I rise to engage the distinguished chairman of the Labor, Health and Human Services and Education Appropriations Subcommittee in a dialog about an item in the House version of the fiscal year 1998 appropriations bill.

Mr. President, the House Appropriations Committee has approved \$3 million within the Employment and Training Administration to support a telephone-access job search system. These funds are provided as part of the \$71.8 million approved in the House bill for other federally administered programs. Through the labor market information activity, \$3 million would be used to support the installation of a telephone access labor market exchange network for searching America's Job Bank by telephone. This service has the potential of providing access to job information to persons with disabilities, including individuals who are blind.

I would ask the chairman if he would review the House proposal and give it serious consideration for inclusion in the final version of the Labor-HHS-Education appropriations bill. I understand that the \$3 million would most appropriately go to assist states in meeting the first-year costs of joining a labor market exchange network for providing job seekers with access to America's Job Bank by telephone. With the innovative use of computer technology, this proposal could be of significant assistance to those who are disabled and in search of employment opportunities.

Mr. SPECTER. I thank the Senator from New Mexico for bringing this matter to my attention. I am familiar with the recommendation of the House Appropriations Committee to encourage a telephone-access job search initiative. I can assure my friend from New Mexico that I will give this proposal serious consideration for inclusion in the conference report accompanying the final bill.

WHITE HOUSE INITIATIVE ON TRIBAL COLLEGES AND UNIVERSITIES

Mr. BINGAMAN. Mr. President, I wish to take this opportunity to speak in support of a new Office of Tribal Colleges and Universities that has been created by Executive order, and to clarify language in the Senate Committee Report 105-58 that accompanies the legislation currently under consideration. This Executive order began as Senate Resolution 264, a Sense-of-the-Senate Resolution urging the President to issue an Executive order to promote and expand Federal assistance for Indian institutions of higher education. I am proud to be one of the initiators of this resolution, and I was very pleased when the President responded by issu-

ing Executive Order 13021 pertaining to tribal colleges and universities in October 1996, in which he created an Office of White House Initiative in the Department of Education. The order also directed the Department of Education to "provide appropriate administrative services and staff support for the Board and the Initiative."

This issue was raised in two separate sections in the Senate committee report. Support for the Initiative Office was mentioned in the section pertaining to the Department of Education's Office of Indian Education, and then again in the section pertaining to the Office of Vocational Education. I ask my colleague from Pennsylvania, Senator SPECTER, if it was the committee's intent to provide the White House Initiative Office with adequate support from the Department of Education's increased funds for general departmental management, and not from the limited funds allocated to the Office of Indian Education?

Mr. SPECTER. Mr. President, I thank my colleagues for this opportunity to clarify the committee's recommendation regarding the Department of Education's White House Initiative Office on tribal colleges and universities. It was, indeed, the committee's intent that the Office receive adequate support for its mission, and that administrative funds be allocated for this purpose from the Department of Education's general management funds.

Mr. BINGAMAN. I thank my colleague for this clarification. The 30 Tribal Colleges and Universities in this country provide the best opportunity for many Native Americans to attend college. The Carnegie Foundation for the Advancement of Teaching recently published its second report on Native American colleges, pointing out the critical role they play. I believe that the office created under the White House initiative will have an opportunity to work across Federal agencies to strengthen tribal institutions of higher education and can help to implement the recommendations made in the Carnegie Foundation report.

I know that my colleague from North Dakota, Senator DORGAN, shares my concern for the support of tribal colleges and universities, and I would ask for his thoughts on this issue.

Mr. DORGAN. Mr. President, I thank my colleague from New Mexico for his leadership in urging the creation of this White House Office on Tribal Colleges and Universities. Like Senator BINGAMAN, I supported S. Res. 264 and was among the Senators that subsequently urged the President to issue the Executive order. It was at my request that the committee included language for increased funding support for this office, and I am most grateful to the chairman for his help on this matter and for clarifying the committee's intent.

North Dakota is home to five tribal colleges, and these institutions are an

important part of the higher education community in my State. It is my belief that the White House initiative has the potential to galvanize Federal support for these institutions, and in so doing will open the door to college wider for many Native Americans.

NATIONAL MEDIATION BOARD

Mr. HARKIN. As the chairman knows, this bill includes funding for the National Mediation Board [NMB] which is responsible for mediating labor-management disputes in the railroad and airline industries under the Railway Labor Act [RLA]. To help meet this responsibility section 3 of the RLA requires the arbitration of certain disputes that arise between employee and their employers in the rail industry.

Unfortunately, there is a serious need to help the NMB fulfill its section 3 responsibilities. Delays in care processing cause uncertainty and hardship for both rail workers and the carriers. I want to thank the chairman for recognizing this problem and for including an additional \$500,000 to the budget of the NMB. It is my understanding that it is the intent of the chairman and the committee that the NMB should use this extra money to deal with the section 3 cases. Is this also understanding of the chairman?

Mr. SPECTER. I want to thank the Senator from Iowa for raising this issue. In appropriating an additional \$500,000 over the administration's request it is indeed by intent that the NMB will use these funds to more quickly process the section 3 cases that are currently pending. There are now a few thousand unresolved cases affecting workers and employers in Pennsylvania and throughout the Nation who deserve to have these cases decided as quickly as possible.

Mr. HARKIN. I want to again thank the chairman for his interest and help in addressing this problem.

Mr. LEAHY. I am concerned that the Community Schools Program has not been funded within the fiscal year 1998 HHS appropriations bill. The elimination of this program means the cutting of funds for grants in over 35 States, midcycle, including programs in Vermont and Pennsylvania.

Senator JEFFORDS and I have been working to find an acceptable way to ensure that the Community Schools programs which work well will continue to be funded.

I understand the fiscal constraints faced by the committee. I appreciate the willingness of the chairman to add language to this bill that would give priority funding through the high-risk youth grant program to currently running Community Schools grants that are successful.

The program in Vermont is called CITYSCAPE. This grant has allowed Barre City to develop partnerships between the schools, the community and other key service providers to target assistance to youth who are at risk of abuse and neglect, at risk of substance

abuse and at risk of teen pregnancy. The program seeks to increasing community and school connection to these youth, decrease youth violence and to decrease youth use or potential use of alcohol, tobacco or other drugs.

Mr. JEFFORDS. I thank my colleague for his remarks. We share a commitment to ensure that effective Community Schools programs like CITYSCAPE in Vermont are given priority in funding within the new program for at-risk youth.

I would also add to my colleague from Vermont's remarks that a key component of the Barre City Program is the development of community ownership and a volunteer base that will ensure the continuation of this program beyond the end of the grant cycle.

Our intention is to work with the committee to make sure that CITYSCAPE and other good programs reach the point that they can stand on their own with community support.

Mr. SPECTER. I thank the Senators from Vermont for bringing their concerns about the elimination of this program to me. I certainly want programs that are successful to continue. I and will work with the House during the conference to make sure that programs that are meeting the needs of high-risk youth can continue.

AIDS DRUG ASSISTANCE PROGRAM AND OTHER PROGRAM FUNDING UNDER THE RYAN WHITE CARE ACT

Mr. D'AMATO. Mr. President, I would like to commend the chairman for his continued leadership in providing substantial support for the Ryan White CARE Act, research through the National Institutes of Health, and various prevention and education programs seeking to discover new treatments and a cure for the HIV/AIDS virus. Each of these areas deserves the full attention from congressional leaders if we are to finally win our struggle with this dreaded virus.

However, I am particularly concerned that the level of funding for the AIDS Drug Assistance Program [ADAP] under title II of the Ryan White CARE Act will fail to meet the needs of those suffering from this terrible disease. With some of the recent advances in HIV/AIDS drug treatments, many seem to believe that the pressure imposed by this disease upon our society has been relieved. However, I believe the Senate must increase the ADAP funding level for fiscal year 1998 to the House level of \$132 million in order to protect our citizens from this continued deadly disease.

As with every State, in my State of New York many working people living with HIV/AIDS must rely on the ADAP Program for their only access to the new effective combination therapy AIDS medications which were discovered and produced through our public and private investment in research at the National Institutes of Health and in private industry. These newly approved drugs offer real hope for contin-

ued life to hundreds of thousands of Americans living with HIV/AIDS. With millions of Americans lacking health insurance with adequate prescription benefits, the ability to access these treatments has literally become a matter of life and death for thousands of these Americans.

Currently, the ADAP Program in New York State provides treatment opportunities to nearly 17,000 people with many, many more projected to seek treatment in the future. Congress has the ability to lead the way to assure access to these therapies and the hope they provide against the inescapable progression to an untimely death. We must seize this opportunity. No one wants to be in the position of telling a constituent that they are out of luck this year and that maybe next year we can do something. Every State will face intolerable choices in deciding who shall have the opportunity to receive these life-saving treatments without an adequate ADAP funding level. I ask the chairman to leave no stone unturned in obtaining the funds so desperately needed for us to offer a chance for life to every American living with HIV/AIDS in the United States. I know my colleague from California would like to provide further emphasis to this statement.

Mrs. BOXER. Mr. President, I thank the Senator from New York and I appreciate his comments on the Ryan White CARE Act. This vital program is literally a life line for people living with HIV and AIDS.

AIDS continues to be the leading cause of death for Americans between the ages of 25 and 44. Over a half million Americans have been diagnosed with AIDS, and over 360,000 have died of the disease. In the coming year, HIV will infect some 40,000 Americans, half of them under the age of 25.

The Ryan White CARE Act demonstrates our commitment to providing necessary health care services to these individuals and families with HIV, and to assisting communities hardest hit by the AIDS epidemic.

Recent advances in research have provided us with new and effective combination therapy AIDS medications. These newly approved drugs offer the first real hope to the hundreds of thousands of people living with HIV and AIDS.

Under title II of the CARE Act, the ADAP program provides access to these essential, life-saving drugs to the people who desperately need them. It literally makes the difference between life and death for tens of thousands of Americans. It is because of this new hope that new clients are coming to get the treatment they need to survive, and that is why increased funding for this program is vital.

We have the ability and the responsibility to make these drugs available to people who need them. I don't believe anyone in this room would want his or her State to be in a position of having to cut patients off life-saving drugs because funding is inadequate.

Given that the number of individuals with HIV continues to escalate, our commitment to providing AIDS care must remain firm. Therefore, I strongly urge my colleagues in conference to adopt the highest funding for the Ryan White CARE Act. I urge support of the House funding levels for title I and title II and the Senate levels for title III, IV, and V.

In addition, I would like to reiterate my strong support for AIDS prevention and education programs through the Centers for Disease Control. These programs are key to stopping the spread of HIV infection and saving lives, and I urge the highest funding level possible.

Individuals living with this disease and their loved ones known that these programs are saving lives, enabling patients to live life to the fullest, and preventing new infections. It is our obligation to provide the highest level of funding possible for these critical appropriations.

Again, I thank the Senator from New York and the chairman and ranking member of the subcommittee for their tireless work on behalf of people with HIV and AIDS.

Mr. D'AMATO. I thank the Senator from California for providing further perspective on this issue. Mr. President, we again thank the chairman for his leadership and support of the Ryan White CARE Act in the past. We hope to secure your continued support for Senate appropriations for titles III, IV, and V of the Ryan White CARE Act, and at least the House funding levels for titles I and II in conference committee. In particular, the ADAP funding level affects every State in our great Nation and, therefore, I look forward to working with him and our colleagues to ensure that every American will have access to any HIV/AIDS treatment he or she may require.

#### COMMUNITY EMPLOYMENT ALLIANCE

Mrs. HUTCHISON. Mr. President, I would like to bring to the attention of the Senator the Community Employment Alliance [CEA], which is sponsored by the Enterprise Foundation. It is my hope that the Department of Labor may identify the CEA as a project for full consideration under research, demonstration, and pilot program funds being made available to the Department in the 1998 Labor, Health and Human Services, and Education Appropriations Act.

CEA is working in eight cities nationwide, including San Antonio and Dallas in my home State, to develop an effective job opportunity system for low-income individuals, particularly those on public assistance. CEA offers a new, comprehensive model for developing job opportunities for low-income citizens based on the utilization of community-based organizations, in conjunction with private sector and Government resources.

CEA's approach envisions the development of compacts involving city and State governments, local and regional business leaders, and community-based

organizations. Each local alliance will formulate strategies and implement programs for creating an effective job opportunity system for welfare recipients. The ultimate goal of the CEA, therefore, is to improve job prospects for unemployed and underemployed residents of distressed inner-city neighborhoods through well-coordinated, high performance economic and work force development activities. I believe that it is this type of integrated approach that will help move more Americans from welfare to work.

Mr. SPECTER. I thank Senator HUTCHISON for bringing this important project to my attention and the attention of the committee. There is much work to be done in assisting those on welfare to gain a better life. Approaches to this problem which fully integrate business, civic, and community leaders are in my view the most likely to succeed. Therefore, I believe that the Department of Labor should, in fact, give full consideration to the request for funds made by the Community Employment Alliance for this purpose.

#### BOSTON SYMPHONY ORCHESTRA

MR. KENNEDY. Mr. President, one of the integral parts of a classical education includes a knowledge and appreciation of music. Studies have shown that there is a direct correlation between children with an early exposure to music and high achievement in mathematics. Music provides a universal language that knows no boundaries, and heightens a person's awareness and sensitivity to the world around them.

Boston Symphony Orchestra, one of the world's leading symphonies, has developed in collaboration with area schools a model youth concert program which contributes to a student's understanding and appreciation of music. It annually conducts 15 youth concerts for approximately 40,000 elementary, middle and high school students from over 120 communities throughout Massachusetts. BSO also provides training for music teachers and manages a resources center for educators in New England.

The House fiscal year 1998 Labor, Health and Human Services, and Education Appropriations Committee report contains language that encourages the Department of Education's fund for the Improvement of Education to support the operation and evaluation of such a program as the Boston Symphony Orchestra's model youth concert program. I urge the final conference report to adopt this language, which will broaden the horizons of our children's education.

Mr. HARKIN. Mr. President, what is the parliamentary situation at this time?

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

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I want to take just a minute before the final passage of this bill to comment upon an amendment that was just adopted here, the amendment offered by the Senator from Washington State. I am concerned about the impact of that amendment and what it is going to do to education.

I do not know how many people understand what we have just done here. What we have just said in adopting this amendment on such a narrow vote is that many education programs including vocational education, bilingual education, education technology, immigrant education, safe and drug-free schools, and Goals 2000—some you may like, some you may not like, but all of these programs are now part of a block grant. This money now goes to local education agencies in the form of a block grant. All of the things that we have worked so hard on, on a bipartisan basis, in terms of technology, safe and drug-free schools, vocational education, all of these are gone under this amendment.

Mr. President, \$4 billion of that money now goes out to local education agencies in the form of a block grant. There will be no requirements on how this money is to be spent—none whatsoever. In other words, they can take the money and build a swimming pool and say the heck with education technology or safe and drug-free schools or vocational education. There is no limitation. We have had in the past limitations on how much of this money could be used for administrative costs, to pay for superintendents and all the administrative people who make up our schools.

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

Two minutes equally before the vote.

Mr. HARKIN. Mr. President, I ask unanimous consent for an additional minute.

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

Mr. HARKIN. And the other side, too, get an additional minute.

Mr. President, we have had requirements in the past that no more than a certain amount of this money could be spent for administration because we wanted it to get to the kids and we wanted it to get to vocational education and technology.

These requirements are done away with in this amendment. So now they can use this money to pay superintendents or other school personnel more money.

Mr. DODD. Will my colleague yield?

Mr. HARKIN. I will yield.

Mr. DODD. Would my colleague not disagree with me, Mr. President, if this bill comes back from conference with this measure, we ought to filibuster this bill; it ought not to pass?

Mr. HARKIN. I appreciate that. I just have a sense that some people may

have voted on this and not understood exactly what was going on in terms of stripping away all of these measures and taking away the prohibition that we had in the past to limit how much could be spent on administration. That is all taken off.

I heard time and time again from people on both sides of the aisle how we should cut down on how much money we put into administration. I agree with that. We all agreed with that. Now those restrictions are gone. They will be able to use this money for whatever they want. I just think it is a terrible mistake on the part of the Senate to have adopted this amendment.

I appreciate the time.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. GORTON. Mr. President, I find it regrettable but not surprising that the expressions against the amendment which we just adopted are based on the proposition that all knowledge with respect to educational priorities is lodged right here among the 100 Members of this body, and, if not here, certainly no closer to our students than the Department of Education's bureaucrats here in Washington, DC; that if we are to allow local school board members, teachers, and parents to decide how they would like to spend the money on the education of their children setting different priorities in different school districts, they will, of course, waste the money, ignore our children, and use it to build swimming pools.

Well, Mr. President, I wonder why it is that the voters are so wise when they pick us and so foolish when they pick local school board members. That is the real issue here. Do we trust the people who are running our schools to run them properly, to care for the education of their children and to do a better job than Washington, DC, bureaucrats?

Fifty-one of you voted that we trust our educators.

The PRESIDING OFFICER. All time having expired, the vote now is on final passage.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 92, nays 8, as follows:

[Rollcall Vote No. 235 Leg.]

YEAS—92

Abraham	Bingaman	Bumpers
Akaka	Bond	Burns
Allard	Boxer	Byrd
Baucus	Breaux	Campbell
Bennett	Brownback	Chafee
Biden	Bryan	Cleland

Cochran	Hatch	Moynihan
Collins	Hollings	Murkowski
Conrad	Hutchinson	Murray
Coverdell	Hutchison	Nickles
Craig	Inouye	Reed
D'Amato	Jeffords	Reid
Daschle	Johnson	Robb
DeWine	Kempthorne	Roberts
Dodd	Kennedy	Rockefeller
Domenici	Kerrey	Roth
Dorgan	Kerry	Santorum
Durbin	Kohl	Sarbanes
Enzi	Kyl	Shelby
Feingold	Landrieu	Smith (OR)
Feinstein	Lautenberg	Snowe
Ford	Leahy	Specter
Frist	Levin	Stevens
Glenn	Lieberman	Thomas
Gorton	Lott	Thompson
Graham	Lugar	Thurmond
Grams	Mack	Torricelli
Grassley	McCain	Warner
Gregg	McConnell	Wellstone
Hagel	Mikulski	Wyden
Harkin	Moseley-Braun	

NAYS—8

Ashcroft	Gramm	Sessions
Coats	Helms	Smith (NH)
Faircloth	Inhofe	

The bill (S. 1061), as amended, was passed, as follows:

S. 1061

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION  
TRAINING AND EMPLOYMENT SERVICES

For necessary expenses of the Job Training Partnership Act, as amended, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act; the Stewart B. McKinney Homeless Assistance Act; the Women in Apprenticeship and Nontraditional Occupations Act; the National Skill Standards Act of 1994; and the School-to-Work Opportunities Act; \$5,010,053,000 plus reimbursements, of which \$3,815,062,000 is available for obligation for the period July 1, 1998 through June 30, 1999; of which \$118,491,000 is available for the period July 1, 1998 through June 30, 2001 for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers; and of which \$200,000,000 shall be available from July 1, 1998 through September 30, 1999, for carrying out activities of the School-to-Work Opportunities Act: *Provided*, That \$55,127,000 shall be for carrying out section 401 of the Job Training Partnership Act, \$72,749,000 shall be for carrying out section 402 of such Act, \$7,300,000 shall be for carrying out section 441 of such Act, \$10,000,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under such Act, \$955,000,000 shall be for carrying out title II, part A of such Act, and \$129,965,000 shall be for carrying out title II, part C of such Act: *Provided further*, That the National Occupational Information Coordinating Committee is authorized, effective upon enactment, to charge fees for publications, training and technical assistance developed by the National Occupational Information Coordinating Committee: *Provided further*, That revenues received from publications and delivery of technical assistance and training, notwithstanding 31 U.S.C. 3302,

shall be credited to the National Occupational Information Coordinating Committee program account and shall be available to the National Occupational Information Coordinating Committee without further appropriations, so long as such revenues are used for authorized activities of the National Occupational Information Coordinating Committee: *Provided further*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: *Provided further*, That funds provided for title III of the Job Training Partnership Act shall not be subject to the limitation contained in subsection (b) of section 315 of such Act; that the waiver described in section 315(a)(2) may be granted if a substate grantee demonstrates to the Governor that such waiver is appropriate due to the availability of low-cost retraining services, is necessary to facilitate the provision of needs-related payments to accompany long-term training, or is necessary to facilitate the provision of appropriate basic readjustment services; and that funds provided for discretionary grants under part B of such title III may be used to provide needs-related payments to participants who, in lieu of meeting the enrollment requirements under section 314(e) of such Act, are enrolled in training by the end of the sixth week after grant funds have been awarded: *Provided further*, That funds provided to carry out section 324 of such Act may be used for demonstration projects that provide assistance to new entrants in the workforce and incumbent workers: *Provided further*, That service delivery areas may transfer funding provided herein under authority of title II, parts B and C of the Job Training Partnership Act between the programs authorized by those titles of the Act, if the transfer is approved by the Governor: *Provided further*, That service delivery areas and substate areas may transfer up to 20 percent of the funding provided herein under authority of title II, part A and title III of the Job Training Partnership Act between the programs authorized by those titles of the Act, if such transfer is approved by the Governor: *Provided further*, That, notwithstanding any other provision of law, any proceeds from the sale of Job Corps center facilities shall be retained by the Secretary of Labor to carry out the Job Corps program: *Provided further*, That notwithstanding any other provision of law, the Secretary of Labor may waive any of the statutory or regulatory requirements of titles I-III of the Job Training Partnership Act (except for requirements relating to wage and labor standards, worker rights, participation and protection, grievance procedures and judicial review, nondiscrimination, allocation of funds to local areas, eligibility, review and approval of plans, the establishment and functions of service delivery areas and private industry councils, and the basic purposes of the Act), and any of the statutory or regulatory requirements of sections 8-10 of the Wagner-Peyser Act (except for requirements relating to the provision of services to unemployment insurance claimants and veterans, and to universal access to basic labor exchange services without cost to job seekers), only for funds available for expenditure in program year 1998, pursuant to a request submitted by a State which identifies the statutory or regulatory requirements that are requested to be waived and the goals which the State or local service delivery areas intend to achieve, describes the actions that the State or local service delivery areas have undertaken to remove State or local statutory or regulatory barriers, describes the goals of the waiver and the expected programmatic outcomes if the request is granted, describes the individuals impacted by the waiver, and describes the

process used to monitor the progress in implementing a waiver, and for which notice and an opportunity to comment on such request has been provided to the organizations identified in section 105(a)(1) of the Job Training Partnership Act, if and only to the extent that the Secretary determines that such requirements impede the ability of the State to implement a plan to improve the workforce development system and the State has executed a Memorandum of Understanding with the Secretary requiring such State to meet agreed upon outcomes and implement other appropriate measures to ensure accountability: *Provided further*, That the Secretary of Labor shall establish a workforce flexibility (work-flex) partnership demonstration program under which the Secretary shall authorize not more than six States, of which at least three States shall each have populations not in excess of 3,500,000, with a preference given to those States that have been designated Ed-Flex Partnership States under section 311(e) of Public Law 103-227, to waive any statutory or regulatory requirement applicable to service delivery areas or substate areas within the State under titles I-III of the Job Training Partnership Act (except for requirements relating to wage and labor standards, grievance procedures and judicial review, nondiscrimination, allotment of funds, and eligibility), and any of the statutory or regulatory requirements of sections 8-10 of the Wagner-Peyser Act (except for requirements relating to the provision of services to unemployment insurance claimants and veterans, and to universal access to basic labor exchange services without cost to job seekers), for a duration not to exceed the waiver period authorized under section 311(e) of Public Law 103-227, pursuant to a plan submitted by such States and approved by the Secretary for the provision of workforce employment and training activities in the States, which includes a description of the process by which service delivery areas and substate areas may apply for and have waivers approved by the State, the requirements of the Wagner-Peyser Act to be waived, the outcomes to be achieved and other measures to be taken to ensure appropriate accountability for Federal funds.

For necessary expenses of Opportunity Areas of Out-of-School Youth, in addition to amounts otherwise provided herein, \$250,000,000, to be available for obligation for the period October 1, 1998 through September 30, 1999, if job training reform legislation authorizing this or similar at-risk youth projects is enacted by April 1, 1998.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

(TRANSFER OF FUNDS)

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, or to carry out older worker activities as subsequently authorized, \$353,340,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, or to carry out older worker activities as subsequently authorized, \$99,660,000.

The funds appropriated under this heading shall be transferred to and merged with the Department of Health and Human Services, "Aging Services Programs", for the same purposes and the same period as the account to which transferred, following the enactment of legislation authorizing the administration of the program by that Department.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of trade adjustment benefit payments and allowances under part I; and for training, allowances for job search and relocation, and related State administrative expenses under part II, subchapters B and D, chapter 2, title II of the Trade Act of 1974, as amended, \$349,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For authorized administrative expenses, \$173,452,000, together with not to exceed \$3,288,476,000 (including not to exceed \$1,228,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980, and including not to exceed \$2,000,000 which may be obligated in contracts with non-State entities for activities such as occupational and test research activities which benefit the Federal-State Employment Service System), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund including the cost of administering section 1201 of the Small Business Job Protection Act of 1996, section 7(d) of the Wagner-Peyser Act, as amended, the Trade Act of 1974, as amended, the Immigration Act of 1990, and the Immigration and Nationality Act, as amended, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1998, except that funds used for automation acquisitions shall be available for obligation by States through September 30, 2000; and of which \$173,452,000, together with not to exceed \$738,283,000 of the amount which may be expended from said trust fund, shall be available for obligation for the period July 1, 1998 through June 30, 1999, to fund activities under the Act of June 6, 1933, as amended, including the cost of penalty mail authorized under 39 U.S.C. 3202(a)(1)(E) made available to States in lieu of allotments for such purpose, and of which \$150,000,000 shall be available solely for the purpose of assisting States to convert their automated State employment security agency systems to be year 2000 compliant, and of which \$212,333,000 shall be available only to the extent necessary for additional State allocations to administer unemployment compensation laws to finance increases in the number of unemployment insurance claims filed and claims paid or changes in a State law: *Provided*, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 1998 is projected by the Department of Labor to exceed 2,789,000 an additional \$28,600,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: *Provided further*, That funds appropriated in this Act which are used to establish a national one-stop career center network may be obligated in contracts, grants or agreements with non-State entities: *Provided further*, That funds appropriated under this Act for activities authorized under the Wagner-Peyser Act, as amended, and title III of the Social Security Act, may be used by the States to fund integrated Employment

Service and Unemployment Insurance automation efforts, notwithstanding cost allocation principles prescribed under Office of Management and Budget Circular A-87.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, section 104(d) of Public Law 102-164, and section 5 of Public Law 103-6, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1999, \$392,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 1998, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, \$88,308,000, together with not to exceed \$41,285,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

PENSION AND WELFARE BENEFITS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Pension and Welfare Benefits Administration, \$82,000,000, of which \$3,000,000 shall remain available through September 30, 1999 for expenses of completing the revision of the processing of employee benefit plan returns.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1998, for such Corporation: *Provided*, That not to exceed \$10,433,000 shall be available for administrative expenses of the Corporation: *Provided further*, That expenses of such Corporation in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, \$299,660,000, together with \$993,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act: *Provided further*, That the Secretary of Labor is authorized to accept, retain, and spend, until expended, in the name of the Department of Labor, all sums of money ordered to be paid

to the Secretary of Labor, in accordance with the terms of the Consent Judgment in Civil Action No. 91-0027 of the United States District Court for the District of the Northern Mariana Islands (May 21, 1992): *Provided further*, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under title I of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1801 et seq.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, \$201,000,000 together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided*, That amounts appropriated may be used under section 8104 of title 5, United States Code, by the Secretary to reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further*, That balances of reimbursements unobligated on September 30, 1997, shall remain available until expended for the payment of compensation, benefits, and expenses: *Provided further*, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary of Labor determines to be the cost of administration for employees of such fair share entities through September 30, 1998: *Provided further*, That of those funds transferred to this account from the fair share entities to pay the cost of administration, \$7,269,000 shall be made available to the Secretary of Labor for expenditures relating to capital improvements in support of Federal Employees' Compensation Act administration, and the balance of such funds shall be paid into the Treasury as miscellaneous receipts: *Provided further*, That the Secretary may require that any person filing a notice of injury or a claim for benefits under chapter 81 of title 5, United States Code, or 33 U.S.C. 901 et seq., provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, \$1,007,000,000, of which \$960,650,000 shall be available until September 30, 1999, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7) of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and

of which \$26,147,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, \$19,551,000 for transfer to Departmental Management, Salaries and Expenses, \$296,000 for transfer to Departmental Management, Office of Inspector General, and \$356,000 for payment into miscellaneous receipts for the expenses of the Department of Treasury, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5) of that Act: *Provided*, That, in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to August 15 of the current year.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, \$336,205,000, including not to exceed \$77,941,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to \$750,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: *Provided*, That, notwithstanding 31 U.S.C. 3302, the Secretary of Labor is authorized, during the fiscal year ending September 30, 1998, to collect and retain fees for services provided to Nationally Recognized Testing Laboratories, and may utilize such sums, in accordance with the provisions of 29 U.S.C. 9a, to administer national and international laboratory recognition programs that ensure the safety of equipment and products used by workers in the workplace: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost workday case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act: *Provided further*, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, \$205,804,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, \$320,097,000, of which \$15,430,000 shall be for expenses of revising the Consumer Price Index and shall remain available until September 30, 1999, together with not to exceed \$52,574,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of three sedans, and including up to \$4,439,000 for the President's Committee on Employment of People With Disabilities, \$152,131,000; together with not to exceed \$282,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided*, That no funds made available by this Act may be used by the Solicitor of Labor to participate in a review in any United States court of appeals of any decision made by the Benefits Review Board under section 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 921) where such participation is precluded by the decision of the United States Supreme Court in Director, Office

of Workers' Compensation Programs v. Newport News Shipbuilding, 115 S. Ct. 1278 (1995): *Provided further*, That no funds made available by this Act may be used by the Secretary of Labor to review a decision under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) that has been appealed and that has been pending before the Benefits Review Board for more than 12 months: *Provided further*, That any such decision pending a review by the Benefits Review Board for more than one year shall be considered affirmed by the Benefits Review Board on that date, and shall be considered the final order of the Board for purposes of obtaining a review in the United States courts of appeals: *Provided further*, That these provisions shall not be applicable to the review of any decision issued under the Black Lung Benefits Act (30 U.S.C. 901 et seq.).

#### WORKING CAPITAL FUND

The paragraph under this heading in Public Law 85-67 (29 U.S.C. 563) is amended by striking the last period and inserting after "appropriation action" the following: "": *Provided further*, That the Secretary of Labor may transfer annually an amount not to exceed \$3,000,000 from unobligated balances in the Department's salaries and expenses accounts, to the unobligated balance of the Working Capital Fund, to be merged with such Fund and used for the acquisition of capital equipment and the improvement of financial management, information technology and other support systems, and to remain available until expended: *Provided further*, That the unobligated balance of the Fund shall not exceed \$20,000,000."

#### ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed \$181,955,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 4100-4110A and 4321-4327, and Public Law 103-353, and which shall be available for obligation by the States through December 31, 1998.

#### OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$43,105,000, together with not to exceed \$3,645,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

#### GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this title for the Job Corps shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of \$125,000.

#### (TRANSFER OF FUNDS)

SEC. 102. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the current fiscal year for the Department of Labor in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

SEC. 103. Funds shall be available for carrying out title IV-B of the Job Training Partnership Act, notwithstanding section 427(c) of that Act, if a Job Corps center fails to meet national performance standards established by the Secretary.

SEC. 104. None of the funds made available in this Act may be used by the Occupational Safety and Health Administration to promulgate or issue any proposed or final stand-

ard regarding ergonomic protection before September 30, 1998: *Provided*, That nothing in this section shall be construed to limit the Occupational Safety and Health Administration from issuing voluntary guidelines on ergonomic protection or from developing a proposed standard regarding ergonomic protection: *Provided further*, That no funds made available in this Act may be used by the Occupational Safety and Health Administration to enforce voluntary guidelines through section 5 (general duty clause) of the Occupational Safety and Health Act.

SEC. 105. Section 13(b)(12) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(b)(12)) is amended by inserting after "water" the following: ", at least 90 percent of which is ultimately delivered".

SEC. 106. (a) IN GENERAL.—Except as provided in subsection (b), none of the funds made available under this Act, or any other Act making appropriations for fiscal year 1998, may be used by the Department of Labor or the Department of Justice to conduct a rerun of a 1996 election for the office of President, General Secretary, Vice-President, or Trustee of the International Brotherhood of Teamsters.

(b) EXCEPTION.—

(1) IN GENERAL.—Upon the submission to Congress of a certification by the President of the United States that the International Brotherhood of Teamsters does not have funds sufficient to conduct a rerun of a 1996 election for the office of President, General Secretary, Vice-President, or Trustee of the International Brotherhood of Teamsters, the President of the United States may transfer funds from the Department of Justice and the Department of Labor for the conduct and oversight of such a rerun election.

(2) REQUIREMENT.—Prior to the transfer of funds under paragraph (1), the International Brotherhood of Teamsters shall agree to repay the Secretary of the Treasury for the costs incurred by the Department of Labor and the Department of Justice in connection with the conduct of an election described in paragraph (1). Such agreement shall provide that any such repayment plan be reasonable and practicable, as determined by the Attorney General and the Secretary of the Treasury, and be structured in a manner that permits the International Brotherhood of Teamsters to continue to operate.

(3) REPAYMENT PLAN.—The International Brotherhood of Teamsters shall submit to the President of the United States, the Majority and Minority Leaders of the Senate, the Majority and Minority Leaders of the House of Representatives, and the Speaker of the House of Representatives, a plan for the repayment of amounts described in paragraph (2), at an interest rate equal to the Federal underpayment rate established under section 6621(a)(2) of the Internal Revenue Code of 1986 as in effect for the calendar quarter in which the plan is submitted, prior to the expenditure of any funds under this section.

(c) EFFECTIVE DATE.—This section shall take effect one day after enactment of this Act.

This title may be cited as the "Department of Labor Appropriations Act, 1998".

#### TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### HEALTH RESOURCES AND SERVICES

##### ADMINISTRATION

##### HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, VII, VIII, X, XII, XVI, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, and the Health Care Quality Improvement Act of 1986, as amended, and the Native Hawaiian Health

Care Act of 1988, as amended, \$3,449,071,000, of which \$225,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act: *Provided*, That the Division of Federal Occupational Health may utilize personal services contracting to employ professional management/administrative and occupational health professionals: *Provided further*, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: *Provided further*, That no more than \$5,000,000 is available for carrying out the provisions of Public Law 104-73: *Provided further*, That of the funds made available under this heading, \$208,452,000 shall be for the program under title X of the Public Health Service Act to provide for voluntary family planning projects: *Provided further*, That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: *Provided further*, That \$217,000,000 shall be for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act: *Provided further*, That notwithstanding any other provision of law, funds made available under this heading may be used to continue operating the Council on Graduate Medical Education established by section 301 of Public Law 102-408: *Provided further*, That, of the funds made available under this heading, not more than \$6,000,000 shall be made available and shall remain available until expended for loan guarantees for loans funded under part A of title XVI of the Public Health Service Act as amended, made by non-Federal lenders for the construction, renovation, and modernization of medical facilities that are owned and operated by health centers, and for loans made to health centers under section 330(d) of the Public Health Service Act as amended by Public Law 104-299, and that such funds be available to subsidize guarantees of total loan principal in an amount not to exceed \$80,000,000: *Provided further*, That notwithstanding section 502(a)(1) of the Social Security Act, not to exceed \$103,609,000 is available for carrying out special projects of regional and national significance pursuant to section 501(a)(2) of such Act.

#### MEDICAL FACILITIES GUARANTEE AND LOAN FUND

#### FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, \$6,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

#### HEALTH EDUCATION ASSISTANCE LOANS PROGRAM

#### (INCLUDING TRANSFER OF FUNDS)

For the cost of guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be

as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the total loan principal any part of which is to be guaranteed at not to exceed \$85,000,000: *Provided further*, That the Secretary may use up to \$1,000,000 derived by transfer from insurance premiums collected from guaranteed loans made under title VII of the Public Health Service Act for the purpose of carrying out section 709 of that Act. In addition, for administrative expenses to carry out the guaranteed loan program, \$2,688,000.

VACCINE INJURY COMPENSATION PROGRAM  
TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed \$3,000,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

CENTERS FOR DISEASE CONTROL AND  
PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles II, III, VII, XI, XV, XVII, and XIX of the Public Health Service Act, sections 101, 102, 103, 201, 202, 203, 301, and 501 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21 and 22 of the Occupational Safety and Health Act of 1970, title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, \$2,317,113,000, of which \$23,007,000 shall remain available until expended for equipment and construction and renovation of facilities, and in addition, such sums as may be derived from authorized user fees, which shall be credited to this account: *Provided*, That in addition to amounts provided herein, up to \$70,063,000 shall be available from amounts available under section 241 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys: *Provided further*, That none of the funds made available for injury prevention and control at the Centers for Disease Control and Prevention may be used to advocate or promote gun control: *Provided further*, That the Director may redirect the total amount made available under authority of Public Law 101-502, section 3, dated November 3, 1990, to activities the Director may so designate: *Provided further*, That the Congress is to be notified promptly of any such transfer.

In addition, \$51,000,000, to be derived from the Violent Crime Reduction Trust Fund, for carrying out sections 40151 and 40261 of Public Law 103-322.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, \$2,558,377,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, \$1,539,898,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, \$211,611,000.

NATIONAL INSTITUTE OF DIABETES AND  
DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney disease, \$883,321,000.

NATIONAL INSTITUTE OF NEUROLOGICAL  
DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, \$781,351,000.

NATIONAL INSTITUTE OF ALLERGY AND  
INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, \$1,359,688,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL  
SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, \$1,058,969,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND  
HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, \$676,870,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, \$357,695,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL  
HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, \$331,969,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, \$520,705,000.

NATIONAL INSTITUTE OF ARTHRITIS AND  
MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis and musculoskeletal and skin diseases, \$272,631,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER  
COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, \$200,428,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, \$64,016,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND  
ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse and alcoholism, \$228,585,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, \$531,751,000.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, \$753,334,000.

NATIONAL HUMAN GENOME RESEARCH INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, \$218,851,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect

to research resources and general research support grants, \$455,805,000: *Provided*, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants: *Provided further*, That \$20,000,000 shall be for extramural facilities construction grants.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, \$28,468,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, \$162,825,000, of which \$4,000,000 shall be available until expended for improvement of information systems: *Provided*, That in fiscal year 1998, the Library may enter into personal services contracts for the provision of services in facilities owned, operated, or constructed under the jurisdiction of the National Institutes of Health.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, \$292,196,000 of which \$40,266,000 shall be for the Office of AIDS Research: *Provided*, That funding shall be available for the purchase of not to exceed five passenger motor vehicles for replacement only: *Provided further*, That the Director may direct up to 1 percent of the total amount made available in this Act to all National Institutes of Health appropriations to activities the Director may so designate: *Provided further*, That no such appropriation shall be decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer: *Provided further*, That NIH is authorized to collect third party payments for the cost of clinical services that are incurred in National Institutes of Health research facilities and that such payments shall be credited to the National Institutes of Health Management Fund: *Provided further*, That all funds credited to the NIH Management Fund shall remain available for one fiscal year after the fiscal year in which they are deposited: *Provided further*, That up to \$500,000 shall be available to carry out section 499 of the Public Health Service Act: *Provided further*, That \$13,000,000 shall be available to carry out section 404E of the Public Health Service Act.

BUILDINGS AND FACILITIES

For the study of, construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, \$203,500,000, to remain available until expended, of which \$90,000,000 shall be for the clinical research center: *Provided*, That, notwithstanding any other provision of law, a single contract or related contracts for the development and construction of the clinical research center may be employed which collectively include the full scope of the project: *Provided further*, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232-18.

SUBSTANCE ABUSE AND MENTAL HEALTH  
SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH  
SERVICES

For carrying out titles V and XIX of the Public Health Service Act with respect to substance abuse and mental health services, the Protection and Advocacy for Mentally Ill Individuals Act of 1986, and section 301 of the Public Health Service Act with respect to program management, \$2,126,643,000 of which \$10,000,000 shall be for grants to rural and Native American projects: *Provided*, That in addition to amounts provided herein, up to

\$10,000,000 shall be available from amounts available under section 241 of the Public Health Service Act, for State-level data collection activities by the National Household Survey on Drug Abuse: *Provided further*, That notwithstanding any other provision of law, each State's allotment for fiscal year 1998 for each of the programs under subparts I and II of part B of title XIX of the Public Health Service Act shall be equal to such State's allotment for such programs for fiscal year 1997.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, \$77,587,000; in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed \$65,000,000.

HEALTH CARE FINANCING ADMINISTRATION GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, \$71,602,429,000, to remain available until expended.

For making, after May 31, 1998, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1998 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1999, \$27,800,689,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97-248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, \$63,581,000,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, titles XIII and XXVII of the Public Health Service Act, the Clinical Laboratory Improvement Amendments of 1988, and section 191 of Public Law 104-191, not to exceed \$1,719,241,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the

Social Security Act; together with all funds collected in accordance with section 353 of the Public Health Service Act, the latter funds to remain available until expended, together with such sums as may be collected from authorized user fees and the sale of data, which shall remain available until expended, and together with administrative fees collected relative to medicare overpayment recovery activities, which shall remain available until expended: *Provided*, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act are to be credited to and available for carrying out the purposes of this appropriation: *Provided further*, That \$900,000 shall be for carrying out section 4021 of Public Law 105-33: *Provided further*, That in carrying out its legislative mandate, the National Bipartisan Commission on the Future of Medicare shall examine the role increased investments in health research can play in reducing future Medicare costs, and the potential for coordinating Medicare with cost-effective long-term care services: *Provided further*, That \$54,100,000 appropriated under this heading for the development of, transition to, and implementation of the Medicare Transaction System shall remain available until expended: *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: *Provided further*, That no less than \$50,000,000 appropriated under this heading in fiscal year 1997 shall be obligated in fiscal year 1997 to increase medicare provider audits and implement the Department's corrective action plan to the Chief Financial Officer's audit of the Health Care Financing Administration's oversight of medicare.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 1998, no commitments for direct loans or loan guarantees shall be made.

ADMINISTRATION FOR CHILDREN AND FAMILIES

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to each State for carrying out the program of Aid to Families with Dependent Children under title IV-A of the Social Security Act before the effective date of the program of Temporary Assistance to Needy Families (TANF) with respect to such State, such sums as may be necessary: *Provided*, That the sum of the amounts available to a State with respect to expenditures under such title IV-A in fiscal year 1997 under this appropriation and under such title IV-A as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not exceed the limitations under section 116(b) of such Act: *Provided further*, That, notwithstanding section 418(a) of the Social Security Act, for fiscal year 1997 only, the amount of payment under section 418(a)(1) to which each State is entitled shall equal the amount specified as mandatory funds with respect to such State for such fiscal year in the table transmitted by the Administration for Children and Families to State Child Care and Development Block Grant Lead Agencies on August 27,

1996, and the amount of State expenditures in fiscal year 1994 or 1995 (whichever is greater) that equals the non-Federal share for the programs described in section 418(a)(1)(A) shall be deemed to equal the amount specified as maintenance of effort with respect to such State for fiscal year 1997 in such table.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV-D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), for the first quarter of fiscal year 1999, \$660,000,000, to remain available until expended.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, \$1,200,000,000, to be available for obligation in the period October 1, 1998 through September 30, 1999.

For making payments under title XXVI of such Act, \$300,000,000: *Provided*, That these funds are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Assistance Act of 1980 (Public Law 96-422), \$392,332,000: *Provided*, That funds appropriated pursuant to section 414(a) of the Immigration and Nationality Act under Public Law 104-134 for fiscal year 1996 shall be available for the costs of assistance provided and other activities conducted in such year and in fiscal years 1997 and 1998.

CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), in addition to amounts already appropriated for fiscal year 1998, \$26,120,000; and to become available on October 1, 1998 and remain available through September 30, 1999, \$1,000,000,000: *Provided*, That of funds appropriated for each of fiscal years 1998 and 1999, \$19,120,000 shall be available for child care resource and referral and school-aged child care activities, of which for fiscal year 1998 \$6,120,000 shall be derived from an amount that shall be transferred from the amount appropriated under section 452(j) of the Social Security Act (42 U.S.C. 652(j)) for fiscal year 1997 and remaining available for expenditure.

SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, \$2,245,000,000: *Provided*, That notwithstanding section 2003(c) of such Act, as amended, the amount specified for allocation under such section for fiscal year 1998 shall be \$2,245,000,000.

CHILDREN AND FAMILIES SERVICES PROGRAMS (INCLUDING RESCISSIONS)

For carrying out, except as otherwise provided, the Runaway and Homeless Youth

Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Head Start Act, the Child Abuse Prevention and Treatment Act, (including section 105(a)(2) of the Child Abuse Prevention and Treatment Act), the Native American Programs Act of 1974, title II of Public Law 95-266 (adoption opportunities), the Abandoned Infants Assistance Act of 1988, part B(1) of title IV and sections 413, 429A and 1110 of the Social Security Act; for making payments under the Community Services Block Grant Act; and for necessary administrative expenses to carry out said Acts and titles I, IV, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, and section 126 and titles IV and V of Public Law 100-485, \$5,611,094,000, of which \$539,432,000 shall be for making payments under the Community Services Block Grant Act: *Provided*, That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible entity as provided under the Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes: *Provided further*, That notwithstanding any other provision of law, 10 percent of any additional funds for Head Start over the fiscal year 1997 appropriation shall be made available for Early Head Start programs.

In addition, \$93,000,000, to be derived from the Violent Crime Reduction Trust Fund, for carrying out sections 40155, 40211 and 40241 of Public Law 103-322.

Funds appropriated for fiscal year 1998 under section 429A(e), part B of title IV of the Social Security Act shall be reduced by \$6,000,000.

Funds appropriated for fiscal year 1998 under section 413(h)(1) of the Social Security Act shall be reduced by \$15,000,000.

#### FAMILY PRESERVATION AND SUPPORT

For carrying out section 430 of the Social Security Act, \$255,000,000.

#### PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities, under title IV-E of the Social Security Act, \$3,200,000,000.

For making payments to States or other non-Federal entities, under title IV-E of the Social Security Act, for the first quarter of fiscal year 1999, \$1,157,500,000.

#### ADMINISTRATION ON AGING AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, \$894,074,000: *Provided*, That notwithstanding section 308(b)(1) of such Act, the amounts available to each State for administration of the State plan under title III of such Act shall be reduced not more than 5 percent below the amount that was available to such State for such purpose for fiscal year 1995: *Provided further*, That of the funds appropriated to carry out section 303(a)(1) of such Act, \$4,449,000 shall be available for carrying out section 702(a) of such Act and \$4,732,000 shall be available for carrying out section 702(c) of such Act: *Provided further*, That in considering grant applications for nutrition services for elder Indian recipients, the Assistant Secretary shall provide maximum flexibility to applicants who seek to take into account subsistence, local customs, and other characteristics that are appropriate to the unique cultural, regional, and geographic needs of the American Indian, Alaskan and Hawaiian native communities to be served.

#### OFFICE OF THE SECRETARY

##### GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six sedans, and for carrying out titles III, XVII, and XX of the Public Health Service Act, the United States-Mexico Border Health Commission Act, and research studies under section 1110 of the Social Security Act, \$174,588,000, together with \$5,851,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

##### OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$31,921,000.

##### OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, \$16,345,000, together with not to exceed \$3,314,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

##### POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, \$9,500,000.

##### GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed \$37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated under this Act may be used to implement section 399L(b) of the Public Health Service Act or section 1503 of the National Institutes of Health Revitalization Act of 1993, Public Law 103-43.

SEC. 204. None of the funds appropriated in this Act for the National Institutes of Health and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of \$125,000 per year.

SEC. 205. None of the funds appropriated in this Act may be expended pursuant to section 241 of the Public Health Service Act, except for funds specifically provided for in this Act, or for other taps and assessments made by any office located in the Department of Health and Human Services, prior to the Secretary's preparation and submission of a report to the Committee on Appropriations of the Senate and of the House detailing the planned uses of such funds.

SEC. 206. None of the funds appropriated in this Act may be obligated or expended for the Federal Council on Aging under the Older Americans Act or the Advisory Board on Child Abuse and Neglect under the Child Abuse Prevention and Treatment Act.

##### (TRANSFER OF FUNDS)

SEC. 207. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the current fiscal year for the Department of Health and Human Services in this Act may be transferred between appropriations, but

no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

##### (TRANSFER OF FUNDS)

SEC. 208. The Director of the National Institutes of Health, jointly with the Director of the Office of AIDS Research, may transfer up to 3 percent among institutes, centers, and divisions from the total amounts identified by these two Directors as funding for research pertaining to the human immunodeficiency virus: *Provided*, That the Congress is promptly notified of the transfer.

##### (TRANSFER OF FUNDS)

SEC. 209. Of the amounts made available in this Act for the National Institutes of Health, the amount for research related to the human immunodeficiency virus, as jointly determined by the Director of NIH and the Director of the Office of AIDS Research, shall be made available to the "Office of AIDS Research" account. The Director of the Office of AIDS Research shall transfer from such account amounts necessary to carry out section 2353(d)(3) of the Public Health Service Act.

SEC. 210. Funds appropriated in this Act for the National Institutes of Health may be used to provide transit subsidies in amounts consistent with the transportation subsidy programs authorized under section 629 of Public Law 101-509 to non-FTE bearing positions including trainees, visiting fellows and volunteers.

##### COMPREHENSIVE INDEPENDENT STUDY OF NIH RESEARCH PRIORITY SETTING

SEC. 211. (a) STUDY BY THE INSTITUTE OF MEDICINE.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine to conduct a comprehensive study of the policies and process used by the National Institutes of Health to determine funding allocations for biomedical research.

(b) MATTERS TO BE ASSESSED.—The study under subsection (a) shall assess—

- (1) the factors or criteria used by the National Institutes of Health to determine funding allocations for disease research;
- (2) the process by which research funding decisions are made;
- (3) the mechanisms for public input into the priority setting process; and
- (4) the impact of statutory directives on research funding decisions.

(c) REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date on which the Secretary of Health and Human Services enters into the contract under subsection (a), the Institute of Medicine shall submit a report concerning the study to the Committee on Labor and Human Resources and the Committee on Appropriations of the Senate, and the Committee on Commerce and the Committee on Appropriations of the House of Representatives.

(2) REQUIREMENT.—The report under paragraph (1) shall set forth the findings, conclusions, and recommendations of the Institute of Medicine for improvements in the National Institutes of Health research funding policies and processes and for any necessary congressional action.

(d) FUNDING.—Of the amount appropriated in this title for the National Institutes of Health, \$300,000 shall be made available for the study and report under this section.

##### PARKINSON'S DISEASE RESEARCH.

SEC. 212. (a) SHORT TITLE.—This section may be cited as the "Morris K. Udall Parkinson's Research Act of 1997".

(b) FINDING AND PURPOSE.—

(1) FINDING.—Congress finds that to take full advantage of the tremendous potential for finding a cure or effective treatment, the Federal investment in Parkinson's must be expanded, as well as the coordination strengthened among the National Institutes of Health research institutes.

(2) PURPOSE.—It is the purpose of this section to provide for the expansion and coordination of research regarding Parkinson's, and to improve care and assistance for afflicted individuals and their family caregivers.

(c) PARKINSON'S RESEARCH.—Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end the following:

“PARKINSON'S DISEASE

“SEC. 409B. (a) IN GENERAL.—The Director of NIH shall establish a program for the conduct and support of research and training with respect to Parkinson's disease (subject to the extent of amounts appropriated under subsection (e)).

“(b) INTER-INSTITUTE COORDINATION.—

“(1) IN GENERAL.—The Director of NIH shall provide for the coordination of the program established under subsection (a) among all of the national research institutes conducting Parkinson's research.

“(2) CONFERENCE.—Coordination under paragraph (1) shall include the convening of a research planning conference not less frequently than once every 2 years. Each such conference shall prepare and submit to the Committee on Appropriations and the Committee on Labor and Human Resources of the Senate and the Committee on Appropriations and the Committee on Commerce of the House of Representatives a report concerning the conference.

“(c) MORRIS K. UDALL RESEARCH CENTERS.—

“(1) IN GENERAL.—The Director of NIH shall award Core Center Grants to encourage the development of innovative multidisciplinary research and provide training concerning Parkinson's. The Director shall award not more than 10 Core Center Grants and designate each center funded under such grants as a Morris K. Udall Center for Research on Parkinson's Disease.

“(2) REQUIREMENTS.—

“(A) IN GENERAL.—With respect to Parkinson's, each center assisted under this subsection shall—

“(i) use the facilities of a single institution or a consortium of cooperating institutions, and meet such qualifications as may be prescribed by the Director of the NIH; and

“(ii) conduct basic and clinical research.

“(B) DISCRETIONARY REQUIREMENTS.—With respect to Parkinson's, each center assisted under this subsection may—

“(i) conduct training programs for scientists and health professionals;

“(ii) conduct programs to provide information and continuing education to health professionals;

“(iii) conduct programs for the dissemination of information to the public;

“(iv) separately or in collaboration with other centers, establish a nationwide data system derived from patient populations with Parkinson's, and where possible, comparing relevant data involving general populations;

“(v) separately or in collaboration with other centers, establish a Parkinson's Disease Information Clearinghouse to facilitate and enhance knowledge and understanding of Parkinson's disease; and

“(vi) separately or in collaboration with other centers, establish a national education program that fosters a national focus on Parkinson's and the care of those with Parkinson's.

“(3) STIPENDS REGARDING TRAINING PROGRAMS.—A center may use funds provided under paragraph (1) to provide stipends for scientists and health professionals enrolled in training programs under paragraph (2)(B).

“(4) DURATION OF SUPPORT.—Support of a center under this subsection may be for a period not exceeding five years. Such period may be extended by the Director of NIH for one or more additional periods of not more than five years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

“(d) MORRIS K. UDALL AWARDS FOR EXCELLENCE IN PARKINSON'S DISEASE RESEARCH.—The Director of NIH shall establish a grant program to support investigators with a proven record of excellence and innovation in Parkinson's research and who demonstrate potential for significant future breakthroughs in the understanding of the pathogenesis, diagnosis, and treatment of Parkinson's. Grants under this subsection shall be available for a period of not to exceed 5 years.

“(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section and section 301 and title IV of the Public Health Service Act with respect to direct Parkinson's disease research, there are authorized to be appropriated a total of \$100,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 and 2000.”

COMPREHENSIVE FETAL ALCOHOL SYNDROME PREVENTION

SEC. 213. (a) SHORT TITLE.—This section may be cited as the “Comprehensive Fetal Alcohol Syndrome Prevention Act”.

(b) FINDINGS.—Congress finds that—

(1) Fetal Alcohol Syndrome is the leading known cause of mental retardation, and it is 100 percent preventable;

(2) each year, up to 12,000 infants are born in the United States with Fetal Alcohol Syndrome, suffering irreversible physical and mental damage;

(3) thousands more infants are born each year with Fetal Alcohol Effects, which are lesser, though still serious, alcohol-related birth defects;

(4) children of women who use alcohol while pregnant have a significantly higher infant mortality rate (13.3 per 1000) than children of those women who do not use alcohol (8.6 per 1000);

(5) Fetal Alcohol Syndrome and Fetal Alcohol Effects are national problems which can impact any child, family, or community, but their threat to American Indians and Alaska Natives is especially alarming;

(6) in some American Indian communities, where alcohol dependency rates reach 50 percent and above, the chances of a newborn suffering Fetal Alcohol Syndrome or Fetal Alcohol Effects are up to 30 times greater than national averages;

(7) in addition to the immeasurable toll on children and their families, Fetal Alcohol Syndrome and Fetal Alcohol Effects pose extraordinary financial costs to the Nation, including the costs of health care, education, foster care, job training, and general support services for affected individuals;

(8) the total cost to the economy of Fetal Alcohol Syndrome was approximately \$2,700,000,000 in 1995, and over a lifetime, health care costs for one Fetal Alcohol Syndrome child are estimated to be at least \$1,400,000;

(9) researchers have determined that the possibility of giving birth to a baby with Fetal Alcohol Syndrome or Fetal Alcohol Effects increases in proportion to the amount

and frequency of alcohol consumed by a pregnant woman, and that stopping alcohol consumption at any point in the pregnancy reduces the emotional, physical, and mental consequences of alcohol exposure to the baby; and

(10) though approximately 1 out of every 5 pregnant women drink alcohol during their pregnancy, we know of no safe dose of alcohol during pregnancy, or of any safe time to drink during pregnancy, thus, it is in the best interest of the Nation for the Federal Government to take an active role in encouraging all women to abstain from alcohol consumption during pregnancy.

(c) PURPOSE.—It is the purpose of this section to establish, within the Department of Health and Human Services, a comprehensive program to help prevent Fetal Alcohol Syndrome and Fetal Alcohol Effects nationwide. Such program shall—

(1) coordinate, support, and conduct basic and applied epidemiologic research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects;

(2) coordinate, support, and conduct national, State, and community-based public awareness, prevention, and education programs on Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

(3) foster coordination among all Federal agencies that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effects research, programs, and surveillance and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effects.

(d) ESTABLISHMENT OF PROGRAM.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

“PART O—FETAL ALCOHOL SYNDROME PREVENTION PROGRAM

“SEC. 399G. ESTABLISHMENT OF FETAL ALCOHOL SYNDROME PREVENTION PROGRAM.

“(a) FETAL ALCOHOL SYNDROME PREVENTION PROGRAM.—The Secretary shall establish a comprehensive Fetal Alcohol Syndrome and Fetal Alcohol Effects prevention program that shall include—

“(1) an education and public awareness program to—

“(A) support, conduct, and evaluate the effectiveness of—

“(i) training programs concerning the prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

“(ii) prevention and education programs, including school health education and school-based clinic programs for school-age children, concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

“(iii) public and community awareness programs concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects;

“(B) provide technical and consultative assistance to States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations concerning the programs referred to in subparagraph (A); and

“(C) award grants to, and enter into cooperative agreements and contracts with, States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations for the purpose of—

“(i) evaluating the effectiveness, with particular emphasis on the cultural competency and age-appropriateness, of programs referred to in subparagraph (A);

“(ii) providing training in the prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

“(iii) educating school-age children, including pregnant and high-risk youth, concerning Fetal Alcohol Syndrome and Fetal

Alcohol Effects, with priority given to programs that are part of a sequential, comprehensive school health education program; and

"(iv) increasing public and community awareness concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects through culturally competent projects, programs, and campaigns, and improving the understanding of the general public and targeted groups concerning the most effective intervention methods to prevent fetal exposure to alcohol;

"(2) an applied epidemiologic research and prevention program to—

"(A) support and conduct research on the causes, mechanisms, diagnostic methods, treatment, and prevention of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(B) provide technical and consultative assistance and training to States, Tribal governments, local governments, scientific and academic institutions, and nonprofit organizations engaged in the conduct of—

"(i) Fetal Alcohol Syndrome prevention and early intervention programs; and

"(ii) research relating to the causes, mechanisms, diagnosis methods, treatment, and prevention of Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

"(C) award grants to, and enter into cooperative agreements and contracts with, States, Indian tribal governments, local governments, scientific and academic institutions, and nonprofit organizations for the purpose of—

"(i) conducting innovative demonstration and evaluation projects designed to determine effective strategies, including community-based prevention programs and multicultural education campaigns, for preventing and intervening in fetal exposure to alcohol;

"(ii) improving and coordinating the surveillance and ongoing assessment methods implemented by such entities and the Federal Government with respect to Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(iii) developing and evaluating effective age-appropriate and culturally competent prevention programs for children, adolescents, and adults identified as being at-risk of becoming chemically dependent on alcohol and associated with or developing Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

"(iv) facilitating coordination and collaboration among Federal, State, local government, Indian tribal, and community-based Fetal Alcohol Syndrome prevention programs;

"(3) a basic research program to support and conduct basic research on services and effective prevention treatments and interventions for pregnant alcohol-dependent women and individuals with Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(4) a procedure for disseminating the Fetal Alcohol Syndrome and Fetal Alcohol Effects diagnostic criteria developed pursuant to section 705 of the ADAMHA Reorganization Act (42 U.S.C. 485n note) to health care providers, educators, social workers, child welfare workers, and other individuals; and

"(5) the establishment, in accordance with subsection (b), of an inter-agency task force on Fetal Alcohol Syndrome and Fetal Alcohol Effects to foster coordination among all Federal agencies that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effects research, programs, and surveillance, and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effects.

"(b) INTER-AGENCY TASK FORCE.—

"(1) MEMBERSHIP.—The Task Force established pursuant to paragraph (5) of subsection (a) shall—

"(A) be chaired by the Secretary or a designee of the Secretary; and

"(B) include representatives from all relevant agencies within the Department of Health and Human Services, including the Centers for Disease Control and Prevention, the National Institutes of Health, the Health Resources and Services Administration, the Substance Abuse and Mental Health Services Administration, and any other relevant agencies of the Department of Health and Human Services.

"(2) FUNCTIONS.—The Task Force shall—

"(A) coordinate all relevant programs and research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects, including programs that—

"(i) target individuals, families, and populations identified as being at risk of acquiring Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

"(ii) provide health, education, treatment, and social services to infants, children, and adults with Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(B) coordinate its efforts with existing Department of Health and Human Services task forces on substance abuse prevention and maternal and child health; and

"(C) report on a biennial basis to the Secretary and relevant committees of Congress on the current and planned activities of the participating agencies, including a proposal for a Federal Interagency Task Force to include representatives from all relevant agencies and offices within the Department of Health and Human Services, the Department of Agriculture, the Department of Education, the Department of Defense, the Department of the Interior, the Department of Justice, the Department of Veterans Affairs, the Bureau of Alcohol, Tobacco and Firearms, the Federal Trade Commission, and any other relevant Federal agency.

"(C) SCIENTIFIC RESEARCH AND TRAINING.—The Director of the National Institute on Alcohol Abuse and Alcoholism, with the cooperation of members of the interagency task force established under subsection (b), shall establish a collaborative program to provide for the conduct and support of research, training, and dissemination of information to researchers, clinicians, health professionals and the public, with respect to the cause, prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and the related condition known as Fetal Alcohol Effects.

**"SEC. 399H. ELIGIBILITY.**

"To be eligible to receive a grant, or enter into a cooperative agreement or contract under this part, an entity shall—

"(1) be a State, Indian tribal government, local government, scientific or academic institution, or nonprofit organization; and

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may prescribe, including a description of the activities that the entity intends to carry out using amounts received under this part.

**"SEC. 399I. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this part, such sums as are necessary for each of the fiscal years 1998 through 2002."

SEC. 214. (a) That section 414(a) of the Immigration and Nationality Act (8 U.S.C. 1524(a)) is amended by striking "fiscal year 1995, fiscal year 1996, and fiscal year 1997" and inserting "each of fiscal years 1998 and 1999".

(b) The amendment made by subsection (a) shall take effect October 1, 1997.

SEC. 215. (a) STUDY.—From amounts appropriated under this title, the Secretary should conduct a study on the health effects of perchlorate on humans with particular emphasis on the health risks to vulnerable subpopulations including pregnant women, children, and the elderly.

(b) REPORT.—Not later than 9 months after the date of enactment of this Act, and annually thereafter, the National Institutes of Health should prepare and submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives, a report concerning the results of the study conducted under subsection (a), including whether further health effects research is necessary.

SEC. 216. Subparagraphs (B) and (C) of section 1143(a)(2) of the Social Security Act (42 U.S.C. 1320b-13(a)(2)(B), (C)) are each amended by striking "employee" and inserting "employer, employee."

SEC. 217. (a) Notwithstanding any other provision of law, the payments described in subsection (b) shall not be considered income or resources in determining eligibility for, or the amount of benefits under, a program or State plan under title XVI or XIX of the Social Security Act.

(b) The payments described in this subsection are payments made by the Secretary of Defense pursuant to section 657 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2584).

SEC. 218. (a) STUDY.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with the General Accounting Office, shall conduct a comprehensive study concerning efforts to improve organ and tissue procurement at hospitals. Under such study, the Secretary shall survey at least 5 percent of the hospitals who have entered into agreements with an organ procurement organization required under the Public Health Service Act and the hospitals' designated organ procurement organizations to examine—

(1) the differences in protocols for the identification of potential organ and tissue donors;

(2) whether each hospital, and the designated organ procurement organization of the hospital, have a system in place for such identification of donors; and

(3) protocols for outreach to the relatives of potential organ or tissue donors.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report concerning the study conducted under subsection (a), that shall include recommendations on hospital best practices—

(1) that result in the most efficient and comprehensive identification of organ and tissue donors; and

(2) for communicating with the relatives of potential organ and tissue donors.

SEC. 219. (a) FINDINGS.—Congress finds that—

(1) over 53,000 Americans are currently awaiting organ transplants;

(2) in 1996, 3,916 people on the transplant waiting list died because no organs became available for such people;

(3) the number of organ donors has grown slowly over the past several years, even though there is significant unrealized donor potential;

(4) a Gallup survey indicated that 85 percent of the American public supports organ donation, and 69 percent describe themselves as likely to donate their organs upon death;

(5) most potential donors are cared for in hospitals with greater than 350 beds, trauma services, and medical school affiliations;

(6) a recent Harvard study showed that hospitals frequently fail to offer donation services to the families of medically eligible potential organ donors;

(7) staff and administration in large hospitals often are not aware of the current level of donor potential in their institution or the current level of donation effectiveness of the institution;

(8) under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq; 1396 et seq.), hospitals that participate in the medicare or medicaid program are required to have in place policies to offer eligible families the option of organ and tissue donation; and

(9) many hospitals have not yet incorporated systematic protocols for offering donation to eligible families in a skilled and sensitive way.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that hospitals that have organ or tissue donor potential take prompt steps to ensure that a skilled and sensitive request for organ or tissue donation is provided to eligible families by—

(1) working with the designated organ procurement organization or other suitable agency to assess donor potential and performance in their institutions;

(2) establishing protocols for organ donation that incorporate best-demonstrated practices;

(3) providing education to hospital staff to ensure adequate skills related to organ and tissue donation;

(4) establishing teams of skilled hospital staff to respond to potential organ donor situations, ensure optimal communication with the patient's surviving family, and achieve smooth coordination of activities with the designated organ procurement organization; and

(5) monitoring organ donation effectiveness through quality assurance mechanisms.

#### PROTECTING VICTIMS OF FAMILY VIOLENCE

SEC. 220. (a) FINDINGS.—Congress finds that—

(1) the intent of Congress in amending part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat 2112) was to allow States to take into account the effects of the epidemic of domestic violence in establishing their welfare programs, by giving States the flexibility to grant individual, temporary waivers for good cause to victims of domestic violence who meet the criteria set forth in section 402(a)(7)(B) of the Social Security Act (42 U.S.C. 602(a)(7)(B));

(2) the allowance of waivers under such sections was not intended to be limited by other, separate, and independent provisions of part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(3) under section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)), requirements under the temporary assistance for needy families program under part A of title IV of such Act may, for good cause, be waived for so long as necessary; and

(4) good cause waivers granted pursuant to section 402(a)(7)(A)(iii) of such Act (42 U.S.C. 602(a)(7)(A)(iii)) are intended to be temporary and directed only at particular program requirements when needed on an individual case-by-case basis, and are intended to facilitate the ability of victims of domestic violence to move forward and meet program requirements when safe and feasible without interference by domestic violence.

(b) CLARIFICATION OF WAIVER PROVISIONS.—

(1) IN GENERAL.—Section 402(a)(7) of the Social Security Act (42 U.S.C. 602(a)(7)) is amended by adding at the end the following:

“(C) NO NUMERICAL LIMITS.—In implementing this paragraph, a State shall not be subject to any numerical limitation in the granting of good cause waivers under subparagraph (A)(iii).

“(D) WAIVERED INDIVIDUALS NOT INCLUDED FOR PURPOSES OF CERTAIN OTHER PROVISIONS OF THIS PART.—Any individual to whom a good cause waiver of compliance with this Act has been granted in accordance with subparagraph (A)(iii) shall not be included for purposes of determining a State's compliance with the participation rate requirements set forth in section 407, for purposes of applying the limitation described in section 408(a)(7)(C)(ii), or for purposes of determining whether to impose a penalty under paragraph (3), (5), or (9) of section 409(a).”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect as if it had been included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2112).

(c) FEDERAL PARENT LOCATOR SERVICE.—

(1) IN GENERAL.—Section 453 of the Social Security Act (42 U.S.C. 653), as amended by section 5534 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 627), is amended—

(A) in subsection (b)(2)—

(i) in the matter preceding subparagraph (A), by inserting “or that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information,” before “provided that”;

(ii) in subparagraph (A), by inserting “, that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information,” before “and that information”; and

(iii) in subparagraph (B)(i), by striking “be harmful to the parent or the child” and inserting “place the health, safety, or liberty of a parent or child unreasonably at risk”; and

(B) in subsection (c)(2), by inserting “, or to serve as the initiating court in an action to seek and order,” before “against a non-custodial”.

(2) STATE PLAN.—Section 454(26) of the Social Security Act (42 U.S.C. 654), as amended by section 5552 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 635), is amended—

(A) in subparagraph (C), by striking “result in physical or emotional harm to the party or the child” and inserting “place the health, safety, or liberty of a parent or child unreasonably at risk”;

(B) in subparagraph (D), by striking “of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child” and inserting “that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information”; and

(C) in subparagraph (E), by striking “of domestic violence” and all that follows through the semicolon and inserting “that the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure of such information pursuant to section 453(b)(2), the court shall determine whether disclosure to any other person or persons of information received from the Secretary could place the health, safety, or liberty of a parent or child unreasonably at risk (if the court determines that disclosure to any other person could be harmful, the court and its agents shall not make any such disclosure);”.

(3) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 day after the effective date described in section 5557(a) of the Balanced Budget Act of 1997 (Public Law 105-33).

SEC. 221. (a) TRANSFER.—Using \$5,000,000 of the amounts appropriated under this title, the Secretary of Health and Human Services shall carry out activities under subsection (b) to address urgent health threats posed by *E. coli*:0157H7.

(b) USE OF FUNDS.—From amounts transferred under subsection (a) the Secretary of Health and Human Services shall—

(1) provide \$1,000,000 for the development of improved medical treatments for patients infected with *E. coli*:0157H7-related disease (HUS);

(2) provide \$550,000 to fund ongoing research to detect or prevent colonization of *E. coli*:0157H7 in live cattle;

(3) provide, through the existing partnership between the Federal Government, industry, and consumer groups, \$1,000,000 for the National Consumer Education Campaign on Food Safety as part of the activities to address safe food handling practices;

(4) provide \$1,000,000 for a study to determine the feasibility of the use of electronic pasteurization on red meats to eliminate pathogens and to carry out activities to educate the public on the safety of that process; and

(5) provide \$1,000,000 for a contract to be entered into with the National Academy of Sciences to assess the effectiveness of testing to ensure zero tolerance of *E. coli*:0157H7 in raw ground beef products.

This title may be cited as the “Department of Health and Human Services Appropriations Act, 1998”.

#### TITLE III—DEPARTMENT OF EDUCATION EDUCATION REFORM

For carrying out activities authorized by titles III and IV of the Goals 2000: Educate America Act, the School-to-Work Opportunities Act, and sections 3132, 3136, and 3141 of the Elementary and Secondary Education Act of 1965, \$1,271,000,000, of which \$530,000,000 for the Goals 2000: Educate America Act and \$200,000,000 for the School-to-Work Opportunities Act shall become available on July 1, 1998, and remain available through September 30, 1999: *Provided*, That none of the funds appropriated under this heading shall be obligated or expended to carry out section 304(a)(2)(A) of the Goals 2000: Educate America Act, except that no more than \$1,500,000 may be used to carry out activities under section 314(a)(2) of that Act: *Provided further*, That section 315(a)(2) of the Goals 2000 Act shall not apply: *Provided further*, That up to one-half of one percent of the amount available under section 3132 shall be set aside for the outlying areas, to be distributed on the basis of their relative need as determined by the Secretary in accordance with the purposes of the program: *Provided further*, That if any State educational agency does not apply for a grant under section 3132, that State's allotment under section 3131 shall be reserved by the Secretary for grants to local educational agencies in that State that apply directly to the Secretary according to the terms and conditions published by the Secretary in the Federal Register.

#### EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965, and section 418A of the Higher Education Act, \$7,807,349,000, of which \$6,488,271,000 shall become available on July 1, 1998, and shall remain available through September 30, 1999, and of which \$1,298,386,000 shall become available on October 1, 1998 and shall remain available through September 30, 1999, for academic year 1998-1999: *Provided*, That \$6,273,712,000 shall be available for basic grants under section 1124: *Provided further*, That up to \$4,000,000 of these funds shall be available to the Secretary on October 1, 1997,

to obtain updated local-educational-agency-level census poverty data from the Bureau of the Census: *Provided further*, That \$1,022,020,000 shall be available for concentration grants under section 1124A, \$6,977,000 shall be available for evaluations under section 1501 and not more than \$7,500,000 shall be reserved for section 1308, of which not more than \$3,000,000 shall be reserved for section 1308(d): *Provided further*, That grant awards under section 1124 and 1124(A) of title I of the Elementary and Secondary Education Act shall be made to each State or local educational agency at no less than 100 percent of the amount such State or local educational agency received under this authority for fiscal year 1997 under Public Laws 104-208 and 105-18: *Provided further*, That in determining State allocations under any other program administered by the Secretary, amounts provided under Public Law 105-18, or equivalent amounts provided for in this bill, will not be taken into account in determining State allocations.

#### IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, \$794,500,000, of which \$623,500,000 shall be for basic support payments under section 8003(b), \$80,000,000 shall be for payments for children with disabilities under section 8003(d), \$52,000,000, to remain available until expended, shall be for payments under section 8003(f), \$5,000,000 shall be for construction under section 8007, and \$24,000,000 shall be for Federal property payments under section 8002 and \$10,000,000, to remain available until expended, shall be for facilities maintenance under section 8008.

#### SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by titles II, IV-A-1 and 2, V-A and B, VI, IX, X, XII and XIII of the Elementary and Secondary Education Act of 1965; the Stewart B. McKinney Homeless Assistance Act; and the Civil Rights Act of 1964: \$1,482,293,000, of which \$1,206,278,000 shall become available on July 1, 1998, and remain available through September 30, 1999: *Provided*, That of the amount appropriated, \$310,000,000 shall be for Eisenhower professional development State grants under title II-B of the Elementary and Secondary Education Act, \$310,000,000 shall be for innovative education program strategies State grants under title VI-A of said Act and \$750,000 shall be for an evaluation of comprehensive regional assistance centers under title XIII of said Act: *Provided further*, That—

(1) of the amount appropriated under this heading and notwithstanding any other provision of law, the Secretary of Education may award \$1,000,000 to a State educational agency (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) to pay for appraisals, resource studies, and other expenses associated with the exchange of State school trust lands within the boundaries of a national monument for Federal lands outside the boundaries of the monument; and

(2) the State educational agency is eligible to receive a grant under paragraph (1) only if the agency serves a State that—

(A) has a national monument declared within the State under the authority of the Act entitled "An Act for the preservation of American antiquities", approved June 8, 1906 (16 U.S.C. 431 et seq.) (commonly known as the Antiquities Act of 1906) that incorporates more than 100,000 acres of State school trust lands within the boundaries of the national monument; and

(B) ranks in the lowest 25 percent of all States when comparing the average per pupil expenditure (as defined in section 14101 of the

Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) in the State to the average per pupil expenditure for each State in the United States.

#### INDIAN EDUCATION

For expenses necessary to carry out, to the extent not otherwise provided, title IX, part A of the Elementary and Secondary Education Act of 1965, as amended, and section 215 of the Department of Education Organization Act, \$62,600,000.

#### BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, bilingual, foreign language and immigrant education activities authorized by parts A and C and section 7203 of title VII of the Elementary and Secondary Education Act, without regard to section 7103(b), \$354,000,000: *Provided*, That State educational agencies may use all, or any part of, their part C allocation for competitive grants to local educational agencies: *Provided further*, That the Department of Education should only support instructional programs which ensure that students completely master English in a timely fashion (a period of three to five years) while meeting rigorous achievement standards in the academic content areas.

#### SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act, \$4,958,073,000, of which \$4,713,112,000 shall become available for obligation on July 1, 1998, and shall remain available through September 30, 1999: *Provided*, That \$1,500,000 of the funds provided shall be for section 687(b)(2)(G), and shall remain available until expended.

#### REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Technology-Related Assistance for Individuals with Disabilities Act, and the Helen Keller National Center Act, as amended, \$2,591,286,000.

#### SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

##### AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), \$7,906,000.

##### NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), \$44,141,000: *Provided*, That from the amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207.

##### GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), \$81,000,000: *Provided*, That from the amount available, the University may at its discretion use funds for the endowment program as authorized under section 207.

#### VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act and the Adult Education Act and the National Literacy Act of 1991, \$1,487,698,000, of which \$1,484,598,000 shall become available on July 1, 1998 and shall remain available through September 30, 1999; and of which \$5,491,000 from amounts available under the Adult Education Act shall be for the National Institute for Literacy under section 384(c) which shall be derived from unobligated Pell Grant funds: *Provided*, That, of the

amounts made available for title II of the Carl D. Perkins Vocational and Applied Technology Education Act, \$13,497,000 shall be used by the Secretary for national programs under title IV, without regard to section 451: *Provided further*, That the Secretary may reserve up to \$4,998,000 under section 313(d) of the Adult Education Act for activities carried out under section 383 of that Act: *Provided further*, That no funds shall be awarded to a State Council under section 112(f) of the Carl D. Perkins Vocational and Applied Technology Education Act, and no State shall be required to operate such a Council.

#### STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3, and 4 of part A, part C and part E of title IV of the Higher Education Act of 1965, as amended, \$8,556,641,000, which shall remain available through September 30, 1999: *Provided*, That, \$35,000,000 shall be available for State Student Incentive grants derived from unobligated balances: *Provided further*, That \$60,000,000 shall be for education infrastructure authorized under title XII of the Elementary and Secondary Education Act to be derived from unobligated balances.

The maximum Pell Grant for which a student shall be eligible during award year 1998-1999 shall be \$3,000: *Provided*, That notwithstanding section 401(g) of the Act, if the Secretary determines, prior to publication of the payment schedule for such award year, that the amount included within this appropriation for Pell Grant awards in such award year, and any funds available from the fiscal year 1997 appropriation for Pell Grant awards, are insufficient to satisfy fully all such awards for which students are eligible, as calculated under section 401(b) of the Act, the amount paid for each such award shall be reduced by either a fixed or variable percentage, or by a fixed dollar amount, as determined in accordance with a schedule of reductions established by the Secretary for this purpose.

#### FEDERAL FAMILY EDUCATION LOAN PROGRAM ACCOUNT

For Federal administrative expenses to carry out guaranteed student loans authorized by title IV, part B, of the Higher Education Act, as amended, \$46,482,000.

#### HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, parts A and B of title III, without regard to section 360(a)(1)(B)(ii), titles IV, V, VI, VII, and IX, and part A and subpart 1 of parts B and E of title X and title XI of the Higher Education Act of 1965, as amended, part G of title XV of Public Law 102-325, the Mutual Educational and Cultural Exchange Act of 1961, and Public Law 102-423; \$929,752,000, of which \$13,700,000 for interest subsidies under title VII of the Higher Education Act shall remain available until expended: *Provided*, That funds available for part D of title IX of the Higher Education Act shall be available to fund new and non-competing continuation awards for academic year 1998-1999 for fellowships awarded originally under part C of title IX of said Act, under the terms and conditions of part C.

#### HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), \$198,000,000: *Provided*, That not less than \$3,530,000, shall be for a matching endowment grant pursuant to the Howard University Endowment Act (Public Law 98-480) and shall remain available until expended.

#### COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For Federal administrative expenses to carry out activities related to facility loans

entered into under title VII, part C and section 702 of the Higher Education Act, as amended, \$698,000.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING, PROGRAM ACCOUNT

The total amount of bonds insured pursuant to section 724 of title VII, part B of the Higher Education Act shall not exceed \$357,000,000, and the cost, as defined in section 502 of the Congressional Budget Act of 1974, of such bonds shall not exceed zero.

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title VII, part B of the Higher Education Act, as amended, \$104,000.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For carrying out activities authorized by the Educational Research, Development, Dissemination, and Improvement Act of 1994, including part E; the National Education Statistics Act of 1994; section 2102 of title II, and parts B, C, and D of title III, and parts A, B, I, and K and section 10601 of title X, and part C of title XIII of the Elementary and Secondary Education Act of 1965, as amended, and title VI of Public Law 103-227, \$362,225,000.

CHILD LITERACY INITIATIVE

For carrying out a child literacy initiative, \$260,000,000, which shall become available on October 1, 1998 and shall remain available through September 30, 1999 only if specifically authorized by subsequent legislation enacted by April 1, 1998.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

For carrying out subtitle B of the Museum and Library Services Act, \$146,369,000, of which \$15,455,000 shall be for national leadership grants, notwithstanding section 221(a)(1)(B).

DEPARTMENTAL MANAGEMENT PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of two passenger motor vehicles, \$340,064,000: *Provided*, That \$1,100,000 shall be used for the Millennium 2000 project.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, \$57,522,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, \$32,000,000.

GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involv-

ing the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the Department of Education may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

SEC. 305. Of the funds made available under this title, the Secretary of Education shall establish a program to provide training and technical assistance to State educational agencies and local educational agencies (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801) in developing, establishing, and implementing procedures and programs designed to protect victims of and witnesses to incidents of elementary school and secondary school violence, including procedures and programs designed to protect witnesses testifying in school disciplinary proceedings.

SEC. 306. Of the funds made available under this title, \$450,000 shall be awarded by the Secretary of Education for grants for the establishment, operation, and evaluation of pilot student safety toll-free hotlines to provide elementary school and secondary school students with confidential assistance regarding school crime, violence, drug dealing, and threats to the personal safety of the students.

SEC. 307. The Secretary of Education shall annually provide to the Committee on Labor and Human Resources and the Committee on Appropriations of the Senate and the Committee on Education and the Workforce and the Committee on Appropriations of the House of Representatives a certification that not less than 95 percent of the amount appropriated for a fiscal year for the activities of the Department of Education is being used directly for teachers and students. If the Secretary determines that less than 95 percent of such amount appropriated for a fiscal year is being used directly for teachers and students, the Secretary shall certify the percentage of such amount that is being directly used for teachers and students.

SEC. 308. (a) The Secretary of Education shall conduct a study that examines—

(1) the economic, educational, and societal costs of—

(A) the increase in enrollments of secondary school students during the period 1998 through 2008;

(B) the creation of smaller class sizes for students enrolled in grades 1 through 3; and

(C) the increase in enrollments described in subparagraph (A) in relation to the creation of smaller class sizes described in subparagraph (B); and

(2) the costs to States and local school districts for taking no action with respect to such increase in enrollments and smaller class sizes.

(b) The Secretary of Education shall report to Congress within 9 months of the date of enactment of this Act regarding the results of the study conducted under subsection (a). Such report shall include recommendations regarding what local school districts, States

and the Federal Government can do to address the issue of the increase in enrollments of secondary school students and the need for smaller class sizes in grades 1 through 3.

SEC. 309. (a) The Senate finds that—

(1) Federal Pell Grants are a crucial source of college aid for low- and middle-income students;

(2) in addition to the increase in the maximum Federal Pell Grant from \$2,700 to \$3,000, which will increase aid to more than 3,600,000 low- and middle-income students, our Nation should provide additional funds to help more than 250,000 independent and dependent students obtain crucial aid in order to help the students obtain the education, training, or retraining the students need to obtain good jobs;

(3) our Nation needs to help children learn to read well in fiscal year 1998, as 40 percent of the Nation's young children cannot read at the basic level; and

(4) the Bipartisan Budget Agreement includes a total funding level for fiscal year 1998 of \$7,600,000,000 for Federal Pell Grants, and of \$260,000,000 for a child literacy initiative.

(b) It is the sense of the Senate that prompt action should be taken by the authorizing committees to—

(1) make the change in the needs analysis for Federal Pell Grants for independent and for dependent students; and

(2) enact legislation and authorize the funds needed to cover the cost of the changes for a \$260,000,000 child literacy initiative.

(c) It is the sense of the Senate that the maximum level possible of fiscal year 1998 funding should be achieved in the appropriations conference committee.

This title may be cited as the "Department of Education Appropriations Act, 1998".

TITLE IV—RELATED AGENCIES

ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the United States Soldiers' and Airmen's Home and the United States Naval Home, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, \$65,452,000, of which \$10,000,000 shall remain available until expended for construction and renovation of the physical plants at the United States Soldiers' and Airmen's Home and the United States Naval Home.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, \$232,604,000.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 2000, \$300,000,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out

the functions vested in it by the Labor Management Relations Act, 1947 (29 U.S.C. 171-180, 182-183), including hire of passenger motor vehicles; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), \$33,481,000, including \$1,500,000, to remain available through September 30, 1999, for activities authorized by the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a): *Provided*, That notwithstanding 31 U.S.C. 3302, fees charged, up to full-cost recovery, for special training activities and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: *Provided further*, That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: *Provided further*, That the Director of the Service is authorized to accept on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

FEDERAL MINE SAFETY AND HEALTH REVIEW  
COMMISSION  
SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), \$6,060,000.

NATIONAL COMMISSION ON LIBRARIES AND  
INFORMATION SCIENCE  
SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345, as amended by Public Law 102-95), \$1,000,000.

NATIONAL COUNCIL ON DISABILITY  
SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, \$1,793,000.

NATIONAL EDUCATION GOALS PANEL

For expenses necessary for the National Education Goals Panel, as authorized by title II, part A of the Goals 2000: Educate America Act, \$2,000,000.

NATIONAL LABOR RELATIONS BOARD  
SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, \$174,661,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes: *Provided further*, That none of the funds made available by this Act shall be used in any way to promulgate a final rule (altering 29 CFR part 103) regarding single location bargaining units in representation cases.

NATIONAL MEDIATION BOARD  
SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, \$8,600,000: *Provided*, That unobligated balances at the end of fiscal year 1998 not needed for emergency boards shall remain available for other statutory purposes through September 30, 1999.

OCCUPATIONAL SAFETY AND HEALTH REVIEW  
COMMISSION  
SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), \$7,800,000.

PHYSICIAN PAYMENT REVIEW COMMISSION  
SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, \$3,508,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT  
COMMISSION  
SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, \$3,507,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD  
DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, \$205,500,000, which shall include amounts becoming available in fiscal year 1998 pursuant to section 224(c)(1)(B) of Public Law 98-76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds \$205,500,000: *Provided*, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD  
RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, \$50,000, to remain available through September 30, 1999, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98-76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board for administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, \$87,728,000, to be derived in such amounts as determined by the Board from the railroad retirement accounts and from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON THE OFFICE OF INSPECTOR  
GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than \$5,394,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disabil-

ity Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, \$20,308,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, \$426,090,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act 1977 for the first quarter of fiscal year 1999, \$160,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, \$16,162,525,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury: *Provided further*, That not less than \$2,225,000 shall be available for conducting a disability return to work demonstration initiative, which focuses on providing persons who have lost limbs with an integrated program of prosthetic and rehabilitative care and job placement assistance.

From funds provided under the previous paragraph, not less than \$100,000,000 shall be available for payment to the Social Security trust funds for administrative expenses for conducting continuing disability reviews.

In addition, \$175,000,000, to remain available until September 30, 1999, for payment to the Social Security trust funds for administrative expenses for continuing disability reviews as authorized by section 103 of Public Law 104-121 and Supplemental Security Income administrative work as authorized by Public Law 104-193. The term "continuing disability reviews" means reviews and redeterminations as defined under section 201(g)(1)(A) of the Social Security Act, as amended, and reviews and redeterminations authorized under section 211 of Public Law 104-193.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For making benefit payments under title XVI of the Social Security Act for the first quarter of fiscal year 1999, \$8,680,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed \$10,000 for official reception and representation expenses, not more than \$5,937,708,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That not less than \$1,268,000 shall be for the Social Security Advisory Board: *Provided further*, That unobligated balances at the end of fiscal year 1998 not needed for fiscal year 1998 shall remain available until expended for a state-of-the-art computing network, including related equipment and non-payroll administrative expenses associated solely with this network.

From funds provided under the previous paragraph, not less than \$200,000,000 shall be available for conducting continuing disability reviews.

In addition to funding already available under this heading, and subject to the same terms and conditions, \$290,000,000, to remain available until September 30, 1999, for continuing disability reviews as authorized by section 103 of Public Law 104-121, section 10203 of Public Law 105-33 and Supplemental Security Income administrative work as authorized by Public Law 104-193. The term "continuing disability reviews" means reviews and redeterminations as defined under section 201(g)(1)(A) of the Social Security Act as amended, and reviews and redeterminations authorized under section 211 of Public Law 104-193.

In addition to funding already available under this heading, and subject to the same terms and conditions, \$200,000,000, which shall remain available until expended, to invest in a state-of-the-art computing network, including related equipment and non-payroll administrative expenses associated solely with this network, for the Social Security Administration and the State Disability Determination Services, may be expended from any or all of the trust funds as authorized by section 201(g)(1) of the Social Security Act.

In addition, \$35,000,000 to be derived from administration fees in excess of \$5.00 per supplementary payment collected pursuant to section 1616(d) of the Social Security Act or section 212(b)(3) of Public Law 93-66, which shall remain available until expended. To the extent that the amounts collected pursuant to such section 1616(d) or 212(b)(3) in fiscal year 1998 exceed \$35,000,000, the amounts shall be available in fiscal year 1999 only to the extent provided in advance in appropriations Acts.

OFFICE OF INSPECTOR GENERAL  
(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$6,265,000, together with not to exceed \$31,089,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

In addition, an amount not to exceed 3 percent of the total provided in this appropriation may be transferred from the "Limitation on Administrative Expenses", Social Security Administration, to be merged with this account, to be available for the time and purposes for which this account is available: Provided, That notice of such transfers shall be transmitted promptly to the Committees on Appropriations of the House and Senate.

UNITED STATES INSTITUTE OF PEACE  
OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, \$11,160,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

SEC. 504. The Secretaries of Labor and Education are each authorized to make available not to exceed \$15,000 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed \$2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed \$2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the Secretary of Health and Human Services determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs.

SEC. 506. (a) Purchase of American-Made Equipment and Products.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 507. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs

of the project or program that will be financed by nongovernmental sources.

SEC. 508. (a) None of the funds appropriated under this Act shall be expended for any abortion.

(b) None of the funds appropriated under this Act shall be expended for health benefits coverage that includes coverage of abortion.

(c) The term "health benefits coverage" means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.

SEC. 509. (a) The limitations established in the preceding section shall not apply to an abortion—

(1) if the pregnancy is the result of an act of rape or incest; or

(2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

(b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of medic-aid matching funds) for abortion services or coverage of abortion by contract or other arrangement.

(c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider or organization from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of medic-aid matching funds).

SEC. 510. Notwithstanding any other provision of law—

(1) no amount may be transferred from an appropriation account for the Departments of Labor, Health and Human Services, and Education except as authorized in this or any subsequent appropriation Act, or in the Act establishing the program or activity for which funds are contained in this Act;

(2) no department, agency, or other entity, other than the one responsible for administering the program or activity for which an appropriation is made in this Act, may exercise authority for the timing of the obligation and expenditure of such appropriation, or for the purpose for which it is obligated and expended, except to the extent and in the manner otherwise provided in sections 1512 and 1513 of title 31, United States Code; and

(3) no funds provided under this Act shall be available for the salary (or any part thereof) of an employee who is reassigned on a temporary detail basis to another position in the employing agency or department or in any other agency or department, unless the detail is independently approved by the head of the employing department or agency.

SEC. 511. None of the funds made available in this Act may be used to enforce the requirements of section 428(b)(1)(U)(iii) of the Higher Education Act of 1965 with respect to any lender when it is made known to the Federal official having authority to obligate or expend such funds that the lender has a loan portfolio under part B of title IV of such Act that is equal to or less than \$5,000,000.

SEC. 512. (a) None of the funds made available in this Act may be used for—

(1) the creation of a human embryo or embryos for research purposes; or

(2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.208(a)(2) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)).

(b) For purposes of this section, the term "human embryo or embryos" include any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells.

SEC. 513. (a) LIMITATION ON USE OF FUNDS FOR PROMOTION OF LEGALIZATION OF CONTROLLED SUBSTANCES.—None of the funds made available in this Act may be used for any activity when it is made known to the Federal official having authority to obligate or expend such funds that the activity promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established by section 202 of the Controlled Substances Act (21 U.S.C. 812).

(b) EXCEPTIONS.—The limitation in subsection (a) shall not apply when it is made known to the Federal official having authority to obligate or expend such funds that there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that Federally-sponsored clinical trials are being conducted to determine therapeutic advantage.

SEC. 514. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with an entity when it is made known to the Federal official having authority to obligate or expend such funds that—

(1) such entity is otherwise a contractor with the United States and is subject to the requirement in section 4212(d) of title 38, United States Code, regarding submission of an annual report to the Secretary of Labor concerning employment of certain veterans; and

(2) such entity has not submitted a report as required by that section for the most recent year for which such requirement was applicable to such entity.

SEC. 515. (a) FEES FOR FEDERAL ADMINISTRATION OF STATE SUPPLEMENTARY SSI PAYMENTS.—

(1) OPTIONAL STATE SUPPLEMENTARY PAYMENTS.—

(A) IN GENERAL.—Section 1616(d)(2)(B) of the Social Security Act (42 U.S.C. 1382e(d)(2)(B)) is amended—

(i) by striking "and" at the end of clause (iii); and

(ii) by striking clause (iv) and inserting the following:

"(iv) for fiscal year 1997, \$5.00;

"(v) for fiscal year 1998, \$6.20;

"(vi) for fiscal year 1999, \$7.60;

"(vii) for fiscal year 2000, \$7.80;

"(viii) for fiscal year 2001, \$8.10;

"(ix) for fiscal year 2002, \$8.50; and

"(x) for fiscal year 2003 and each succeeding fiscal year—

"(I) the applicable rate in the preceding fiscal year, increased by the percentage, if any, by which the Consumer Price Index for the month of June of the calendar year of the increase exceeds the Consumer Price Index for the month of June of the calendar year preceding the calendar year of the increase, and rounded to the nearest whole cent; or

"(II) such different rate as the Commissioner determines is appropriate for the State."

(B) CONFORMING AMENDMENT.—Section 1616(d)(2)(C) of such Act (42 U.S.C. 1382e(d)(2)(C)) is amended by striking "(B)(iv)" and inserting "(B)(x)(II)".

(2) MANDATORY STATE SUPPLEMENTARY PAYMENTS.—

(A) IN GENERAL.—Section 212(b)(3)(B)(ii) of Public Law 93-66 (42 U.S.C. 1382 note) is amended—

(i) by striking "and" at the end of subclause (III); and

(ii) by striking subclause (IV) and inserting the following:

"(IV) for fiscal year 1997, \$5.00;

"(V) for fiscal year 1998, \$6.20;

"(VI) for fiscal year 1999, \$7.60;

"(VII) for fiscal year 2000, \$7.80;

"(VIII) for fiscal year 2001, \$8.10;

"(IX) for fiscal year 2002, \$8.50; and

"(X) for fiscal year 2003 and each succeeding fiscal year—

"(aa) the applicable rate in the preceding fiscal year, increased by the percentage, if any, by which the Consumer Price Index for the month of June of the calendar year of the increase exceeds the Consumer Price Index for the month of June of the calendar year preceding the calendar year of the increase, and rounded to the nearest whole cent; or

"(bb) such different rate as the Commissioner determines is appropriate for the State."

(B) CONFORMING AMENDMENT.—Section 212(b)(3)(B)(iii) of such Act (42 U.S.C. 1382 note) is amended by striking "(ii)(IV)" and inserting "(ii)(X)(bb)".

(b) USE OF NEW FEES TO DEFRAY THE SOCIAL SECURITY ADMINISTRATION'S ADMINISTRATIVE EXPENSES.—

(1) CREDIT TO SPECIAL FUND FOR FISCAL YEAR 1998 AND SUBSEQUENT YEARS.—

(A) OPTIONAL STATE SUPPLEMENTARY PAYMENT FEES.—Section 1616(d)(4) of the Social Security Act (42 U.S.C. 1382e(d)(4)) is amended to read as follows:

"(4)(A) The first \$5 of each administration fee assessed pursuant to paragraph (2), upon collection, shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

"(B) That portion of each administration fee in excess of \$5, and 100 percent of each additional services fee charged pursuant to paragraph (3), upon collection for fiscal year 1998 and each subsequent fiscal year, shall be credited to a special fund established in the Treasury of the United States for State supplementary payment fees. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this title and related laws."

(B) MANDATORY STATE SUPPLEMENTARY PAYMENT FEES.—Section 212(b)(3)(D) of Public Law 93-66 (42 U.S.C. 1382 note) is amended to read as follows:

"(D)(i) The first \$5 of each administration fee assessed pursuant to subparagraph (B), upon collection, shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

"(ii) The portion of each administration fee in excess of \$5, and 100 percent of each additional services fee charged pursuant to subparagraph (C), upon collection for fiscal year 1998 and each subsequent fiscal year, shall be credited to a special fund established in the Treasury of the United States for State supplementary payment fees. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this section and title XVI of the Social Security Act and related laws."

(2) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—From amounts credited pursuant to section 1616(d)(4)(B) of the Social Security Act and section 212(b)(3)(D)(ii) of Public Law 93-66 to the special fund established in the Treasury of the United States for State supplementary payment fees, there is authorized to be appropriated an amount not to exceed \$35,000,000 for fiscal year 1998, and such sums as may be necessary for each fiscal year thereafter, for administrative expenses in carrying out the supplemental se-

curity income program under title XVI of the Social Security Act and related laws.

SEC. 516. Section 520(c)(2)(D) of Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997, is amended by striking "September 30, 1997" and inserting in lieu thereof "December 31, 1997".

SEC. 517. Of the budgetary resources available to agencies funded in this Act for salaries and expenses during fiscal year 1998, \$75,500,000, to be allocated by the Office of Management and Budget, are permanently canceled: *Provided further*, That this provision shall not apply to the Food and Drug Administration and the Indian Health Service.

SEC. 518. REPEAL OF TOBACCO INDUSTRY SETTLEMENT CREDIT.—Subsection (k) of section 9302 of the Balanced Budget Act of 1997, as added by section 1604(f)(3) of the Taxpayer Relief Act of 1997, is repealed.

SEC. 519. (a) GENERAL LIMITATION.—Notwithstanding any other provision of law, if any attorneys' fees are paid (on behalf of attorneys for the plaintiffs or defendants) in connection with an action maintained by a State against one or more tobacco companies to recover tobacco-related Medicaid expenditures or for other causes of action involved in the national tobacco settlement agreement, such fees shall—

(1) not be paid at a rate that exceeds \$250 per hour; and

(2) be limited to a total of \$5,000,000.

(b) FEE ARRANGEMENTS.—Subsection (a) shall apply to attorneys' fees provided for or in connection with an action of the type described in such subsection under any—

(1) court order;

(2) settlement agreement;

(3) contingency fee arrangement;

(4) arbitration procedure;

(5) alternative dispute resolution procedure (including mediation); or

(6) other arrangement providing for the payment of attorneys' fees.

(c) EXPENSES.—The limitation described in subsection (a) shall not apply to any amounts provided for the attorneys' reasonable and customary expenses.

(d) REQUIREMENTS.—No award of attorneys' fees shall be made under any national tobacco settlement until the attorneys involved have—

(1) provided to the Governor of the appropriate State, a detailed time accounting with respect to the work performed in relation to any legal action which is the subject of the settlement or with regard to the settlement itself; and

(2) made public disclosure of the time accounting under paragraph (1) and any fee agreements entered into, or fee arrangements made, with respect to any legal action that is the subject of the settlement.

(e) PROVISION OF FUNDS FOR CHILDREN'S HEALTH RESEARCH.—Any amounts provided for attorneys' fees in excess of the limitation applicable under this section shall be paid into the Treasury for use by the National Institutes of Health for research relating to children's health.

(f) EFFECTIVE DATE.—The limitation on the payment of attorneys' fees contained in this section shall become effective on the date of enactment of any Act providing for a national tobacco settlement.

SEC. 520. SENSE OF THE SENATE ON COMPENSATION FOR TOBACCO GROWERS AS PART OF LEGISLATION ON THE NATIONAL TOBACCO SETTLEMENT.

(a) FINDINGS.—(1) On June 20, 1997, representatives of tobacco manufacturers, public health organizations, and Attorneys General from a majority of the States announced that an agreement had been reached on a national tobacco settlement;

(2) the national tobacco settlement was intended to provide a comprehensive framework for dealing with several issues relevant to the tobacco industry, including youth smoking prevention, legal liabilities, and the sales and marketing practices of the industry;

(3) implementation of the national tobacco settlement requires the enactment of Federal legislation by the Congress and the President;

(4) there are more than 125,000 farms in the United States which derive a substantial portion of their income from the cultivation and sale of tobacco;

(5) representatives of tobacco growers were completely excluded from the negotiations on the national tobacco settlement, and were poorly informed, or not informed at all, of any details of the settlement negotiations by any participants in those negotiations;

(6) the national tobacco settlement includes compensation for several adversely affected groups, including NASCAR, rodeo, and other event sponsors, but includes absolutely no compensation whatsoever or other provisions relating to the impact of the settlement on tobacco growers;

(7) no other group has their livelihoods affected by the national tobacco settlement as adversely as tobacco growers;

(8) the local economies of tobacco growing communities will be adversely affected by implementation of the national tobacco settlement;

(9) the national tobacco settlement contemplates \$368,500,000,000 in payments from tobacco manufacturers over the next 25 years, and not all of this amount has been specifically earmarked by the agreement; and

(10) the Federal tobacco program was designed to operate at no net cost to the Federal taxpayer, the national tobacco settlement does not contemplate any changes to the operation of this program, and even many critics of the national tobacco settlement, including representatives from the public health community, have expressed support for the continued operation of a Federal tobacco program which operates at no net cost to taxpayers.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) tobacco growers should be fairly compensated as part of any Federal legislation for the adverse impact which will follow from the enactment of the national tobacco settlement;

(2) tobacco growing communities should be provided sufficient resources to adequately adjust to the impact on their local economies which will result from the enactment of the national tobacco settlement;

(3) any compensation provided to tobacco growers and tobacco growing communities as part of Federal legislation to implement the national tobacco settlement should be included within the \$368,500,000,000 in payments which are to be provided over the next 25 years; and

(4) No provisions should be included in any Federal legislation to implement the national tobacco settlement which would restrict or adversely affect the continued administration of a viable Federal tobacco program which operates at no net cost to the taxpayer.

SEC. 521. Nothing in this Act may be construed to interfere with, or abrogate, any agreement previously entered into between any State and any private attorney or attorneys with respect to litigation involving tobacco.

SEC. 522. It is the sense of the Senate that attorneys' fees paid in connection with an action maintained by a State against one or more tobacco companies to recover tobacco-

related costs affected by Federal tobacco settlement legislation should be publicly disclosed and should not displace spending in the settlement legislation intended for public health.

SEC. 523. (a) Notwithstanding any other provision of law, the Secretary of Education shall award the total amount of funds described in subsection (b) directly to local educational agencies in accordance with subsection (d) to enable the local educational agencies to support programs or activities for kindergarten through grade 12 students that the local educational agencies deem appropriate.

(b) The total amount of funds referred to in subsection (a) are all funds that are appropriated for the Department of Education under this Act to support programs or activities for kindergarten through grade 12 students, other than—

(1) amounts appropriated under this Act—  
(A) to carry out title VIII of the Elementary and Secondary Education Act of 1965;

(B) to carry out the Individuals with Disabilities Education Act;

(C) to carry out the Adult Education Act;

(D) to carry out the Museum and Library Services Act;

(E) for departmental management expenses of the Department of Education; or

(F) to carry out the Educational Research, Development, Dissemination, and Improvement Act;

(G) to carry out the National Education Statistics Act of 1994;

(H) to carry out section 10601 of the Elementary and Secondary Education Act of 1965;

(I) to carry out section 2102 of the Elementary and Secondary Education Act of 1965;

(J) to carry out part K of the Elementary and Secondary Education Act of 1965;

(K) to carry out subpart 5 of part A of title IV of the Higher Education Act of 1965; or

(L) to carry out title I of the Elementary and Secondary Education Act of 1965; or

(2) 50 percent of the amount appropriated under title III under the headings "Rehabilitation Services and Disability Research" and "Vocational and Adult Education".

(c) Each local educational agency shall conduct a census to determine the number of kindergarten through grade 12 students served by the local educational agency not later than 21 days after the beginning of the school year. Each local educational agency shall submit the number to the Secretary.

(d) The Secretary shall determine the amount awarded to each local educational agency under subsection (a) as follows:

(1) First, the Secretary, using the information provided under subsection (c), shall determine a per child amount by dividing the total amount of funds described in subsection (b), by the total number of kindergarten through grade 12 students in all States.

(2) Second, the Secretary, using the information provided under subsection (c), shall determine the baseline amount for each local educational agency by multiplying the per child amount determined under paragraph (1) by the number of kindergarten through grade 12 students that are served by the local educational agency.

(3) Lastly, the Secretary shall compute the amount awarded to each local educational agency as follows:

(A) Multiply the baseline amount determined under paragraph (2) by a factor of 1.1 for local educational agencies serving States that are in the least wealthy quintile of all States as determined by the Secretary on the basis of the per capita income of individuals in the States.

(B) Multiply the baseline amount by a factor of 1.05 for local educational agencies

serving States that are in the second least wealthy such quintile.

(C) Multiply the baseline amount by a factor of 1.00 for local educational agencies serving States that are in the third least wealthy such quintile.

(D) Multiply the baseline amount by a factor of .95 for local educational agencies serving States that are in the fourth least wealthy such quintile.

(E) Multiply the baseline amount by a factor of .90 for local educational agencies serving States that are in the wealthiest such quintile.

(4) Notwithstanding paragraph (3), the Secretary shall compute the amount awarded to each local educational agency serving the State of Alaska or Hawaii by multiplying the base line amount determined under paragraph (2) for the local educational agency by a factor of 1.00.

(e) If the total amount of funds described in subsection (b) that are made available to carry out subsection (a) is insufficient to pay in full all amounts awarded under subsection (d), then the Secretary shall ratably reduce each such amount.

(f) If the Secretary determines that a local educational agency has knowingly submitted false information under subsection (c) for the purpose of gaining additional funds under subsection (a), then the local educational agency shall be fined an amount equal to twice the difference between the amount the local educational agency received under subsection (d), and the correct amount the local educational agency would have received if the agency had submitted accurate information under subsection (c).

(g)(1) Notwithstanding any other provision of law, the Secretary of Education shall award the total amount of funds made available under this Act to carry out title I of the Elementary and Secondary Education Act of 1965 for fiscal year 1998 directly to local educational agencies in accordance with paragraph (2) to enable the local educational agencies to support programs or activities for kindergarten through grade 12 students that the local educational agencies deem appropriate.

(2) Each local educational agency shall receive an amount awarded under this subsection that bears the same relation to the total amount of funds made available under this Act to carry out title I of the Elementary and Secondary Education Act of 1965 for fiscal year 1998 as the number of children counted under section 1124(c) of such Act for the local educational agency for fiscal year 1997 bears to the total number of students so counted for all local educational agencies for fiscal year 1997.

(h) Notwithstanding any other provision of this section, the total amount awarded to local educational agencies in each State under this section shall not be less than the net dollars that States would have received absent the provisions of this section.

(i) In this section—

(1) the term "local educational agency" has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965;

(2) the term "Secretary" means the Secretary of Education; and

(3) the term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

SEC. 524. (a) Notwithstanding any other provision of law, the Office of Educational Research and Improvement shall submit to

the Committee on Appropriations of the Senate a spending plan for activities funded under this title under the heading "EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT", prior to the obligation of the funds.

(b)(1) Notwithstanding any other provision of law, the National Assessment Governing Board established under section 412 of the National Education Statistics Act of 1994 (20 U.S.C. 9011) (hereafter in this section referred to as the "Board") shall hereafter have exclusive authority over all policies, direction, and guidelines for establishing and implementing voluntary national tests for 4th grade English reading and 8th grade mathematics: *Provided*, That the tests shall be made available to a State, local educational agency, or private or parochial school, upon the request of the State, agency, or school, and the use of the tests shall not be a condition for receiving any Federal funds: *Provided further*, That within 90 days after the date of enactment of this Act, the Board shall review the national test development contract in effect on the date of enactment of this Act, and modify the contract as the Board determines necessary: *Provided further*, That if the contract cannot be modified to the extent determined necessary by the Board, the contract shall be terminated and the Board shall negotiate a new contract, under the Board's exclusive control, for the tests.

(2) In exercising the Board's responsibilities under paragraph (1) regarding the national tests, and notwithstanding any action undertaken by the Department of Education or a person contracting with or providing services for the Department regarding the planning, or the development of specifications, for the tests, the Board shall—

(A) ensure that the content and standards for the tests are the same as the content and standards for the National Assessment;

(B) exercise exclusive authority over any expert panel or advisory committee that will be or is established with respect to the tests;

(C) ensure that the tests are linked to the National Assessment to the maximum degree possible;

(D) develop test objectives, test specifications, and test methodology;

(E) develop policies for test administration, including guidelines for inclusion of, and accommodations for, students with disabilities and students with limited English proficiency;

(F) develop policies for reporting test results, including the use of standards or performance levels, and for test use;

(G) have final authority over the appropriateness of all test items;

(H) ensure that all items selected for use on the tests are free from racial, cultural, or gender bias; and

(I) take such actions and make such policies as the Board determines necessary.

(c) No State or local educational agency may require any private or parochial school student, or home-schooled individual, to take any test developed under this Act without the written consent of the student or individual.

(d) Section 412 of the National Education Statistics Act of 1994 (20 U.S.C. 9011) is amended—

(1) in subsection (b)(1)—

(A) by amending subparagraph (A) to read as follows:

"(A) three Governors, or former Governors, of whom not more than 1 shall be a member of the same political party as the President;"

(B) by amending subparagraph (B) to read as follows:

"(B) two State legislators, of whom not more than 1 shall be a member of the same political party as the President;"

(C) in subparagraph (H), by striking "one representative" and inserting "three representatives";

(D) by amending subparagraph (I) to read as follows:

"(I) two mayors, of whom not more than 1 shall be a member of the same political party as the President;"

(E) by striking subparagraph (J); and

(F) by redesignating subparagraphs (K), (L), and (M) as subparagraphs (J), (K), and (L), respectively;

(2) in subsection (c)—

(A) in paragraph (1), by striking "and may not exceed a period of 3" and inserting "and shall be for periods of 4"; and

(B) in paragraph (2), by inserting "consecutive" after "two";

(3) by amending subsection (d) to read as follows:

"(d) VACANCIES.—As vacancies on the Board occur, new members of the Board shall be appointed by the Secretary from among individuals who are nominated by the Board after consultation with representatives of the individuals described in subsection (b)(1). For each vacancy, the Board shall nominate at least 3 individuals who are qualified by experience or training to fill the particular Board vacancy."; and

(4) in subsection (e) by adding at the end the following:

"(7) INDEPENDENCE.—In the exercise of its functions, powers, and duties, the Board shall be independent of the Secretary and the other offices and officers of the Department. The Secretary shall, by written delegation of authority, authorize the Board to award grants and contracts, and otherwise operate, to the maximum extent practicable, independent of the Department."

(e) Not later than 30 days after the date of enactment of this Act, the Secretary of Education, in consultation with the Speaker and Minority Leader of the House of Representatives, and the Majority Leader and Minority Leader of the Senate, shall appoint individuals to fill vacancies on the National Assessment Governing Board caused by the expiration of the terms of members of the Board, or the creation of new membership positions on the Board pursuant to amendments made by this Act.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1998".

Mr. SPECTER. Mr. President, I thank my distinguished colleague, Senator HARKIN, for his cooperation on this bill and the outstanding staff: Bettilou Taylor, Craig Higgins, Jim Sourwine, Jack Chow, Dale Cabaniss, for the majority, and the outstanding work on the minority side by Marsha Simon and Ellen Murray. I thank the leadership of Senator LOTT—who is right here—and has been here at all times.

I believe the passage of this bill is noteworthy. We had great problems passing a separate appropriations bill on Labor, Health and Human Services, and Education for fiscal year 1996. We were not able to get floor action on a bill until April 1996. It should have been finished on September 30, 1995. We finally broke that logjam with an amendment, which Senator HARKIN and I had offered, for an additional \$2.6 billion for education and training programs. That legislation was then folded into the omnibus appropriations bill. So we did not have a regular Labor,

HHS and Education appropriations bill for fiscal year 1996.

Then the fiscal year 1997 bill was not considered separately by the Senate. Instead, funding was included in an Omnibus appropriations bill that was significantly written by the administration and leadership. I said at that time that I thought the process was inappropriate. Our constitutional system is to have Congress deliberate and pass the bills and then submit them to the White House for approval or veto.

This year we were able to complete it the regular Labor, HHS and Education appropriations bill. It took a fair amount of time. We started on September 2. Senator LOTT brought us back at 11 o'clock the day after Labor Day. We now mark its conclusion. I am delighted. I also thank the distinguished minority leader, the Democratic leader. We have concluded action on an important bill. I thank the Chair and yield the floor.

Mr. HARKIN. Mr. President, I join with my colleague, my chairman, Senator SPECTER, in commending, first of all, the staff for all the wonderful work they did in pulling this bill together. I especially want to thank Craig Higgins, Bettilou Taylor, Jack Chow, Jim Sourwine of Senator SPECTER's staff. And our staff on our side: Ellen Murray and Marsha Simon.

This is a very complex, very big bill. It took us a long time to get it through. The Senate worked its will, and we did finish action on the bill. For the most part, I think it is a good bill, and I think it does move us in the right direction. There is a lot of good stuff in there for children's health, preventive health care measures. There are good provisions in there dealing with human services. For the most part, there are a lot of good items in there that will advance the cause of education in this country.

However, I must once again, Mr. President, for the record state that the adoption of the Gorton amendment basically does away with all the targeted programs that this Congress has supported on a bipartisan basis for so long; things like vocational education, bilingual education, education technology, and some of the newer ones, like Goals 2000. These are all done away with by the Gorton amendment.

What it says is we are going to take all this money and it goes to the local education agencies without any restrictions whatsoever. I am concerned that this was not widely known by a number of Senators when the vote was taken, and what also was not widely known, I don't believe, is that we have always had a cap, a limitation on how much money could be spent for administration.

That has been even more heavily supported on the Republican side than the Democratic side, and yet that is removed. So the money that we have said should go out to States for vocational education will now go to a local education agency, and they can do whatever they want with it. They can build

a swimming pool. They can pay their superintendents whatever they want. They can take, not the 5-percent cap we have on administration, they can say we want to use 20 percent for administration.

Also, we have said in the past that these moneys should be used to supplement, not supplant, State efforts. That is taken away. So what can happen is all the money we put out to an area now that normally would go for vocational education or education technology or safe and drug-free schools, all of that money now doesn't have to be used for that, and the State can say, "OK, we're not going to put the money in, we'll just use the Federal dollars and we'll take our money for roads, bridges" and whatever else the State wants to do with their money, thus downgrading the amount of funds that actually go into education.

I know it was said by the Senator from Washington, "Well, not all knowledge resides in Washington; do we know what to do best in local school districts? The answer to that, obviously, is no. Keep in mind this money is not forced on the States. We are just saying this is Federal tax money that we vote to collect. And, yes, we do have a right and an obligation under the Constitution of the United States to decide how that money is to be spent.

We don't have the obligation or the right to decide how States spend their own State tax dollars, but we certainly do have the right and the constitutional obligation to decide how we spend Federal tax dollars. And that's what we said. We want it spent on vocational education. We want it spent on safe and drug-free schools. Those programs have been supported widely on both sides of the aisle.

We have also said we don't want more than 5 percent of that money to go to administrative costs, which has been widely supported on both sides of the aisle. That is all taken away by the Gorton amendment.

Mr. President, I talked with a number of my colleagues on this side of the aisle—certainly not all of them—but a great number of them prior to the vote on final passage. While I voted for final passage of the bill, because there is a lot more good than bad in it, I must state for the record that if, in fact, this provision is not dropped in conference, if we don't have the votes to drop it in conference, if it comes back from conference, as the minority manager on this bill, I am going to vote against it.

I hope that the President will send strong signals that he will veto this bill if this provision remains in the bill because it would do away with years and years of what we have done to focus attention on areas of education, like vocational education, safe and drug-free schools, education technology and others, that we thought were so necessary in order to move this country forward. I just hope this provision will be dropped in conference and that we can come back and support the

bill out of conference with the same strong vote that we had here.

Mr. President, I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

#### UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. LOTT. As in executive session, I ask unanimous consent that at the hour of 2 p.m. today, the Senate proceed to a vote on Executive Calendar No. 234, the nomination of Joseph Bataillon, to be immediately followed by a vote on Calendar No. 236, Christopher Droney, to be immediately followed by a vote on Calendar No. 237, Janet Hall. I ask unanimous consent that there be 2 minutes of debate, equally divided, prior to each of the above votes.

I further ask unanimous consent that immediately following those votes, Calendar Nos. 238, 239, 245 and 247 be confirmed.

I finally ask unanimous consent that following these confirmations, the motions to reconsider be laid upon the table; that any statements relating to the nominations appear at the appropriate place in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

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

#### ORDER OF PROCEDURE

Mr. LOTT. Mr. President, for the information then of all Senators, that is three judicial nominations that have been cleared on both sides of the aisle, although recorded votes will be required, and then two U.S. attorneys that have been on the calendar for some time, U.S. Attorney Sharon Zealey of Ohio and U.S. Attorney James Hurd of the Virgin Islands. We also have two nominees for the Corporation for Public Broadcasting that we are able to confirm.

With these nominations moving forward, I think it is very positive for the Senate. I want the Senators to be aware that there will be three back-to-back votes beginning at 2 p.m. today.

Also, I am very pleased we are going to be able to get clearance for all committees to meet during the afternoon hours and the rest of this morning.

I believe, Mr. President, we will momentarily be prepared to go to opening statements with regard to the Food and Drug Administration reform. Senator JEFFORDS and Senator KENNEDY are here ready to proceed.

Mr. President, with regard to the comments made by Senator HARKIN, the fundamental difference in his position and our position with regard to education funds is that we just believe that the people at the local level and people at the State level want good education in their schools. I am a big advocate of vocational education, but I

just happen to believe that if the State of Mississippi had more discretion in how those funds are to be used, they probably would put more money in vocational education in our State and less money in some of the programs they are mandated to do by the Federal Government.

We want good vocational education. We want safe schools. The difference is we just think that parents and teachers at the local level would do a better job of deciding how to educate their children than dictates from Washington, DC, and the Federal bureaucracy. It has not worked. We spent billions of dollars on education, and the test scores and the quality of education and the safety of the schools and parental involvement has gone down, down, down, down.

It is time we try something else to really improve education in America. That is what we are trying to do.

I yield the floor, Mr. President.

#### FOOD AND DRUG ADMINISTRATION MODERNIZATION AND ACCOUNTABILITY ACT OF 1997

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 830) to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes, which had been reported from to the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

##### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Food and Drug Administration Modernization and Accountability Act of 1997".*

##### SEC. 2. TABLE OF CONTENTS.

*The table of contents for this Act is as follows:*

*Sec. 1. Short title.*

*Sec. 2. Table of contents.*

*Sec. 3. References.*

##### TITLE I—IMPROVING PATIENT ACCESS

*Sec. 101. Mission of the Food and Drug Administration.*

*Sec. 102. Expedited access to investigational therapies.*

*Sec. 103. Expanded humanitarian use of devices.*

##### TITLE II—INCREASING ACCESS TO EXPERTISE AND RESOURCES

*Sec. 201. Interagency collaboration.*

*Sec. 202. Sense of the committee regarding mutual recognition agreements and global harmonization efforts.*

*Sec. 203. Contracts for expert review.*

*Sec. 204. Accredited-party reviews.*

*Sec. 205. Device performance standards.*

##### TITLE III—IMPROVING COLLABORATION AND COMMUNICATION

*Sec. 301. Collaborative determinations of device data requirements.*

*Sec. 302. Collaborative review process.*

##### TITLE IV—IMPROVING CERTAINTY AND CLARITY OF RULES

*Sec. 401. Policy statements.*

*Sec. 402. Product classification.*

*Sec. 403. Use of data relating to premarket approval.*

*Sec. 404. Consideration of labeling claims for product review.*