

usual by inserting instruments known as laminaria into the woman and by applying seaweed. This process is supposed to slowly dilate the cervix so the child eventually can be removed and killed. That is the procedure. That is what they do.

After this initial step, in this particular instance, Dr. Haskell sent the woman home because it usually takes 2 or 3 days before the baby can be removed from the womb and the abortion completed. Expecting to return in 2 or 3 days, this woman followed the doctor's orders and went home to Cincinnati.

Soon after she left the abortion clinic, her cervix started dilating too quickly, causing her to go into labor. Shortly after midnight, on the first day of the procedure, she entered the hospital and gave birth to a very much alive but very tiny baby. The neonatologist determined that Baby Hope's lungs were too underdeveloped to sustain life without the help of a respirator. Baby Hope, however, was not placed on a respirator. Instead, the poor, defenseless creature was left to die only a little more than 3 hours after birth.

I am back on the floor again today because we now, tragically, have another example of a partial-birth abortion in Ohio that did not go according to the abortionist's plan, this one occurring on August 19, a couple of weeks ago.

The Dayton Daily News reported this incident. The procedure was again at the hands of Dr. Haskell. Here, too, he started the barbaric procedure by dilating the mother's cervix. Similarly, this woman went into labor only 1 hour later, was admitted to Good Samaritan Hospital, and gave birth to a baby girl a short time later. This time, however, a miracle occurred. This little baby lived.

A medical technician appropriately named this precious little "Baby Grace." After her birth, she was transferred to a neonatal intensive care unit at Children's Hospital in Dayton. The Montgomery County Children's Services Board has temporary, interim custody of little Baby Grace. She likely will face months of hospitalization and possible lifelong complications, we don't know, all resulting from being premature and the induced abortion.

I am appalled and sickened by the fact that both of these partial-birth abortions occurred anywhere. I am particularly offended by the fact they occurred in my home State of Ohio. But wherever they occur, it is a human tragedy.

I have said this before and I will say it again; the partial-birth abortion should be outlawed. Partial-birth abortion should be outlawed in our civilized society.

When we hear about the brutal death of Baby Hope and we think about the miracle of Baby Grace, we have to stop and ask, to what depths have we sunk in this country? Partial-birth abortion

is a very clear matter of right and wrong, good versus evil. It is my wish there will come a day, I hope and pray, when I no longer have to come to this Senate floor and talk about partial-birth abortions. Until that day arrives, the day when the procedure has been outlawed in our country, I must continue to plead for the protection of unborn fetuses threatened by partial-birth abortions.

In the name of Baby Hope, let's stop the killing. In the name of Baby Grace, let's protect the living.

I yield the floor.

PARTIAL-BIRTH ABORTION

Mr. NICKLES. Mr. President, first, I compliment my friend and colleague from Ohio for the statement he made. Frankly, the announcement he made that this tragedy called partial-birth abortion is happening today and it is happening very frequently—I appreciate him calling attention to it. I hope our colleagues listened and I hope our colleagues this year will pass a ban on that very gruesome procedure which is the murder of a child as it is being born.

I thank my friend and colleague. I hope and expect Congress will pass it this year. Maybe with the votes necessary to overturn the President's veto.

I thank him for his statement.

CORRECTING THE RECORD ON THE REPUBLICAN EDUCATION BUDGET

Mr. NICKLES. Mr. President, I would like to correct the record, because I know I heard a number of my colleagues say the Republican budget is slashing education, it's at the lowest end, it's the last appropriation bill we are taking up. Let me correct the record. Let me give you some facts.

One, the budget the Republicans passed earlier this year had an increase for education, not a decrease. The Appropriations Committee has yet to mark up the Labor-HHS bill. They are going to mark it up next week. I understand from Senator SPECTER and others they plan on appropriating \$90 billion. The amount of money we have in the current fiscal year is \$83.8 billion. So that is an increase of about \$6.2 billion for FY2000. That is an increase of about 9 percent. That is well over inflation. I think it is too much. I think we should be freezing spending. We should not be increasing spending. But I just want to correct the record. It bothers me to think some people are trying to manipulate the facts, to build up their case.

The Democrats are well aware that the Appropriations Committee is going to be marking up a bill that is going to have at least as much money this year as we spent last year in education. I hope we change the priorities. I hope we follow the guidance of my colleague from Washington, the Presiding Officer, and give the States some flexibility. I haven't heard anybody say

"Let's cut the total amount of funds going to education," but I have heard, "Let's give the States, Governors and school boards more flexibility so they can do what they need to do in improving quality education. Let's hold them accountable to improve the quality of education. Let's not just come up with more Federal programs."

I heard both of my colleagues say, "Boy, we need more Federal teachers or more school buildings." Is that really the business of the Federal Government? Are we supposed to make that decision that this school district or this school needs more teachers, or this school should be repaired, or this school should be replaced? Is that a Federal decision? I don't think so. It just so happens that within the last hour I met with the Governor of Oklahoma, the Governor of Nevada and the Governor of Utah. They say they have already reduced class size and some of them have already made significant investments in schools. But, they need more help. They want flexibility. They want to be able to use the money for individual students with disabilities. We should give them that flexibility. But our colleagues seem to think, "Oh, no, we have to have 100,000 Federal teachers. The Governor of Nevada said that in the city of Las Vegas alone they hire 18,000 new teachers every year. Why in the world should we be dictating? In last year's budget agreement we needed 30,000 teachers. Now we need to go to 100,000 teachers? Is that the Federal governments responsibility? I don't think so."

I don't think the Federal Government should be dictating that this State or this school district needs to hire more teachers or build more buildings or put in more computers. Let's give them the money we spend—and altogether the Federal Government spends over \$100 billion on education—let's give the States the flexibility to spend that money in ways that will really improve the quality of education. Maybe that will go to increasing the number of teachers or to buildings and construction. Maybe it will be in computers and in training. Maybe it will be in retention or it will be in bonuses for the best teachers. Why should we be making that decision? We don't know those schools. We don't know those districts. We don't know those superintendents. We are not serving on those PTAs. This really should not be a Federal responsibility. Let's give that responsibility to the local school boards and to the States and not have more dictates and more Federal programs.

There are already over 760 Federal education programs to date. Our colleagues on the Democrat side would like to add even more programs, as if that is going to improve the quality of education. I don't think so.

Just a couple more facts: Labor-HHS funding, which is the appropriations bill we are talking about, has been rising and growing dramatically. Yet I

hear, "Oh, they are slashing this bill by 17 percent." Wait a minute, let's get the bill on the floor before we start saying we are slashing the bill. What we passed and appropriated and spent in 1997 was \$71 billion. In 1996, it was \$64.4 billion. It went to \$71 billion in 1997, that's over a 10 percent increase. From 1997 to 1998 it went from \$71 billion to \$80.7 billion, again well over a 10 percent increase. Last year it went from \$80.7 to \$83.9 billion, plus there were some advanced appropriations of about \$6 billion.

So, again there was a big increase from last year and we are talking about increasing it even further for next year, for the year 2000. So this rhetoric by the Democrats that is designed to scare people and to get people activated on the education bill, is not substantiated by the facts.

I want to address a couple of other things we can do for education and for the American taxpayer. But the President has to help us do it by signing the tax bill that is now before him. We have \$11 billion of tax relief targeted towards education in the tax bill. If the President wants to improve education he can sign the tax bill and I hope he will. We allow for student loans, greater deductions and we provide extended assistance for education. Right now, people can save \$500 on educational savings accounts. We increase that to \$2,000.

It is vitally important that the President sign the tax bill. In addition, we have a lot of relief for taxpayers in the bill. I will just mention a couple of them.

I have heard a lot of people, Democrats and Republicans, say the marriage penalty is unfair. It's unfair for the present day Tax Code to penalize a couple because they happen to be married. In other words, when they get married their combined tax load should not be greater than when they were single and paying separately. And it is. The marriage penalty averages out about \$1,400. For the privilege of being married you have to pay an extra \$1,400. A lot of us think that is grossly unfair. We want to change it.

The President can change it. We, in Congress, have changed it. We sent the bill to the President's desk. If he signs it we will be eliminating the marriage penalty, for all practical purposes, for almost all married couples.

We also want to give relief to individuals who, in many cases, are at the lowest end of the economic ladder in the tax bill. I have heard some people say, "Oh, that tax cut package, that's a tax cut for the wealthiest people." That's hogwash. We cut taxes for taxpayers, people who are in the lowest end of the income-tax schedule. They get a 7 percent reduction because we reduced the rate from 15 percent to 14 percent. It doesn't sound like much, but that is a 7 percent reduction for somebody on the lowest end of the economic ladder. That is a significant tax reduction.

Wait a minute, what are you doing for the wealthier people? We are reducing the rate from 39.6 to 38.6, and we do not do that until the outyears. That doesn't happen until several years later. That would amount to a little less than 3 percent. So we give a much greater percentage reduction in tax cuts to the people on the lower end of the scale. We actually make the tax schedule a little more progressive.

We provide a tax cut for taxpayers, and honestly it is not very much of one. Somebody says that's too much, you have cut taxes too much. Think about this for a second. When President Clinton was sworn into office in January of 1993, the maximum tax bracket for any American, personal income tax, was 31 percent. The Democrat controlled Congress, with a tie vote broken by Vice President Gore acting as President of the Senate—increased the maximum tax bracket from 31 percent to 39.6. So, at the end of 10 years we reduce that 39.6 to 38.6, wow, we have reduced it about one tenth as much as he increased it. And that is too much? We are being too fair to the rich? Wait a minute, they increased the rate from 31 percent to 39.6 percent; and we reduce it to 38.6 percent. It is still a whole lot higher than it was when President Clinton was elected. That is too much? The President claims that if you cut taxes that much, you won't be able to pay for all these programs.

We take two-thirds of the surplus and use it to pay down debt, to pay down our national debt by over \$2 trillion. We take two-thirds of it and we pay down the national debt with the Social Security surplus. You cannot spend one dime of it for anything else.

In the President's original budget he said he wanted to spend billions for other things. We said, no we are not going to do that. We want to use 100 percent of the Social Security surplus to pay down the debt, period—no ifs and or buts about it. The President wanted to try to raid the fund and we said no.

Then we said, out of the surplus we want two thirds of it to pay down debt, one-fourth of it can go back to taxpayers. We do not want the taxpayers to have to send all of their hard earned money to Washington, DC. We certainly do not want to have to return it, we want them to keep it in the first place. It is theirs. It is not ours. It is not the Government's to spend. If they are sending in too much in taxes, let them keep it, why should they have to filter it through Washington, DC, and hope they get something back in the form of a so-called targeted tax cut?

President Clinton—his definition of "targeted" means: It applies to somebody—not you, not me, not anybody I know—so targeted that, in effect it is Government deciding who wins and who loses. It is Government making economic decisions. I think that is a mistake.

I would hope the President would sign the tax bill that we have on his

desk that makes these changes and includes many more. I also believe we should be repealing this so-called death tax. I do not think it is right to have a death tax of 55 percent on somebody's estate that they worked their entire life on, and the Government comes in and says: Because you passed away, and you are trying to give this to your kids or grandkids, the Federal Government is entitled to take 55 percent of it. That is the present law.

If you have a taxable estate of \$3 million, the Government gets 55 percent. So people who have those estates, they spend their lives trying to figure out ways to minimize this tax or get around this tax.

You do not have to be very wealthy to be paying a lot. You can have a taxable estate of \$1 million, and the Government gets 39 percent. So that is 39 percent for a taxable estate of \$1 million. Uncle Sam says: Hey, give me about half of it. This tax bill repeals that.

Mr. President, I urge you to sign this tax bill. I know you have said that you are going to veto it. I know you would rather spend the money. You think you can spend the money better than the taxpayers. I remember the statement you made in New York, in February I believe, that said: Well, wait a minute, I guess we could give it back to the taxpayers, and let them keep it, but what if they don't spend it right?

Obviously, there are lots of ways that this President wants to spend the money. There is no limit. And there is no doubt Congress will find lots of ways to spend the money as well.

A lot of us believe it is the people's money. They should be the ones making the decision. If they want to spend it on education, or if they want to spend it on housing, or if they want to spend it on a vacation, or if they want to spend it on helping their family in different ways, let people make that decision instead of Washington, DC. We think it would help the economy more and certainly be more pro-family. Let the families make those decisions, not politicians.

So, Mr. President, again, I urge you to sign this bill. I do not have any doubt you are going to veto the bill and the real losers are going to be the taxpayers.

I also remember we passed a tax cut in 1995. The President vetoed it. We came back in 1997 and passed another tax cut, and he eventually signed it. He did not want to sign it, but he did.

As a matter of fact, in that tax bill, in 1997, we reduced the capital gains from 28 percent to 20 percent. Secretary Rubin was against it and the President was against it although he eventually signed it. He did not want to increase the estate tax exemption. We had a small exemption rate from \$650,000 to a \$1 million. He was not in favor of it, but he eventually signed it. Those very things have helped the economy. They have helped grow the economy at a faster rate than people

anticipated. And now we are in a position to make further gains.

In the bill we have on your desk, Mr. President, we cut capital gains from 20 percent to 18 percent, and index it for inflation in the future. That will help the economy. That will make the economy grow faster. That will increase jobs. That will probably raise more money for the Federal Government.

So, Mr. President, we once again, urge you to sign this tax bill. It will be a good thing for the economy. It will be a good thing for American taxpayers. It will be a good thing for American families.

Let's get rid of the marriage penalty. Let's get rid of the death tax. Let's cut taxes across the board for taxpayers. We do that in the tax bill and still save over two-thirds of the budget for debt reduction.

So, Mr. President, let's allow taxpayers to have one-fourth of the surplus. Let's let them keep it. I urge you to rise to the challenge and sign the bill.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. First, Mr. President, I thank Senator NICKLES, the assistant majority leader, for the speech he just delivered. Probably more of us should be making those points on the floor of the Senate today about the importance of the tax cut proposal, what it means to working Americans, and the fact that the President could sign it so it would become the law and we would have a fairer Tax Code. But if he vetoes it, it is going to be a real shame. I appreciate the specifics Senator NICKLES pointed out.

NOMINATION OF BRIAN T. STEWART TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF UTAH

Mr. LOTT. Mr. President, in an effort to continue to move forward on judicial nominations, I ask unanimous consent that the Senate immediately proceed to executive session to consider the nomination of Brian Theodore Stewart to be a U.S. District Judge for the District of Utah.

The PRESIDING OFFICER. Is there objection?

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. No objection to going to the measure.

Mr. LOTT. The Chair notes there was no objection to that?

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

Mr. LOTT. Mr. President, I further ask unanimous consent that there be a time agreement on the pending nomination of not to exceed 2 hours under the control of Senator LEAHY and 30 minutes under the control of Senator HATCH.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, we have spent a lot of time talking about this issue.

I spoke to the chairman of the committee today. We really want to try to be helpful and move along these judicial appointments, including the one that is so important to the Senator from Utah, Mr. HATCH.

But we would ask the majority leader if he would modify his request to provide for the same time limitation for those nominees: Berzon, White, and Paez. Maybe having made this suggestion, modification of the time agreement, we could have all these done. We could do it probably in a morning or certainly with a little added time. In fact, we would even be willing to cut down the time or add to the time if the majority leader would agree.

Mr. LOTT. Mr. President, if I could respond to the Senator from Nevada on his proposal. If he can get this agreement I have just propounded worked out, we will be able to move not only this nomination of Mr. Stewart, we will also be able to move tonight the nominees, M. James Lorenz, of California, for the Southern District of California, and Victor Marrero, of New York, for the Southern District of New York.

With regard to the nomination of Ronnie L. White, of Missouri, for the Eastern District of Missouri, we do have a time agreement we had worked out earlier. I think it was for only 35 minutes. It might require more time than that since a lot of time has lapsed, but I am satisfied we will get a time agreement on that, and we will have a vote on that one.

I think there is a possibility we could get some sort of a time agreement to consider also the nominee, Raymond C. Fisher, of California, for the Ninth Circuit, which is a very controversial circuit. But I have not had an opportunity to check on the time on that one.

So I think if we could get an understanding, an agreement with regard to Mr. Stewart, we could, as a matter of fact, move as many as five judges—two in wrapup and three with time agreements and recorded votes. The other two—Berzon and Paez—I will have to go to all of my colleagues to check and see how we can handle those. I have not been able to get a time agreement as yet. I have to confess that I have not tried it lately because I have been trying to move the other judges where there was either not an objection or there were limited objections or we could get time agreements.

So I think this is a way to keep moving the process forward. I remind the Senate that we have moved six Federal judicial nominations over the last 2 weeks and that we have the opportunity tonight to move three more. We have the opportunity, within the next 2 weeks, to move three more. That is pretty good progress. I understand the Judiciary Committee is moving toward, reporting out a number of other nominations.

So I hope we will find a way to work through all this. Everybody knows that this nominee, Stewart, is important to

the chairman of the Judiciary Committee. If we get into a situation where we are not going to move him until we get agreement on all others, then we will wind up with an all stop. I have been through that before. I wish we wouldn't do that. I don't think it is good for the people who have been nominated. Why hold up those who can be cleared or voted on and probably approved because we want to get others who are a major problem and we haven't been able to get cleared?

I will have to object at this time because I haven't had a chance to do a hotline to see how we could handle Raymond Fisher—I would have to check on all three of those. Having said that, I will have to object to that change.

Mr. REID. I say to the majority leader, I think this dialogue on the floor is constructive. I think the suggestion of the leader that we move some of these other people is something we need to do. We, of course, need to have more hearings. I see the ranking member of the Judiciary Committee, who has certainly been engaged in this and has spoken with the Senator from Utah, much more than either you or I, about this issue.

Mr. LOTT. I wish they would work this out, frankly. Then you and I wouldn't have to worry with it.

I did object. The Chair has heard objection?

The PRESIDING OFFICER. Objection was heard.

Mr. REID. We still have the leader's unanimous consent request pending though.

Mr. LOTT. I could make another one, but before I do, I am glad to yield the floor to the Senator.

Mr. LEAHY. If the distinguished majority leader will yield, the distinguished senior Senator from Utah and I have been in discussion within the last 2 or 3 minutes. We are trying to move this along and work it out. I understand the concerns the majority leader has.

As he knows, both the two times I have served here with the Democrats in the majority and the two times I have served with Republicans in the majority, I have always respected the majority leader's prerogatives in bringing things up.

My concern is not that this be a lock-step matter, but I say to my friend from Mississippi—and this is one of the things that concerns many people on this side of the aisle—there were 30 pending judicial nominations that were received by the Senate prior to the Stewart nomination coming, and they deserve our attention, too.

Obviously, I understand the special circumstances of the Stewart nomination. If we work out some of these other things, I expect to be voting for him. But there were 30 ahead of it, not all of which are on the calendar, but were received ahead of it and 6 in front of him on the Senate Executive Calendar. We have concern that they are