

SUPPLEMENTAL APPROPRIATIONS
ACT FOR FISCAL YEAR 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 4775, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4775) making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes.

Pending:

Reid Amendment No. 3570, to direct the Secretary of Agriculture to carry out a certain transfer of funds.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the pending Reid amendment be temporarily set aside in order that I may offer an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. FEINGOLD. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I wonder if the Senator will amend the request to provide that after the disposition of the amendment of the Senator from Massachusetts that the Senator from New Hampshire, Mr. GREGG, be recognized to offer an amendment.

Mr. KENNEDY. I amend my request.

Mr. STEVENS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. What is the request, Mr. President?

The PRESIDING OFFICER. The Senator from Massachusetts has requested permission to set aside the pending amendment to bring up his amendment. The Senator from Wisconsin has requested permission, at the conclusion of the Kennedy amendment, to offer the Gregg amendment.

Mr. STEVENS. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, is there objection to temporarily setting aside the Reid amendment?

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I object to Senator FEINGOLD's request to add the Gregg amendment in sequence until we can see that. May I ask Senator KENNEDY to repeat his request?

The PRESIDING OFFICER. Will the Senator from Massachusetts repeat the request?

Mr. KENNEDY. I had asked that the pending Reid amendment be temporarily set aside, and then I was going to send my amendment to the desk, if that was agreed to. Then I understood Senator FEINGOLD asked unanimous consent to go after I conclude my amendment. That is what I had understood was going to be the process. I am

glad to work out whatever arrangement.

Mr. STEVENS. So far as I understand the position of this side, we have no objection to Senator KENNEDY setting aside the Reid amendment and proceeding with his amendment, but I do object to the sequencing of any amendment after that.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I object to the request of the Senator from Massachusetts. I do not want to object, but I do, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Objection is heard. The Senator from Massachusetts still has the floor.

Mr. KENNEDY. Mr. President, I then offer—

Mr. FEINGOLD addressed the Chair.

Mr. KENNEDY. I think I still have the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is correct; he has the floor.

AMENDMENT NO. 3583 TO AMENDMENT NO. 3570

Mr. KENNEDY. Mr. President, I offer a second-degree amendment to the Reid amendment.

The PRESIDING OFFICER. The clerk will report the second-degree amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mr. SMITH of Oregon, Mrs. BOXER, Mr. DODD, Mr. REID, Mrs. MURRAY, and Mr. DURBIN, proposes an amendment numbered 3583 to amendment No. 3570.

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

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

The PRESIDING OFFICER. Is there objection to the request to ask for termination of the reading of the amendment? Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide emergency school funding)

At the appropriate place, insert the following:

SEC. __. EMERGENCY SUMMER SCHOOL FUNDING.

(a) FINDINGS; PURPOSE.—

(1) FINDINGS.—Congress finds the following:

(A) Under the amendments made by the No Child Left Behind Act of 2001, students and schools rightly are held accountable for meeting challenging State academic content and student academic achievement standards in mathematics, reading or language arts, and science.

(B) Summer programs and activities supported under the 21st Century Community Learning Centers program are critical to providing supplemental academic services and academic enrichment activities designed to help students meet local and State academic standards.

(C) Summer programs and activities supported under the 21st Century Community Learning Centers program help children and the children's families in the areas of youth development, drug and violence prevention, and character education.

(D) During the summer of 2002, school districts throughout the Nation will confront

more than \$200,000,000 in cuts to summer school programs, eliminating services and academic support to more than 150,000 struggling children.

(2) PURPOSE.—The purpose of this section is to provide opportunities for communities to provide summertime activities in community learning centers that—

(A) provide opportunities for academic enrichment, including providing tutorial services to help students, particularly students who attend low-performing schools, to meet State and local student academic achievement standards in core academic subjects, such as reading and mathematics; and

(B) offer students an array of additional services, programs, and activities, such as youth development activities, drug and violence prevention programs, counseling programs, art, music, and recreation programs, technology education programs, and character education programs, that are designed to reinforce and complement the regular academic program of participating students.

(b) FUNDING FOR SUMMER SCHOOL PROGRAMS.—

(1) IN GENERAL.—Provided that, in addition to amounts otherwise available to carry out section 4205(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7175(a)), \$200,000,000 shall be available to carry out activities described in section 4205(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7175(a)) during the 2002 summer recess period.

(2) AWARDING OF GRANTS.—

(A) IN GENERAL.—Notwithstanding section 4202 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7172), the Secretary of Education shall award grants with funds made available under paragraph (1) on a competitive basis to eligible entities serving communities whose local educational agencies are not able to meet fully the communities' need for summer school programs.

(B) PRIORITY.—In awarding grants under subparagraph (A), the Secretary of Education shall give priority to an eligible entity that is a local educational agency or who serves a community whose local educational agency—

(i) serves high concentrations or numbers of low-income children;

(ii) before June 6, 2002, announced that the local educational agency is canceling or reducing summer school services in 2002; or

(iii) is located in a State whose State educational agency, before June 6, 2002, announced that the State educational agency is canceling or reducing summer school funding for 2002.

(3) APPLICATION AND OBLIGATION.—

(A) APPLICATION.—Notwithstanding sections 4203 and 4204 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7173 and 7174), an eligible entity that desires a grant under this section shall submit an application to the Secretary of Education at such time and in such manner as the Secretary of Education may require.

(B) OBLIGATION.—Not later than 4 weeks after the date of enactment of this section, the Secretary of Education shall obligate funds made available under this section.

(4) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term "eligible entity" has the meaning given the term in section 4201 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7171).

(5) EMERGENCY DESIGNATION.—The entire amount necessary to carry out this section is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that the Kennedy amendment be withdrawn and the Reid amendment No. 3570 be agreed to; that immediately after adoption of the Reid amendment, Senator KENNEDY be recognized to offer a first-degree amendment, and that there be 60 minutes of debate with respect to the amendment prior to a vote in relation to the amendment, with the time equally divided and controlled in the usual form, with no second degree amendment in order to the Kennedy amendment prior to a vote in relation to the amendment; that upon disposition of the Kennedy amendment, the next amendment in order be one offered by Senators GREGG and FEINGOLD; that there be 60 minutes of debate prior to a vote in relation to the amendment, with no second-degree amendment in order prior to the vote, with the time divided as follows: 15 minutes each for Senators GREGG and FEINGOLD and 30 minutes under the control of Senator CONRAD or his designee; that if the amendment is not disposed of by a Budget Act point of order, then it be subject to further debate and second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Mr. FEINGOLD. Reserving the right to object, did I hear the Senator from Nevada say there will be 15 minutes each for Senator GREGG and Senator FEINGOLD?

Mr. REID. Yes, that is true.

Mr. FEINGOLD. I thank the Senator. I have no objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, before Senator KENNEDY moves forward and we dispense with amendment No. 3570, I extend my appreciation to my counterpart, the Republican whip, who has worked this very hard. It has been extremely difficult to get to where we are today, but we are moving forward. It could not have been accomplished without the help of my friend from Oklahoma.

AMENDMENT NO. 3583 WITHDRAWN

The PRESIDING OFFICER. Under the previous order, the Kennedy amendment No. 3583 is withdrawn.

AMENDMENT NO. 3570

The PRESIDING OFFICER. Under the previous order, the Reid amendment is agreed to.

The amendment (No. 3570) was agreed to.

Mr. REID. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 3608

Mr. KENNEDY. Mr. President, the amendment is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mr. SMITH of Oregon, Mrs. BOXER, Mr. DODD, Mr. REID, Mrs. MURRAY, Mr. DURBIN, and Mr. REED, proposes an amendment numbered 3608.

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

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

The amendment is as follows:

(Purpose: To provide emergency school funding)

On page 89, between lines 3 and 4, insert the following:

SEC. 807. EMERGENCY SUMMER SCHOOL FUNDING.

(a) FINDINGS; PURPOSE.—

(1) FINDINGS.—Congress finds the following:

(A) Under the amendments made by the No Child Left Behind Act of 2001, students and schools rightly are held accountable for meeting challenging State academic content and student academic achievement standards in mathematics, reading or language arts, and science.

(B) Summer programs and activities supported under the 21st Century Community Learning Centers program are critical to providing supplemental academic services and academic enrichment activities designed to help students meet local and State academic standards.

(C) Summer programs and activities supported under the 21st Century Community Learning Centers program help children and the children's families in the areas of youth development, drug and violence prevention, and character education.

(D) During the summer of 2002, school districts throughout the Nation will confront more than \$150,000,000 in cuts to summer school programs, eliminating services and academic support to more than 150,000 struggling children.

(2) PURPOSE.—The purpose of this section is to provide opportunities for communities to provide summertime activities in community learning centers that—

(A) provide opportunities for academic enrichment, including providing tutorial services to help students, particularly students who attend low-performing schools, to meet State and local student academic achievement standards in core academic subjects, such as reading and mathematics; and

(B) offer students an array of additional services, programs, and activities, such as youth development activities, drug and violence prevention programs, counseling programs, art, music, and recreation programs, technology education programs, and character education programs, that are designed to reinforce and complement the regular academic program of participating students.

(b) FUNDING FOR SUMMER SCHOOL PROGRAMS.—

(1) IN GENERAL.—That, in addition to amounts otherwise available to carry out section 4205(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7175(a)), \$150,000,000 shall be available to carry out activities described in section 4205(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7175(a)) during the 2002 summer recess period.

(2) AWARDING OF GRANTS.—

(A) IN GENERAL.—Notwithstanding section 4202 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7172), the Secretary of Education shall award grants with funds made available under paragraph (1) on a competitive basis to eligible entities serving communities whose local educational agencies are not able to meet fully the communities' need for summer school programs.

(B) PRIORITY.—In awarding grants under subparagraph (A), the Secretary of Education shall give priority to an eligible entity that is a local educational agency or who serves a community whose local educational agency—

(i) serves high concentrations or numbers of low-income children;

(ii) before June 6, 2002, announced that the local educational agency is canceling or reducing summer school services in 2002; or

(iii) is located in a State whose State educational agency, before June 6, 2002, announced that the State educational agency is canceling or reducing summer school funding for 2002.

(3) APPLICATION AND OBLIGATION.—

(A) APPLICATION.—Notwithstanding sections 4203 and 4204 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7173 and 7174), an eligible entity that desires a grant under this section shall submit an application to the Secretary of Education at such time and in such manner as the Secretary of Education may require.

(B) OBLIGATION.—Not later than 4 weeks after the date of enactment of this section, the Secretary of Education shall obligate funds made available under this section.

(4) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term "eligible entity" has the meaning given the term in section 4201 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7171).

Mr. KENNEDY. Mr. President, as I understand, we have an hour's time limit to be divided equally. I will make some very brief opening comments and then yield to my colleague and cosponsor, Senator SMITH from Oregon.

I offer this amendment on behalf of myself, Mr. SMITH of Oregon, Mrs. BOXER, Senator DODD, Senator REID, Senator MURRAY, and Senator DURBIN.

Very briefly, this amendment provides \$150 million in emergency funding for fiscal year 2002 to communities to provide students who have fallen behind in their schoolwork the opportunity to catch up with their peers. The second area of education is to award emergency grants to communities that have unmet needs for the summer school programs. Priority in funding will be given to communities that have had to eliminate or cut back their summer school programs due to local and State budget reductions and have high poverty rates. Funding is to be provided on a one-time basis to ensure there are safe learning opportunities this summer for the neediest children.

The bill before us provides urgently needed resources to fight against terrorism, and this is vitally important to the Nation. But just as we must address needs on the war front, we must also turn to urgent priorities at home. There is no greater priority than ensuring a good education for our children. Good schools are critical to the Nation's future, and they are critical

to our national security and national defense.

We want our service men and women to be well trained, well led, and with the latest in terms of technology. In order to be able to do that and perform to secure our Nation, they have to be able to have a good education.

We have learned in recent days that schools across the country are cutting back on their summer school programs, creating an emergency for our schools, for our parents, and for schoolchildren. I know the Senator from Oregon has a schedule to keep, so I will yield to him and then I will come back and give the Members an idea about what is happening with the cuts in summer school programs and the value of the summer school programs, reaching the conclusion of all who were involved in the No Child Left Behind Act, if we are going to ask our children to perform, we have to make sure they are given the kind of support they need.

The 300,000 children who are going to have their summer school eliminated will not graduate from their schools without this kind of assistance because they are the ones who are involved in this program, and then we will be faced with what their futures will be without completing their education.

In our education program, we put a strong requirement on the students to perform, on schools to support those efforts, on teachers to be qualified, and also we have a part as well to make sure those children are not going to be left behind.

I yield 10 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I thank Senator KENNEDY for yielding this time to me. I am pleased to join him in this amendment he has offered in the spirit of no child being left behind. It is obvious to anyone that the effect of the recession in many of the States, my own included, is that education is suffering devastating cuts and these are manifest particularly as to programs such as summer school.

Specifically, in my State, Portland, has eliminated summer school entirely for elementary school. It has cut its middle and high school programs in half, leaving more than 1,000 students unserved. Similar cuts are being made in Eugene, Beaverton, Salem, and in other schools across my State. These cuts are being made in States across the country as well, and preliminary reports indicate that as many as 300,000 students nationwide will not benefit from summer school this year.

I emphasize that this amendment is for any school that has unmet summer school needs. In Oregon, it means reversing summer school cuts, but in other States it may mean expanding their limited programs to reach more low-income and underserved students. If we do not step in and help our schools now, thousands of students across Oregon and across the country

will not get the extra attention they need this summer. Those are thousands of students who will suffer next year if we do not act to help them today. Let's give our school districts the resources they need to help students who need it most. I urge my colleagues to support this effort.

It is my experience as a father, that summer school is a very valuable tool in the home to motivate better academic performance by the children. Just the threat to one's children that if they do not buckle down now, they will be going to summer school, I have observed does create some degree of terror and dread and better performance.

I hate to see this eliminated because my children have shared with me later that it was a good experience and highly motivational to go to summer school. As a Senator, I can, with great enthusiasm, support what Senator KENNEDY has offered because we have, with the very best of intentions, tried to get our economy moving with the stimulus package, with which we tried to backfill the impact of State budgets. That was taken out in a conference committee, against my objections, but it was done, and we passed it.

This has created shortfalls in States. This is being manifest not only in health care programs and other cut-backs, but in education programs. It seems to me we have a role because we helped create a short-term deficit so we would have a long-term surplus, that we can, with this package today, help in a critical area by restoring summer school funding.

I have seen it work as a dad. I think we need it to work as Senators, and I urge my colleagues to join Senator KENNEDY and myself in passing this very needed amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

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

Once again, I give this information to our colleagues about the value of the summer school programs and give some examples of the studies that have been done and what the results have been. The most recent review of educational research shows that summer school programs make a difference for students. A recent review of 39 studies shows that the academic test scores declined over summer school vacation. The 13 more recent studies show summer school loss is equal to 1 month of learning at grade level. In addition, summer break was more detrimental to math computation and spelling, and the neediest students lost the most. Middle-class students gained during the summer on grade level reading tests while high-poverty students lost ground.

Our efforts with the ESEA are to target the neediest students. Research indicates quite clearly what happens to them without any summer school, but listen to what happens to them with it. The Chicago public schools initiated

the summer school program in 1996 to help children who had fallen behind catch up. Eighty-three percent of the 9,700 Chicago third graders required to attend summer school last year had met their grade level criteria by the end of the summer. That is absolutely extraordinary progress. Seventy-five percent of sixth graders and 71 percent of eighth graders made the grade by the end of the summer. Without summer school, these students would not have been promoted to the next grade.

Listen to what has happened in Ohio. Ohio test scores for fourth graders show that children in summer school and afterschool programs exceeded the statewide percentages of students meeting proficiency standards in every subject area tested: Writing, reading, mathematics, citizenship, and science. Sixth graders exceeded the statewide percentages of students meeting proficiency standards in four of the five areas: writing, reading, mathematics, and citizenship. School absences and tardiness were reduced for participating students.

Look at Fulton County schools in Georgia, operating a summer accelerated learning experience that provides full-day summer school for 1st through 12th grade, including the breakfast and lunch for all students in the community, as well as participating students. In 1999, they provided half-day programs with only 3,000 student participants; in 2000, they expanded to full day and attracted twice as many students; in 2001, they had 10,000 students. This year, they predicted 11,000 students. The district tested students at the beginning and end of the summer and found great improvement.

The value of the summer school programs has been defined for students across this country.

Against that, we have the schools that are canceling the programs. I refer to an excellent story in the Gannett News Service regarding what is happening to summer schools across the country. It points out that summer schools have been a lifeline for students who struggle to meet higher academic standards and face repeating grades. In No Child Left Behind, we have tried to eliminate social promotion. Children have to measure up. Great numbers of children now are required to take summer school in order to be able to meet the academic challenges we have included in the program.

Now we see the canceling of the programs. This is very modest, costing about \$1,000. It varies in different parts of the country but is basically about \$1,000 for the summer program per student. What is happening is, 39 States have made midyear budget cuts during the fiscal year. A May analysis by the National Association of State Budget Offices shows they are cutting students from kindergarten through high school in the summer. Expectations are rising, but the funds are not. Something has to break. The programs that could

be singled out, such as summer school, are getting the ax, according to Michael Griffith, policy analyst with the Denver Education Commission.

Across the country, budget cuts imperil summer classes. In Washington, DC, educators slice student enrollment at the District 5-week summer program by 50 percent—a reduction in Washington, DC, by 50 percent of summer school programs that children otherwise are required to take in order to try to meet the standards.

In Indiana, more than \$470 million in budget cuts forced education to cut 15 percent of the money for the summer school programs. As a result, some school districts are limiting class to key academic studies such as reading and math.

In South Carolina, districts have trimmed or eliminated summer school programs. “You cannot cut textbooks; that money was spent the first day of school,” said a spokesman for the South Carolina Department of Education, Jim Foster. One of the few things left to cut—something not done yet—is summer school.

I will mention some of the reductions. In Florida, in Dade County, 19,000 students are cut out of summer school programs; in Hillsborough County, FL, 36,000 students have lost the summer school program; in Broward County, 40,000 students have lost summer programs; in my State, Massachusetts: Worcester County, MA, 6,000; more than 25,000 in the State of Michigan. Even in smaller communities, in South Carolina, in Laurens County, \$100,000 for 280 students is eliminated. In Marion County, SC, \$50,000 was eliminated, and 200 students, needy in terms of education requirements, see their program eliminated.

In Wisconsin, \$60,000 in Mequon; 1,200 students. This is over 300,000 students according to the latest information.

This is an emergency. We have in the program provided the Secretary obligate the funds within 4 weeks or sooner. If we are able to get it, there is every expectation that the appropriators will move this conference rapidly. The differences are minimal. There are some differences with the House, not great. They will move it rapidly, I expect in a matter of days, and we will get the final outcome with the inclusion of this amendment. All that has to happen, from our conversations with school superintendents, school boards across the country, if the Secretary obligates the money, they will have the resources and they can reinstate these summer programs.

The Department at the present time has on file \$150 million in worthy, highly regarded 21st century summer school and afterschool applications—already ranked and already peer-reviewed, on the Secretary’s desk. He could approve \$150 million worth of those this afternoon. They have been peer-reviewed and ranked. All that needs to be done is to give greater targeting to the needy students. We give

discretion to the Secretary to be able to do that. That would be manageable.

The Department can promise the funds to those districts placing a priority on those canceling the summer school programs or so the districts can borrow money to resume the summer programs, and the Department can then reimburse.

States contemplate more summer school cuts right now. My own State is considering a \$40 million additional cut. This is a barebones amendment to deal with an emergency. If we do not do this, these summer school programs are headed for the chop block. We made a commitment to the students that we would not leave them behind. The school districts now are saying to the students: Look, you have to make the grade in these schools, in terms of the tests, and you have to stay and do the work over the course of the summer and raise your grades because we are eliminating social promotion from these States and these local communities. So the students are prepared to go. And now we are saying the resources will not be there.

This is an emergency. It does relate to our security in a very important way in terms of the education of our children. It seems to me the Senate should be willing to accept this amendment.

How much time remains?

The PRESIDING OFFICER (Mr. JOHNSON). Twelve and a half minutes.

The Senator from California.

Mrs. BOXER. Mr. President, I am very grateful to have 6 minutes to try to put into words my strongest support for this very important amendment which has been put forward by our leader on education, Senator KENNEDY, with the strong endorsement of Senator GORDON SMITH, making it a very bipartisan amendment.

There is some confusion about what an emergency supplemental bill is. I have been in the Congress—hard to believe it—20 years, 10 in the House and 10 in the Senate, and we take up emergency supplementals all the time because there are unmet needs and we need to act.

Senator KENNEDY is pointing out a crucial unmet need. I was very delighted when he asked me to speak because I have worked hard with him, with the Presiding Officer, and others on afterschool programs for our children.

The funding will go into the afterschool programs. We all think of afterschool programs as occurring at the end of the day when kids could go home to empty houses, and so on. That is the usual way to think of it. But Senator KENNEDY is doing something interesting. What he is basically saying is afterschool ends and for some kids there is no summer school. That is afterschool in the broadest sense. So I support these funds going through the 21st Century Learning Centers.

When President Bush speaks about education, he talks about leaving no

child behind. As a mother, as a grandmother, as a Senator from the largest State in the Union, I know that when you leave a child home alone in the summertime, you are really giving a new meaning to “left behind.” We know during the regular school year what happens. The FBI has shown us the crime rate going dramatically upward after school hours. We know what happens when a child has all day to sit alone at home, without having the chance to have activities funneled into something positive, without having the chance to hone their skills for the rest of the year.

As Senator KENNEDY has stated so eloquently many times, we are putting much more of a burden on our youngsters to step up to the plate and achieve high standards. I support that. But at the same time, to deprive them of summer school this summer just as we are putting all these standards in place is a cruel hypocrisy. If we do not support this amendment, I think we are doing something very cruel indeed to those children.

This amendment will benefit every single State in the Union. The way it is worded, it will go to States that have a shortfall, but it will also go to areas where there is an unmet need. In my home State of California, summer school is a very high priority. But even with that, and even with the fact that in our State you cannot cut it back, in terms of State funds, we have a tremendous unmet need. Many of our children are left behind; 6,000 California students who are eligible for summer school will go without.

So I say to Senator KENNEDY: Thank you very much on behalf of those 6,000 children. This is not some theoretical debate. This is a real emergency for many of our families who do not have the wherewithal, who do not have the ability to ensure their children are protected from being alone after the school year is over. I believe with this amendment we will be making a very strong statement.

Again, it is important for colleagues to recognize that this is an emergency supplemental. Yes, it has much in it that deals with homeland security, and I support every dollar for that. But, again, as Senator KENNEDY has stated, and as former President Dwight Eisenhower stated—because he was the first one to call attention to this—if we do not educate our children, we are taking a national security risk.

It is not a stretch in my mind to say that for kids home alone who should have an effective summer school program, that is, in fact, an emergency. That is, in fact, something we must address in this bill. It is an emergency.

Again, I believe the definition of afterschool certainly should apply to this situation. After school is over, what happens to our children? Many of them will be fortunate, they will have summer school; their energies will be channeled; their talents will be invigorated. They will do better in the

school year following. But many of them are left behind.

If our President means what he says—and I know in his heart he means it—he ought to support this.

I thank my colleague from Massachusetts for his leadership on this.

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

Mr. KENNEDY. Mr. President, how much time now remains?

The PRESIDING OFFICER. The Senator has 6 minutes.

Mr. KENNEDY. On the other side, Mr. President?

The PRESIDING OFFICER. Thirty minutes.

Mr. KENNEDY. Mr. President, I will take 2 minutes. I mentioned earlier the impact on some of the counties. I want to point out this is not just large communities or small communities, it is in all communities. I will use, for example, what some cuts mean to children. Just for the minute or two, I will use some of the counties in the State of Florida, but these are replicated in other communities.

In Hillsborough, around Tampa, a \$6.2 million cut, which is the entire program canceled for 36,000 students not served; Lee County, \$1.3 million cut, all summer school services have been cut, except for those for the IDEA students. That is 2,500 high school students will not be served.

In Leon County, they have \$1 million for their summer school program. They have now decided not to serve any of the 3,600 they intended to serve.

In Manatee County, \$1.4 million was cut from their summer program leaving just \$275,000, so that entire program is canceled, except for the students who need only one credit to graduate.

This is being replicated in rural areas, urban areas, all across the country—300,000 children were depending upon summer school in order to meet their obligations to try to meet the rigors of academic challenges in school. If we do not provide the resources here in this legislation in a timely way, those programs will be canceled and those children are in very serious risk of not being able to move to another grade or to graduate. I think that falls into the definition of an emergency.

AMENDMENT NO. 3608, AS MODIFIED

Mr. KENNEDY. Mr. President, I ask the modification that Senator SMITH and I described be made at the desk.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, what is the modification?

The PRESIDING OFFICER. The modification of an emergency designation.

Mr. BYRD. I have no objection to the Senator being able to do that.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 3608), as modified, is as follows:

At the appropriate place, insert the following:

SEC. ____ EMERGENCY SUMMER SCHOOL FUNDING.

(a) FINDINGS; PURPOSE.—

(1) FINDINGS.—Congress finds the following:

(A) Under the amendments made by the No Child Left Behind Act of 2001, students and schools rightly are held accountable for meeting challenging State academic content and student academic achievement standards in mathematics, reading or language arts, and science.

(B) Summer programs and activities supported under the 21st Century Community Learning Centers program are critical to providing supplemental academic services and academic enrichment activities designed to help students meet local and State academic standards.

(C) Summer programs and activities supported under the 21st Century Community Learning Centers program help children and the children's families in the areas of youth development, drug and violence prevention, and character education.

(D) During the summer of 2002, school districts throughout the Nation will confront more than \$200,000,000 in cuts to summer school programs, eliminating services and academic support to more than 150,000 struggling children.

(2) PURPOSE.—The purpose of this section is to provide opportunities for communities to provide summertime activities in community learning centers that—

(A) provide opportunities for academic enrichment, including providing tutorial services to help students, particularly students who attend low-performing schools, to meet State and local student academic achievement standards in core academic subjects, such as reading and mathematics; and

(B) offer students an array of additional services, programs, and activities, such as youth development activities, drug and violence prevention programs, counseling programs, art, music, and recreation programs, technology education programs, and character education programs, that are designed to reinforce and complement the regular academic program of participating students.

(b) FUNDING FOR SUMMER SCHOOL PROGRAMS.—

(1) IN GENERAL.—Provided that, in addition to amounts otherwise available to carry out section 4205(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7175(a)), \$150,000,000 shall be available to carry out activities described in section 4205(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7175(a)) during the 2002 summer recess period.

(2) AWARDING OF GRANTS.—

(A) IN GENERAL.—Notwithstanding section 4202 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7172), the Secretary of Education shall award grants with funds made available under paragraph (1) on a competitive basis to eligible entities serving communities whose local educational agencies are not able to meet fully the communities' need for summer school programs.

(B) PRIORITY.—In awarding grants under subparagraph (A), the Secretary of Education shall give priority to an eligible entity that is a local educational agency or who serves a community whose local educational agency—

(i) serves high concentrations or numbers of low-income children;

(ii) before June 6, 2002, announced that the local educational agency is canceling or reducing summer school services in 2002; or

(iii) is located in a State whose State educational agency, before June 6, 2002, announced that the State educational agency is canceling or reducing summer school funding for 2002.

(3) APPLICATION AND OBLIGATION.—

(A) APPLICATION.—Notwithstanding sections 4203 and 4204 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7173 and 7174), an eligible entity that desires a grant under this section shall submit an application to the Secretary of Education at such time and in such manner as the Secretary of Education may require.

(B) OBLIGATION.—Not later than 4 weeks after the date of enactment of this section, the Secretary of Education shall obligate funds made available under this section.

(4) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term "eligible entity" has the meaning given the term in section 4201 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7171).

(5) EMERGENCY DESIGNATION.—The entire amount necessary to carry out this section is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, regrettably, I must oppose the amendment offered by my friend from Massachusetts. I do not like to oppose this amendment. I would be very supportive of this amendment were it under different circumstances and not being offered to this bill. The amendment would provide \$150 million in emergency funding for fiscal year 2002 to support community summer school programs.

Last December, Congress approved and the President signed the Labor-HHS Education Appropriations Act for fiscal year 2002. That act contains significant resources for the summer school program. Currently, the Federal Government provides \$1 billion in funding for the 21st Century Afterschool Program. In fiscal year 2002, the funding increased by \$150 million.

Senator KENNEDY makes a very strong case for this program, and I certainly agree with him in the concept, but I cannot support this amendment as it is being offered to this supplemental bill.

This supplemental appropriations bill is focused on providing the resources necessary to support the war on terrorism and to secure our homeland.

In the supplemental bill, we funded the President's request for \$14 billion for the Department of Defense. We have provided \$8.3 billion for homeland defense programs.

I believe it is essential that the Senate move forward quickly in approving this bill so that Federal agencies and State and local governments have the resources they need now—not later—to prevent, to detect, and to respond to potential terrorist attacks. Funding homeland defense must be our highest priority.

Sadly, in the Statement of Administration Policy, delivered to the Senate yesterday, I believe it was, the President's senior advisers indicated they would recommend that he veto this

bill because it contains what the administration characterizes as "lower priority, nonemergency programs."

It is not clear which of our homeland defense programs the administration was referring to in their statement. Was it the funding to train and equip firefighters? Was it the funding to enhance law enforcement? Was it the funding to enhance port security? Was it the funding for airport security? Was it the security funding that the Department of Energy believes is essential to prevent terrorists from getting their hands on nuclear material but that OMB turned down?

Regardless, we are facing a veto threat because the advisers to the President at least, apparently, believe we have too much funding in the bill for homeland defense and other programs.

I believe the President and his advisers are fundamentally wrong when it comes to homeland defense.

The Vice President has said we can expect another terrorist attack—that it is almost certain. When might that happen—tomorrow, or next week, or next year? Yet the administration opposes critical homeland defense programs that our recent Appropriations Committee hearings demonstrated were necessary to fill in the cracks in the security of our homeland.

Having said all of this, I do not believe we should add fuel to the fire by adding funding to this bill for a program that was well funded in the Labor-HHS Education Act. Was it because the summer school programs used more funds? Senator KENNEDY and other Senators make a good case that it could be. But it is not an emergency.

I regret having to oppose this amendment. I think I can say without any feeling that anyone can question my statement that I have been as great a supporter of education as any Senator in this Chamber. I have supported education all through the years. I support summer school programs. But I don't support adding \$150 million to this bill when the threats of veto downtown indicate we would simply be adding fuel to the fire.

This is a tough bill. It has been very difficult to bring it thus far. We conducted hearings which were extremely substantive. We had good witnesses. We had witnesses from all over the country—Governors, mayors, and people who are at the local level, firefighters, policemen, and health officials. We had former Senator Sam Nunn and former Senator Warren Rudman come before the committee. We had seven Federal Department heads. We went into matters very thoroughly on this committee. We were concerned about homeland defense. We wanted to provide the moneys that could be used in a protective way and in a way that would make our people safe. These moneys are for schoolchildren—for the safety of schoolchildren, for safety in schools, and for the safety of the children and their parents in their homes.

I just do not want to do anything that would give the administration any assistance in arguing that we are going beyond what we should do in this particular bill. We are having a hard enough time with the administration as it is. The Homeland Defense Director, Mr. Ridge, would not come before the committee. The President would not let him come before the committee. So we had to make do with what we could. We had very good hearings even though he did not appear before the committee.

So we are doing the best we can to protect the people of this country in the face of imminent threats, if we are to pay any attention to what the administration has said about threats.

I hope we will not add this amendment to this bill. It would be difficult enough in conference to carry the bill as it is written.

We think what is in the bill, generally speaking, has been the product of our hearings. The hearings have been studied assiduously by the staff of both sides. And Senator STEVENS and I have labored hard to bring this bill thus far. I don't want to see this bill vetoed. I hope we can convince the President not to veto it. But I think we ought to be very careful not to be adding amendments on this floor that will make it easier for the administration to make its case.

I shall yield the floor at this point. I yield 5 minutes to the distinguished Senator from Alaska, Mr. STEVENS.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I thank the distinguished chairman of our committee.

I regret that I must take the position we have to take on this amendment. It provides emergency funding for communities that have summer school programs. But as we look at it, the priority is given to communities that have had to eliminate or cut back on programs due to State or local budget reductions.

We increased the money in the budget for 2002 by \$150 million above the 2001 budget in this area. Having increased it \$150 million, the State and local governments reduced their effort. And now the Senator wishes us to make up the reduction brought about by local and State reductions which they took because we had provided Federal money to assist them in the area. It is a never ending cycle if we do that.

But beyond that, I call attention to the fact that we are already in June. There is no way in God's heaven we are going to get this bill to the President before July. The normal processes of releasing money would not get the money to them before September, when the school year has started. This is no way to treat our emergency bill that is before us now to deal with emergencies of homeland defense, emergencies in defense, and other emergencies. There are emergencies. The Oklahoma bridge

is an emergency. But this is not an emergency. They are not needed on an emergency basis. They cannot be spent this summer.

I am compelled to oppose the amendment because of the circumstance we face.

I want to tell the Senate that this is the test. Everybody comes to us saying, you two big spenders are going to spend all the money around the place.

The Senator from West Virginia and I have the job of trying to urge the Senate to get this bill to conference. As I said yesterday, I would like to see just a motion to go to third reading and take the bill we brought out of committee to conference, and bring the bill back by Tuesday so it might even get to the President before July 4. But under the procedure we are now following, I seriously doubt this bill will be on the President's desk before the July 4 recess, which is a travesty.

This amendment adds to that delay because, I can assure you, the House will not accept this amendment. It is going to be opposed by the President and add to the bundle of sticks already there that brought about this threat of a veto.

So I want to ask the Senate to support the leadership of our committee and refuse to accept this amendment because it is not an emergency, to vote against this concept of waiving the point of order that the Senator from West Virginia is compelled to make. He, as I do, believes very much in children. We believe in providing the money that is necessary.

I am alarmed at the process that is underway whereby as we increase Federal spending, the State and local entities decrease theirs, so there is no net benefit to the beneficiaries we are trying to assist by bringing some additional Federal money into the areas previously occupied totally by State and local funds.

I thank the Senator.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this is an emergency. If we do not provide the resources to these States, we are going to see an increased number of children who are not going to get the help they need.

I will point out, before we get all excited about this being an emergency, there are a number of items that are included as emergencies in this supplemental: National Park Service construction at \$18 million; fire claims for New Mexico for \$80 million. I am going to support that and vote for it. But let's not leave the impression this is only for homeland security. I will not go into the several hundred million dollars for additional items in the bill.

If we are going to take care of the fire claims in the Southwest and provide funding for the National Park Service, I think we ought to provide money for children to go to school in the summer. That is an emergency, too. I hope that we would do that.

The principal money that was increased last year starts in July and is for the next fiscal year. These schools and many of the school districts did not understand the emergency. But the requirements we put on the schools were not only for the poor children, they were for every child in this country. We ought to be concerned about the emergency that every child in this country is facing when they are being knocked off assistance to meet certain standards which our bill last year required them to meet. That is why this is an emergency and why I think it is important.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator from West Virginia controls 16½ minutes.

Mr. BYRD. How much time does the opposition have?

The PRESIDING OFFICER. Two minutes 15 seconds.

Mr. BYRD. Mr. President, I know it is easy to point to a bill that is a \$31 billion bill. We increased that bill yesterday by \$393 million. So it is \$31,393,000,000.

Now, it is easy to look at that, easy to pick at little items—pick, pick—but I think that if those items are considered and studied and all the facts are known, they are justified. They are justified.

We do the best we can with a big bill. I do not take a back seat to anybody in support for the people of this country: the education of our children, young people, and adults.

Last year, the President requested \$44.5 billion for discretionary education programs. This level was woefully inadequate. Through negotiations with the White House, I was able to reach agreement on a ceiling for discretionary spending that was high enough to provide a \$4.4 billion increase for our Nation's education programs.

Following that agreement with the White House, I provided, as chairman of the Appropriations Committee, an allocation to the Labor-HHS Education Subcommittee that was large enough for Chairman HARKIN to approve a \$4.4 billion increase over the President's request and \$6.7 billion, or 16 percent, above the prior fiscal year.

So if you are looking for "Mr. Education" around here, I will stay in the ring; I will fight for that as hard as anybody else. I got my education the hard way. I started out in a two-room schoolhouse in southern West Virginia. I graduated in 1934 in a class of 28 persons. I was the valedictorian. If there had been 29 persons, I might not have been valedictorian. But it was 16 years after I completed high school before I was able to start college.

So don't talk to me about education. You are looking at somebody who typifies the effort to study and to learn and the effort to help others to learn.

I went to school 10 years at night in this city to get my law degree, not that I ever expected to be a lawyer, but I wanted to learn. I am still learning.

I chose this past Sunday to travel miles into the mountains of West Virginia to address a commencement. I had several commencement invitations from West Virginia high schools and colleges. I chose one. I chose to address the commencement at a high school in Pickens, WV, near Helvetia, a little town that was founded by Swiss immigrants in the early 1800s.

How many students were in that whole school? Thirty-seven from kindergarten through the senior class. How many students were in the senior class? Three—not 300; two young men and one young woman.

Why did I choose them? I wanted to go to that little school to let those little people back there in the hills, who might feel that they are off the beaten path, that somebody was interested, somebody was paying attention to them.

That little school has won several of the Statewide academic awards. They don't go in big for athletics—I don't, either—they concentrate on academics, and they won several awards. A little school with one ten-thousandths of the whole school population in West Virginia has won 11 percent of the academic awards in that State.

So I am for education. I want to help our young people. Years ago, I fought for summer jobs for young people in this District of Columbia so they could work and, hopefully, stay out of trouble.

So I can shout as loud as anybody, and I can believe what I am saying as conscientiously as can anybody else. I am doing what I can for education. Education is one of my priorities; it always has been. But this is a different bill. We are talking about the safety of young people who attend schools at Pickens, Sophia, or here in Washington, DC. We are talking about the safety of people.

This administration tells us that we might see a repeat of what happened on September 11; it is almost certain.

This bill needs to pass. We need to get it to conference. We need to get it to the President. And I hope that the President will not veto it. It is a worthwhile bill—not that the amendment that the distinguished Senator is proposing is not worthwhile. I support that amendment but not on this bill—not on this bill.

I have a job to do here, and it is to try to get the bill through.

How many minutes remain?

The PRESIDING OFFICER. Ten minutes remain.

Mr. BYRD. I thank the chair, and I yield the floor for now.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. I yield 3 minutes to Senator GREGG.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I thank the chairman of the committee. I rise in opposition to this amendment which is obviously well intentioned but unfortunately is not affordable at this time, and certainly not on this bill. It is inconsistent with some of what we have already done in the area of summer school education.

First, the reason it is inconsistent is that there is no way this bill is going to pass in time for this money to get out for the summer school activities. As a practical matter, although it would be a nice vote and obviously would be politically attractive, its impact on summer school will be negligible, if any at all, because the money simply will not get there.

Secondly, it is important to remember that in the ESEA bill, we have given the authority to local school districts to spend title I money for the purposes of summer school, which makes a great deal of sense, and the President has increased funding for title I by \$1.6 billion last year and asked for another \$1 billion this year. Those are significant dollar increases.

If a local school district desires, it can use those moneys for the purpose of extending the school year or aggressively promoting summer school. The money is in place, already appropriated. As a practical matter, it is following a path which we set under ESEA, which was the bill we passed, No Child Left Behind, and is part of that entire package.

Although this additional money is certainly well intentioned, I don't see it having much effect because it is not going to get to the schools by this summer because the money will not be available in that timeframe.

Secondly, we have already funded these programs through the dramatic increase in title I which has come about as a result of the President's leadership.

For that reason, I oppose the amendment. I yield back my time.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER. Two minutes 10 seconds.

Mr. KENNEDY. And on the other side?

The PRESIDING OFFICER. Eight minutes.

Mr. KENNEDY. Mr. President, I will yield the remaining time to myself.

While taking care of the war front, we also must take care of the home front. Summer school is an emergency for 300,000 schoolchildren who may not graduate without this amendment. It is just as deserving as other emergency items in this bill. There are other emergency items: National Park Service construction, \$18 million; Bureau of Indian Affairs, department management, \$7 million; Forest Service capital improvements, \$4 million; fire claims, \$80 million. These are all under

the emergency provisions. I believe \$150 million for summer school programs for children is as deserving as those programs.

In the end, this is about families, it is about children, it is about who we are as a nation. Can we protect our interests abroad and also help our children here at home?

I know a point of order will be made. I hope we would add this as an amendment to meeting emergency requirements such as those other items I indicated have been included. Children, summer school programs, ought to be included as well.

Mr. President, I am prepared to yield back the remainder of my time, or I will withhold the time depending on the opposition.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. BYRD. Mr. President, I yield myself such time as I may require.

Mr. President, the supplemental also contains \$1 billion for the Pell grant shortfall. That is a key education program. I want the record to show that the bill is certainly not devoid of moneys that are to be spent in the interest of education.

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

The PRESIDING OFFICER. Seven and one-half minutes.

Mr. BYRD. Mr. President, would the distinguished Senator from Massachusetts like some of my time?

Mr. KENNEDY. I thank the Senator. I think we have had a good discussion. I am prepared to yield back the time. I am very grateful to the Senator. We are prepared to yield back the time and move ahead. I would retain that time if others were going to speak, but I am prepared to move to the vote on what will probably be a point of order. If the Senator cares to, I will yield back my time, if those in opposition will yield back their time.

Mr. BYRD. How much time does the Senator from Massachusetts have remaining?

The PRESIDING OFFICER. Thirty seconds.

Mr. BYRD. That would be a good tradeoff.

I consider the Senator from Massachusetts to be not only a fine Senator, but he is my friend. He is very interested in fostering education and providing good legislation and good funding. If he wants another 3 minutes, I will be glad to yield him 3 minutes of my time. I am ready to make a point of order, but I don't want to do it without giving the Senator or any other Senator who wishes to speak time on his behalf.

Mr. KENNEDY. As I mentioned, we are prepared to move ahead with the resolution. I will yield back my 30 seconds. I understand when all time has expired, then a point of order will be made. We will let the Senate make a decision. I thank the Senator very much for extending me the time. We

have had other Senators who have spoken. I think we are prepared to move ahead.

Mr. BYRD. Very well. Mr. President, I am constrained to recall a little poem which I think the distinguished Senator from Massachusetts will like. I like it very much. I think we are both interested in the same cause, the education of our young people.

As a Senator who has great-grandchildren, I certainly hope for the best for these great-grandchildren and the great-grandchildren of all other great-grandparents in the country.

I guess I will close my opposition to this amendment with this brief recapitulation of verse:

I took a piece of plastic clay
And idly fashioned it one day—
And as my fingers pressed it, still
It moved and yielded to my will.
I came again when days were past
The bit of clay was hard at last.
The form I gave it, still it bore,
And I could change that form no more!

I took a piece of living clay,
And gently fashioned it day by day,
And molded with my power and art
A young child's soft and yielding heart.

I came again when years were gone:
It was a man I looked upon.
He still that early impress bore,
And I could fashion it never more.

I think that pretty well sums up my feeling toward our young people, our children, the education of our young people. Now is the time, the formative period in their youth when we can shape and mold them to our will. Now is the best time for the learning process, while they are young and they don't have the other cares that they will have later.

I compliment the distinguished Senator for his offering of this amendment. I oppose it with apologies. But I can't help it. This bill is not the bill on which we should attach this amendment, however worthy the amendment.

With those apologies, I will make the point of order. I yield back my time.

Mr. KENNEDY. Mr. President, if I may have 30 seconds, I thank my friend from West Virginia. He can make a speech in favor of education, name every one of his elementary and secondary schoolteachers, give all of their background, and convince this body of the importance of funding. I am looking forward to standing with him, hopefully shoulder to shoulder, as we move on into these appropriations to try to do what needs to be done for the children of this country. I always enjoy the chance of working with him. My time has expired, I understand.

Mr. BYRD. I thank the Senator. I assure him we will be standing shoulder to shoulder in many instances.

Mr. President, section 205 of H. Con. Res 290, the fiscal year 2001 concurrent resolution on the budget, created a point of order against an emergency designation on nondefense spending. The amendment contains nondefense spending with an emergency designation.

Pursuant to section 205 of H. Con. Res 290, the fiscal year 2001 concurrent

resolution on the budget, I make a point of order against the emergency designation contained in the amendment.

Mr. KENNEDY. Mr. President, I move to waive section 205 of H. Con. Res 290, the concurrent resolution on the budget for fiscal year 2001 for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. KENNEDY. Mr. President, parliamentary inquiry: The "yea" vote will be interpreted as waiving the Budget Act for the purpose of this amendment, is that correct?

The PRESIDING OFFICER. A "yea" vote is in favor of waiving the Budget Act.

Mr. KENNEDY. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Jersey (Mr. TORRICELLI) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote "no."

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

The yeas and nays resulted—yeas 38, nays 60, as follows:

[Rollcall Vote No. 132 Leg.]

YEAS—38

| | | |
|-----------|-----------|-------------|
| Akaka | Harkin | Nelson (FL) |
| Bayh | Hollings | Nelson (NE) |
| Biden | Jeffords | Reed |
| Bingaman | Johnson | Reid |
| Boxer | Kennedy | Rockefeller |
| Cantwell | Kerry | Sarbanes |
| Corzine | Kohl | Schumer |
| Daschle | Landrieu | Smith (OR) |
| Dodd | Levin | Specter |
| Dorgan | Lieberman | Stabenow |
| Durbin | Lincoln | Wellstone |
| Edwards | Mikulski | Wyden |
| Feinstein | Murray | |

NAYS—60

| | | |
|-----------|------------|------------|
| Allard | Crapo | Leahy |
| Allen | Dayton | Lott |
| Baucus | DeWine | Lugar |
| Bennett | Domenici | McCain |
| Bond | Ensign | McConnell |
| Breaux | Enzi | Miller |
| Brownback | Feingold | Murkowski |
| Bunning | Fitzgerald | Nickles |
| Burns | Frist | Roberts |
| Byrd | Graham | Santorum |
| Campbell | Gramm | Sessions |
| Carnahan | Grassley | Shelby |
| Carper | Gregg | Smith (NH) |
| Chafee | Hagel | Snowe |
| Cleland | Hatch | Stevens |
| Clinton | Hutchinson | Thomas |
| Cochran | Hutchison | Thompson |
| Collins | Inhofe | Thurmond |
| Conrad | Inouye | Voinovich |
| Craig | Kyl | Warner |

NOT VOTING—2

| | |
|-------|------------|
| Helms | Torricelli |
|-------|------------|

The PRESIDING OFFICER. The yeas are 38, the nays are 60.

Three-fifths of the Senators duly chosen and sworn not having voted in the

affirmative, the motion is rejected. The point of order is sustained. The emergency designation is removed.

AMENDMENT NO. 3608, AS MODIFIED, WITHDRAWN

Mr. KENNEDY. Madam President, I ask unanimous consent that the amendment be withdrawn.

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

The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I ask unanimous consent that I be allowed to speak for up to 2 minutes as in morning business.

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

(The remarks of Mr. BINGAMAN are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. I ask unanimous consent to follow the Senator from Wisconsin with two amendments to be called up.

Mr. GREGG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I have no personal objection; however, I believe we should consult with the Republican leader, Senator STEVENS. At this time, I am constrained to object.

The PRESIDING OFFICER. The objection is heard.

Ms. LANDRIEU. Let me inquire if I could call them up and lay them aside before a decision to vote.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. I have to object.

The PRESIDING OFFICER. The objection is heard.

AMENDMENT NO. 3687

The PRESIDING OFFICER. Under the previous order, the next amendment is the Gregg-Feingold amendment.

Mr. GREGG. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for himself, Mr. FEINGOLD, Mr. CHAFEE, Mr. KERRY, Mr. VOINOVICH, and Mr. MCCAIN, proposes an amendment numbered 3687.

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

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

The amendment is as follows:

(Purpose: To extend and strengthen procedures to maintain fiscal accountability and responsibility)

At the appropriate place, insert the following:

PART —BUDGET ENFORCEMENT

SECTION 1. SHORT TITLE.

This Part may be cited as the "Budget Enforcement Act of 2002".

SEC. 2. EXTENSION OF DISCRETIONARY SPENDING LIMITS.

(a) IN GENERAL.—Section 251(c) of the Balanced Budget and Emergency Deficit Control

Act of 1985 (2 U.S.C. 901) is amended by striking paragraphs (7) through (16) and inserting the following:

“(7) with respect to fiscal year 2003—

“(A) for the discretionary category: \$766,169,000,000 in new budget authority and \$758,880,000,000 in outlays;

“(B) for the highway category: \$27,728,000,000 in outlays;

“(C) for the mass transit category: \$6,256,000,000 in outlays; and

“(D) for the conservation spending category: \$1,920,000,000 in new budget authority and \$1,872,000,000 in outlays;

“(8)(A) with respect to fiscal year 2004 for the discretionary category: \$784,425,000,000 in new budget authority and \$814,447,000,000 in outlays; and

“(B) with respect to fiscal year 2004 for the conservation spending category: \$2,080,000,000, in new budget authority and \$2,032,000,000 outlays;

“(9)(A) with respect to fiscal year 2005 for the discretionary category: \$801,968,000,000 in new budget authority and \$833,246,000,000 in outlays; and

“(B) with respect to fiscal year 2005 for the conservation spending category: \$2,240,000,000, in new budget authority and \$2,192,000,000 in outlays;

“(10)(A) with respect to fiscal year 2006 for the discretionary category: \$819,740,000,000, in new budget authority and \$845,056,000,000 in outlays; and

“(B) with respect to fiscal year 2006 for the conservation spending category: \$2,400,000,000, in new budget authority and \$2,352,000,000 in outlays;

“(11) with respect to each fiscal year 2002 through 2006 for the Federal and State Land and Water Conservation Fund subcategory of the conservation spending category: \$540,000,000 in new budget authority and the outlays flowing therefrom;

“(12) with respect to each fiscal year 2002 through 2006 for the State and Other Conservation subcategory of the conservation spending category: \$300,000,000 in new budget authority and the outlays flowing therefrom;

“(13) with respect to each fiscal year 2002 through 2006 for the Urban and Historic Preservation subcategory of the conservation spending category: \$160,000,000 in new budget authority and the outlays flowing therefrom;

“(14) with respect to each fiscal year 2002 through 2006 for the Payments in Lieu of Taxes subcategory of the conservation spending category: \$50,000,000 in new budget authority and the outlays flowing therefrom;

“(15) with respect to each fiscal year 2002 through 2006 for the Federal Deferred Maintenance subcategory of the conservation spending category: \$150,000,000 in new budget authority and the outlays flowing therefrom;

“(16) for the Coastal Assistance subcategory of the conservation spending category:

“(A) with respect to fiscal year 2002: \$440,000,000 in new budget authority and the outlays flowing therefrom;

“(B) with respect to fiscal year 2003: \$480,000,000 in new budget authority and the outlays flowing therefrom;

“(C) with respect to fiscal year 2004: \$520,000,000 in new budget authority and the outlays flowing therefrom;

“(D) with respect to fiscal year 2005: \$560,000,000 in new budget authority and the outlays flowing therefrom;

“(E) with respect to fiscal year 2006: \$600,000,000 in new budget authority and the outlays flowing therefrom; and

“(17) with respect to fiscal year 2007 for the discretionary category: \$840,993,000,000, in new budget authority and \$858,266,000,000 in outlays.”

(b) REPORTS.—Subsections (c)(2) and (f)(2) of section 254 of the Balanced Budget and

Emergency Deficit Control Act of 1985 (2 U.S.C. 904) are amended by striking “2002” and inserting “2007”.

(c) EXPIRATION.—

(1) GRAMM-RUDMAN-HOLLINGS.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 note) is amended—

(A) by striking “2002” and inserting “2007”; and

(B) by striking “2006” and inserting “2011”.

(2) CONGRESSIONAL BUDGET ACT.—Section 904(e) of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended by striking “2002” and inserting “2007”.

SEC. 3. EXTENSION OF PAY-AS-YOU-GO REQUIREMENT.

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) is amended—

(1) in subsections (a) and (b)(1), by striking “enacted before October 1, 2002,” and inserting “enacted before October 1, 2007”; and

(2) in subsection (b) by inserting at the end thereof the following:

“(3) EXCEPTION.—Notwithstanding any other provision of law, there shall be no sequestration under this section for any fiscal year in which a surplus exists (as measured in conformance with section 13301 of the Budget Enforcement Act of 1990).”

SEC. 4. POINT OF ORDER TO REQUIRE COMPLIANCE WITH THE DISCRETIONARY SPENDING LIMITS AND PAY-AS-YOU-GO.

Section 312(b) of the Congressional Budget Act of 1974 (2 U.S.C. 643(b)) is amended to read as follows:

“(b) DISCRETIONARY SPENDING LIMIT AND PAY-AS-YOU-GO POINT OF ORDER IN THE SENATE.—

“(1) IN GENERAL.—Except as otherwise provided in paragraph (6), it shall not be in order in the Senate to consider any bill or resolution or any separate provision of a bill or resolution (or amendment, motion, or conference report on that bill or resolution) that would—

“(A) exceed any of the discretionary spending limits set forth in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 or any suballocation of such limits among subcommittees under section 302(b); or

“(B) for direct spending or revenue legislation, would cause or increase a deficit (as measured in conformance with section 13301 of the Budget Enforcement Act of 1990) for any one of the following three applicable time periods:

“(i) the first year covered by the most recently adopted concurrent resolution on the budget;

“(ii) the period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget; or

“(iii) the period of the 5 fiscal years following the first five fiscal years covered in the most recently adopted concurrent resolution on the budget.

“(2) BUDGET RESOLUTIONS.—Except as otherwise provided in paragraph (6), it shall not be in order in the Senate to consider any concurrent resolution on the budget (or amendment, motion, or conference report on that concurrent resolution) that would exceed any of the discretionary spending limits set forth in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985.

“(3) POINT OF ORDER AGAINST A SPECIFIC PROVISION.—If the Presiding Officer sustains a point of order under paragraph (1) with respect to any separate provision of a bill or resolution, that provision shall be stricken from the measure and may not be offered as an amendment from the floor.

“(4) FORM OF THE POINT OF ORDER.—A point of order under this section may be raised by a Senator as provided in section 313(e).

“(5) CONFERENCE REPORTS.—If a point of order is sustained under this section against a conference report the report shall be disposed of as provided in section 313(d).

“(6) EXCEPTIONS.—This subsection shall not apply if a declaration of war by the Congress is in effect or if a joint resolution pursuant to section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.”.

SEC. 5. ENFORCEMENT AGAINST BUDGET EVASION.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by inserting at the end the following:

“BUDGET EVASION POINT OF ORDER

“SEC. 316. (a) Discretionary Spending Limits.—It shall not be in order to consider any bill or resolution (or amendment, motion, or conference report on that bill or resolution) that waives or suspends the enforcement of section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 or otherwise would alter the spending limits set forth in that section.

“(b) PAY-AS-YOU-GO.—It shall not be in order to consider any bill or resolution (or amendment, motion, or conference report on that bill or resolution) that waives or suspends the enforcement of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 or otherwise would alter the balances of the pay-as-you-go scorecard pursuant to that section.

“(c) DIRECTED SCORING.—It shall not be in order in the Senate to consider any bill or resolution (or amendment, motion, or conference report on that bill or resolution) that directs the scorekeeping of any bill or resolution.

“(d) WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.”.

(b) TABLE OF CONTENTS.—The table of contents for the Congressional Budget Act of 1974 is amended by inserting after the item for section 315 the following:

“316. Budget evasion point of order.”.

Mr. GREGG. I offer this amendment on behalf of myself, Senator FEINGOLD, Senator CHAFEE, Senator KERRY, Senator VOINOVICH, and Senator MCCAIN.

Essentially, this amendment does two things. It reinstates the caps and it reinstates the pay-go language. It puts back in place budgetary discipline as we move through this process of appropriations bills.

Recently, we have seen the budget discipline within the Congress has eroded rather dramatically. We have seen the Agriculture bill and the trade adjustment bill both adding massive new entitlement programs. We know as we look down the road we will have very significant costs in the area of fighting terrorism and in the area of natural defense. It is absolutely critical in this context that we start to put some budget discipline in place.

We are facing, regrettably, a deficit, something we hoped would not happen, but it has happened as a result of the economic slowdown and as a result of the effects of terrorism. The deficit is growing rather radically, unfortunately. Our job as legislators is to

make sure we do not aggravate that deficit by not being fiscally responsible as we bring forward appropriations bills and other bills which might have entitlement spending included.

Unfortunately, the disciplining mechanism which actually exists out there, or has existed for the last 5 or 6 years, is about to lapse; that is, the ability to have a fixed number beyond which if we are going to spend we have to have a supermajority to do that. That is called caps.

The second budget discipline, which is pay-go, essentially says if you are going to add a new entitlement program or you are going to cut taxes during a period, especially of deficits, you must offset that event so that it becomes a budget-neutral event that also lapses.

This language which Senator FEINGOLD and I have put together and which failed on a very close vote in the Budget Committee, a tie vote, in fact—it would have passed with one more vote—reinstates the same traditional approach—so 5-year caps, 5-year pay-go, and, as a result, put in place some discipline.

There are some subtleties to our bill about which I want to be open. Some people have looked at them and said they are interested in them and some said they are concerned about them. One is the way we enforce this mechanism by saying the bill which exceeds the caps allocated to it by the chairman of the Appropriations Committee, the 302(b) allocation, that if a bill exceeds that cap, that bill is subject to a point of order on specific parts of that bill, depending on what part of that bill is unable to be sustained with 60 votes. So it becomes a targeted approach of trying to bring that bill back into proper perspective as far as appropriations and the budget are concerned.

Second, the basis for the cap is the Democratic budget proposal as it passed the committee. So the numbers are for the 5 years. Those were the gross numbers. Those numbers are higher than those of the President this year by \$9 billion, but over the 5-year period they are actually about the same as the President's number. In fact, I think they are within a couple of billion dollars of each other. As a practical matter, there is a path toward maintaining fiscal responsibility.

If we do not do this, if we do not put back in place caps and pay-go mechanisms, we will have no budget discipline in this Congress, and, as a result, we will dramatically aggravate the deficit which, of course, impacts a lot of important issues, but especially impacts Social Security.

I hope my colleagues will support this effort. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I rise today to join with my colleague from New Hampshire, Senator GREGG, as well as my colleagues Senators CHAFEE, KERRY,

VOINOVICH, and MCCAIN to offer this amendment, which I believe is a commonsense budget process amendment, the Budget Enforcement Act of 2002.

Let me especially thank the Senator from New Hampshire, who has been a terrific leader on this issue. As he said, we made a real effort in the Budget Committee, had an excellent debate with the chairman of the Appropriations Committee and only lost on a 9-to-9 vote. We were hoping for a good result today, but we are both devoted to returning some budget rules because we both believe this is one of the main reasons we were able to have some success in the 1990s in bringing the budget under control and actually getting to the point where we had a surplus for a brief period of time.

In the 1990s, we took fiscally responsible actions that led to balancing the budget in 1999 and 2000, without using Social Security, which was a tremendous achievement. Last year, the Government returned to the bad habit of using the Social Security surplus to fund other Government activities. I believe we have to put an end to that practice. The Government will not have these Social Security surpluses to use forever. In the next decade, the baby boom generation will begin to retire in large numbers. Starting in 2016, Social Security will start redeeming the bonds that it holds, and the non-Social Security government will have to start paying for those bonds from non-Social Security surpluses.

The bottom line is that, starting in 2016, the Government will have to show restraint in the non-Social Security budget so we can pay the Social Security benefits that Americans have already earned or will have already earned by that time.

That is why we cannot continue to enact either tax cuts or spending measures that push the Government further into deficit. Before we enter new obligations, we need to make sure we have the resources to make our Nation's commitment to our seniors under Social Security. I believe we need to return to the priority of protecting the Social Security trust fund. We should, as President Bush said in a March 2001 radio address, “keep the promise of Social Security and keep the Government from raiding the Social Security surplus.”

Yes, September 11 changes priorities and how the Government spends money, but September 11 does not change the oncoming requirements of Social Security. As an economist has said: Demographics is destiny; we can either prepare for that destiny or we can fail. To get the Government out of the business of using Social Security surpluses to fund other Government spending, we need to strengthen our budget process. That is what this amendment does and that is why we urge our colleagues to support it.

The history of budget process changes teaches that realistic budget enforcement mechanisms work. The

Budget Enforcement Act of 1990, enacted with bipartisan support, with a Democratic Congress and a Republican President, deserves much credit for helping to keep the Government on that path to reduce and eventually eliminate the deficit.

A central feature of the 1990 act was the creation of caps on appropriated spending. Of course, in recent years, Congress has blown through those caps, when those caps were at unrealistic levels, and when the Government was running surpluses. But in most years of their history, appropriations caps helped to constrain the politically understandable appetite to spend without limit.

Congress has repeatedly endorsed the idea of spending caps. Congress renewed and extended the caps in the budget process laws of 1993 and 1997. And six of the last eight budget resolutions have set enforceable spending caps. If budget numbers are to have any meaning—if they are not to be just wishes and prayers—then we need to have enforcement.

Our amendment would reinstate and extend the caps on discretionary spending, and would do so at a realistic baseline. It would simply set those levels at those in the budget resolution reported by the Budget Committee on March 22. And our amendment maintains, without change, the separate subcaps created in the Violent Crime Act of 1994 and the Transportation Equity Act of 1998.

Like the 1990 budget law that it extends, our amendment would apply budget enforcement to entitlements and taxes. It would extend the pay-as-you-go enforcement mechanism. All parts of the budget would thus be treated fairly.

Our amendment would also improve the points of order that enforce the caps and pay-as-you-go enforcement. It would allow Senators to raise a point of order against specific provisions that cause the caps or pay-as-you-go discipline to be violated. This part of the amendment will work very much like the important Byrd rule that governs the reconciliation process, which is of course named after the distinguished senior Senator from West Virginia.

Under our amendment, if a piece of legislation violates the caps or pay-as-you-go discipline, any Senator could raise a point of order and force a vote on any individual provision that contributes to the budget violation. If the point of order is not waived, then the provision would be stricken from the legislation.

The amendment would also shut back-door ways around the caps and pay-as-you-go enforcement, by requiring 60 votes to change the caps, alter the balances of the pay-as-you-go scorecard, or direct scorekeeping.

Our amendment would limit the exceptions to the point of order against emergency designations in the fiscal year 2001 budget resolution, so that all

emergencies would be treated alike. Our amendment would thus treat emergencies as they were treated in the text of that budget resolution when the Senate passed it on April 7, 2000, rather than in the watered-down form it had when it came back from conference with the House of Representatives.

Finally, our amendment would extend for 5 years the requirement for 60 votes to waive existing points of order that enforce the Congressional Budget Act. The 60-vote requirement that gives these points of order teeth expires on September 30 this year under current law.

This is sensible budget process reform, in keeping with the best, most effective budget process enforcement that we have enacted in the past. It would make a significant contribution toward ending the practice of using the Social Security surplus to fund other government activities. That is something that we simply must do, for our seniors, and for those in coming generations who will otherwise be stuck with the bill. I urge my colleagues to support this amendment.

Madam President, I ask unanimous consent that a summary of the amendment be printed in the RECORD.

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

GREGG-FEINGOLD-CHAFEE-KERRY AMENDMENT—BUDGET ENFORCEMENT ACT OF 2002

Appropriations Caps—The amendment would reinstate and extend for 5 years the caps on discretionary spending, keyed to the levels in the budget resolution reported by the Budget Committee. Points of order and the threat of across-the-board cuts would continue to provide enforcement.

Pay-as-You-Go Entitlements and Taxes—The amendment would reinstate and extend the pay-as-you-go discipline that controls entitlement spending and tax law changes. Points of order and the threat of across-the-board cuts would continue to provide enforcement.

Point of Order Against Specific Provisions that Violate the Caps or Pay-as-You-Go—If legislation violated the caps or pay-as-you-go enforcement, the amendment would allow any Senator to raise a point of order against (and thus force a vote on) any individual provision that contributed to the budget violation. If the Senate did not waive the point of order, then the provision would be stricken from the legislation. This point of order would work just like the Byrd Rule against extraneous matter in reconciliation legislation.

Guarding Against Budget Evasions—The amendment would shut back-door ways around the caps and pay-as-you-go enforcement, by requiring 60 votes to change the discretionary caps, alter the balances of the pay-as-you-go scorecard, or direct scorekeeping.

Extending Existing Points of Order—The amendment would extend for 5 years the requirement for 60 votes to waive existing points of order that enforce the Congressional Budget Act. The 60-vote requirement that gives these points of order teeth expires on September 30 this year under current law.

Mr. FEINGOLD. I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time? If no one yields time, time

will be charged proportionately against the Senators who control time.

The Senator from New Hampshire.

Mr. GREGG. I yield 4 minutes to the Senator from Rhode Island, Mr. CHAFEE.

Mr. CHAFEE. Madam President, I rise today in support of the amendment sponsored by Senators GREGG, FEINGOLD, KERRY, VOINOVICH, McCAIN, and myself.

This is a commonsense amendment that extends existing appropriations caps and pay-as-you-go rules for another 5 years. In addition, the amendment strengthens some budget enforcement mechanisms.

The Senators that have spoken before me have done an admirable job of explaining the provisions in the bill. I want to stress the necessity of fiscal discipline.

Every day constituents and experts talk to me about spending programs that are vitally important to them, asking me to support increased spending. Just as often I hear from people who want to do away with some tax, or lower a tax. They all have excellent arguments, and there is much merit to the initiatives they would like me to support. The problem is that if I were to support each of them, I would be supporting an agenda of cutting taxes and increasing spending. Such an agenda would directly result in deficit spending, which would increase the already enormous Federal debt.

In good conscience, I cannot support such an agenda. Therefore, often I must tell visitors that I cannot be supportive of their cherished initiative. As all in this body know, telling constituents that you do not support their project is a difficult job, especially when the reason that I give them is that "The money just isn't there." Because they respond by saying, "The money always seems to be there."

The problem is that they are right. In a time of war, and deficits, we have approved new tax cuts, which I opposed. We are contemplating permanently extending other tax cuts, which I will oppose. As if that were not enough, we also have added a raft of new spending—including the farm bill and the stimulus—which I opposed. There is no end in sight.

We have gone from record surpluses straight back to deficits. We approved a massive tax cut last year, which limits the amount of money available. We know that the war on terrorism will be very costly. We know we are facing unprecedented demographic changes that will result in staggering costs to sustain Social Security and Medicare. Added to all that, we have a \$6 trillion debt, which costs \$200 billion in interest payments each year. And we practice no restraint. We continue to spend money, deepening the hole we are in.

This amendment is a step towards reestablishing fiscal discipline in this body. It alone will not ensure the return of balanced budgets—but it is a step in the right direction. Therefore, I

urge all my colleagues to support this amendment.

The PRESIDING OFFICER. Who yields time? The Senator from North Dakota.

Mr. CONRAD. Madam President, how much time remains?

The PRESIDING OFFICER. The Senator from North Dakota has 30 minutes.

Mr. CONRAD. How much time remains on the other side?

The PRESIDING OFFICER. The Senator from New Hampshire has 8 minutes; the Senator from Wisconsin, 9.

Mr. CONRAD. Madam President, I ask the Chair to advise me when I have consumed 10 minutes.

Madam President, the amendment offered by our colleagues is well intentioned. In fact, I share many of the goals they have enunciated today. We have an enormously serious problem with the fiscal condition of the country. This chart shows that we are now headed for a return to an era of deficits that is going to continue long into the future. This chart goes back to 1992, back to the time when we were deep in deficit. Many of us know the extraordinary efforts that were required to lift us out of deficit, back into surplus, which we enjoyed for just a few short years.

Last year, a series of decisions were made on a massive tax cut. Then, of course, the attack on the country occurred that led to increased spending for defense and homeland security. At the same time, there was an economic slowdown. We experienced those three events—the massive tax cut, the attack on this country that led to increased spending, and, of course, the economic slowdown. Those three, led by the tax cut—the tax cut was the biggest contributor to returning to deficit—has plunged us back into deficit by very large amounts that are going to continue the rest of the decade. That is the circumstance we face.

The proposal by our colleagues has a very serious set of problems attached to it. They have gone to what is an enforcement mechanism that we have seen in the past. If you liked Gramm-Rudman, you will love Gregg-Feingold because they have returned to the notion of enforcement based on projections; not what actually happens but based on projections of what will happen.

This is a fatal flaw. In fact, it could undermine the very budget discipline they are seeking to support. Have we forgotten what happened under Gramm-Rudman? Have we forgotten the endless game playing and gimmicks that resulted from Gramm-Rudman?

Have we forgotten the rosy scenario? Let us go back to 1990 and look at what could happen under the proposal of our colleagues to now again rely on forecasts and projections rather than real results.

Back in 1990, OMB told us at the beginning of the year that we were going

to have a \$100 billion deficit. They were right on track with the deficit reduction plan that was in place. That is what they said.

What actually occurred? It wasn't a \$100 billion deficit. It was a \$221 billion deficit.

All projections, all false; all that lead to a circumstance under the proposal from the Senator from New Hampshire and the Senator from Wisconsin that could lead a Congress to have more tax cuts, more spending, based on a projection that everything was OK. Later in the year, when reality sets in, their answer is to only deal with half of the equation that leads to budget deficits. Budget deficits are a result of an imbalance between spending and revenue. Their only answer is on the spending side of the equation. That is, I think, a mistake.

Let us look at what it took to get us back into balance. Back in the 1980s—here is the blue line, the revenue line, and the red line is the spending line. We can see for a very long period that spending exceeded revenues, and by large amounts. The result was a quadrupling of the debt of the United States.

What happened in 1993? We passed a plan to cut spending and to raise revenue. It was that combination that led us back to fiscal responsibility, that led us back to balance, that eliminated deficits, and that reduced debt.

Have we forgotten that worked?

I hope very much that we don't go down this slippery slope of a whole new enforcement mechanism based on projections rather than real results. That way leads to real trouble.

In addition to those problems, our friends who are coming before us with this amendment—well intentioned as it is—I think do underestimate the uncertainty of our time.

When this headline appeared on September 12, everything changed. This headline says, "U.S. Attacked."

We all remember that somber day when there were two strikes at the World Trade Center and passenger airliners turned into flying bombs, and what happened shortly thereafter with the attack on the Pentagon. That changed everything. We are now in a period of extraordinary uncertainty.

Here are recent headlines that talk about uncertainty. This is the Vice President of the United States warning of future attacks:

Possibility of another al-Qaida strike "almost certain," the Vice President says.

In this circumstance, we should not be tying the hands of the Congress and the administration for the next 5 years. None of us are wise enough to know what demands may be made on this country. None of us can know what is in the next 24 hours, much less the next 5 years.

We ought to be ready to respond to any attack and any strike against this country. We ought not to be in a fiscal straitjacket that makes a response more difficult.

It is not just the Vice President of the United States. This is the head of the FBI: "Warns of Suicide Bombs."

Calls U.S. attacks akin to those on Israel inevitable.

Our friends who are sponsoring this amendment will say we have a way around that for defense spending. We only have a simple majority vote for additional defense spending.

Those are not typical defense expenditures that are being used to respond to terrorist attacks. Defense is part of it, but another part is called "homeland security." Homeland security funding is not off in the defense budget. It is in the budget of the FBI, it is in the budget of the INS, it is in the budget of the FAA, it is in the budget of the Transportation Department, and it is in the budget of the Department of Health and Human Services to respond to attacks and to bioterrorism. The money needed to defend this Nation is not just in the defense budget.

Have we forgotten the response of this Congress to the attacks of September 11? Was it just defense spending that we increased? Absolutely not. We also responded with money for homeland security because we understood a terrorist threat to this country could not be just defended in the traditional way.

The uncertainty goes to other areas as well. This is a headline of Tuesday of this week in USA Today:

Nuclear Clash Would Batter World Financial Markets.

They are talking about what would happen if a nuclear exchange occurred between India and Pakistan. They alert us to the fact that it would batter world financial markets.

Nuclear war would spark a sell-off and send world stock markets tumbling.

This is a period of uncertainty, and we ought not to be tying the hands of the Congress being able to respond.

The uncertainty is not just on the spending side of the equation. It is also on the revenue side of the equation.

This is a headline of April 26 in the Los Angeles Times:

Lower Tax Receipts Could Double the United States Budget Deficit . . .

In this year alone.

I agree with that analysis. I think we are headed for a budget deficit this year of perhaps \$160 billion and next year an even larger budget deficit.

That is why enforcement provisions are critically important. But they have to be enforcement provisions that will actually work and not make the situation worse.

I wish to announce my intention now to offer the budget enforcement provisions that have worked, and to do so after the disposition of this amendment.

Let me add one other observation about the amendment that is being offered.

The Gregg-Feingold proposal extends the statutory pay-as-you-go enforcement procedures for 5 years, but it substantially amends the current pay-go

law to allow direct spending increases or tax cuts to be enacted without being paid for if the Office of Management and Budget projects that there will be a surplus without Social Security.

That is the Achilles' heel of this amendment. It is based on projections and not real results.

We have been down that road before. It was a disaster for fiscal responsibility. Let us not repeat it.

I thank the Chair. I yield the floor and retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Madam President, I yield 5 minutes to the Senator from Arizona.

Mr. MCCAIN. Madam President, I rise in support of the Gregg-Feingold-Kerry amendment. I believe there is no perfect solution. There is no perfect answer to the problem we face. Perhaps some may argue that the caps for the first year are too high. Perhaps if I had written this amendment I might have made them lower. The fact is, without this amendment, there is no fiscal discipline. There is no fiscal discipline that can be imposed on a process which has lurched out of control.

To state the obvious, we have gone from estimates of \$50 or \$60 billion surpluses at the beginning of this year, to somewhere around \$100 billion, \$150 billion deficits, and we have not even passed the first appropriations bill. And if this emergency supplemental, which is \$4 billion higher than the President's, is any indicator, we are going to be in a sea of red ink.

I think it is a bipartisan effort. It extends discretionary spending caps and the pay-go requirement for entitlement expansions and tax cuts.

These mechanisms have helped to impose fiscal discipline since they were first enacted in 1990, but they obviously expire this year. It would be ironic and irresponsible to let the caps and the pay-go expire just when the budget is punching back into deficit.

There are a lot of organizations around the country. One that I respect, and I know my colleague from New Hampshire respects, is the Concord Coalition.

The Concord Coalition is chaired by former U.S. Senators Warren Rudman and Bob Kerrey. They serve as the Concord Coalition's cochairs. And former Secretary of Commerce Pete Peterson serves as president.

They issued some grades. They are a fiscal responsibility organization. And the Concord Coalition just released this report on fiscal responsibility:

Overall: Progress toward short, medium, and long-term fiscal responsibility, D;

Short-Term: Enacting measures that maintain fiscal responsibility, C-;

Medium-Term: Enacting measures that are fiscally responsible over the next 10 years, D-;

Long-Term: Enacting measures that deal with the entitlement financing gap and ensure fiscal sustainability, D-

They begin their report by saying:

Crocodile tears are flowing over the return of budget deficits—now likely to exceed \$100 billion this year and next. Nearly everyone says they want the dip back into red ink to be brief. But almost no one is willing to give up anything to ensure that result. Indeed, the attitude seems to be: if deficits are back, let's make the most of them and blame someone else for the result.

They go on to say:

The bottom line—observed but not altered by the events of 2001—is that our nation's greatest fiscal challenge remains the need to finance the huge unfunded retirement benefits and health care costs of a permanently older population.

Madam President, I ask unanimous consent that this release be printed in the RECORD.

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

[From the Concord Coalition, June 2002]

THE CONCORD COALITION'S REPORT ON FISCAL RESPONSIBILITY
DEFICITS ARE BACK, AND THE BUDGET BAZAAR IS OPEN FOR BUSINESS

It is now clear that the appropriate loosening of fiscal policy undertaken in response to the mild recession and devastating terrorist attacks of 2001 is turning into a headlong retreat from long-term fiscal responsibility. Crocodile tears are flowing over the return of budget deficits—now likely to exceed \$100 billion this year and next. Nearly everyone says they want the dip back into red ink to be brief. But almost no one is willing to give up anything to ensure that result. Indeed, the attitude seems to be: if deficits are back, let's make the most of them and blame someone else for the result.

Tax cut advocates, defense hawks, farmers, educators, health care providers and beneficiaries, transportation planners, and veterans groups all insist that deficits are no reason to scale back their claims on a surplus that no longer exists. Each interest group has a grassroots constituency and an army of lobbyists. And each is prepared to threaten political retribution if every dime of its wish list is not funded. This may be an attractive short-term political strategy, but it's a terrible long-term fiscal policy.

The bottom line—observed but not altered by the events of 2001—is that our nation's greatest fiscal challenge remains the need to finance the huge unfunded retirement benefits and health care costs of a permanently older population. The Baby Boomers' retirement costs will begin to impact the budget in just six years, and there is no plan for dealing with them other than to run up the debt. Surpluses would help by either reducing the debt, which provides needed savings and fiscal flexibility, or by providing resources to help pay the transition costs of Social Security and Medicare reform. Deficits can be acceptable as a short-term fiscal stimulus, but returning to chronic deficit spending would make the long-term challenge far more difficult.

Washington policymakers should focus on regaining budget surpluses as soon as is practicable. Instead, the recent breakdown in fiscal discipline, the refusal to acknowledge many likely expenses, and the wavering commitment to any particular goal—be it a unified balanced budget or balance excluding Social Security—signal that a prolonged period of deficits far in excess of official projections is probable. The question now being tested is whether the political will exist to reverse this trend. The preliminary answer is a decided: no.

THE FISCAL RESPONSIBILITY REPORT CARE

The Concord Coalition has graded Washington's performance on fiscal policy in three key time frames: the short-term (next 1-2 years), the medium-term (next 10 years), and the long-term (beyond the next 10 years). Each category is graded on a scale of A to F, with A signifying great improvement, and F signifying great harm. There is a necessary overlap in the consequences of policy decisions throughout the time frames.

Category and Grade

Overall: Progress toward fiscal responsibility: D.

Short-Term: Enacting measures that maintain fiscal responsibility over the next 1-2 years: C-.

Medium-Term: Enacting measures that are fiscally responsible over the next 10 years: D.

Long-Term: Enacting measures that deal with the entitlement financing gap and ensure fiscal sustainability: D-.

SHORT-TERM GRADE: C-

For reasons largely beyond the control of policymakers, the short-term outlook has gone from projected surpluses in excess of \$300 billion to probable deficits in excess of \$100 billion. (See table on Page 4.) Fiscal policy decisions in the current environment are more difficult than usual because actions to stimulate the economy and beef-up security, while legitimate in the short-term, create the risk of higher deficits in the long-term.

Given the circumstances, the test of fiscal responsibility is not whether the budget falls into deficit for a year or two but whether actions that subtract from the bottom line are carefully designed to meet legitimate immediate needs while minimizing costs in later years.

Even using this lenient standard, policymakers rate a polite C minus for the short-term. The "economic stimulus" bill enacted in March came to the rescue of an economy that was already recovering on its own. And even if a stimulus was justified as insurance, there was no need to extend the bill's costly accelerated depreciation provision for three years—well beyond any immediate need. Moreover, the assumption that the depreciation break will be allowed to "sunset" in September of 2004—two months before Election Day—is absurd. This provision will likely become a permanent new tax break at a cost of around \$200 billion over the next decade.

As for spending, President Bush acknowledged in his Budget Message that the government "will have new bills to pay." Paying these bills is not fiscally irresponsible. What is fiscally irresponsible is refusing to make trade-offs or using the current crisis atmosphere as a smoke screen for a generalized spending spree. Particularly susceptible to unscrutinized growth are the defense budget and the new loosely defined category of homeland security. Unfortunately, the President's budget proposed very few trade-offs and Congress has shown no inclination to accept any of them.

The appropriations process is just getting started so it cannot be said that the short-term situation has turned into a fiscal rout. But the signs are not promising. Congress has failed to adopt a budget resolution, failed to agree on FY 2002 supplemental spending, failed to extend expiring budget enforcement mechanisms, and failed to deal with the statutory debt limit in a timely or straightforward manner. Finally, the specter of "rosy scenario" is back, with the Administration (OMB) and the House using baseline projections that are more optimistic than CBO numbers by \$35 billion in 2003 and \$180 billion over the next five years. If these issues are not resolved quickly the result

could be a huge year-end omnibus appropriations bill—in other words, fiscal chaos.

MEDIUM-TERM GRADE: D

More harmful than the return of budget deficits in the short-term is the fact that President Bush and Congress have done very little to prevent deficits from extending well into the decade. The rapid disappearance of the projected \$3.1 trillion 10-year non-Social Security surplus should be a yellow light of caution for policymakers advocating further tax cuts and new entitlements. But their response has been to step on the gas. The Concord Coalition gives Washington policymakers a medium-term grade of D.

The new farm bill, if graded alone, would surely warrant an F. The bill increases spending by \$86 billion over 10 years and reverses the attempt under the 1996 Freedom to Farm Act to get away from Depression-era farm subsidies that distort markets, burden taxpayers, and harm the environment. Instead, subsidies are extended for major crops while new ones are created. The farm bill is a textbook case of an entitlement that survives because it is politically attractive, not because it is good policy.

Much more expensive than the farm bill are various proposals to add a prescription drug benefit to Medicare and delay or cancel scheduled reductions in provider payments. Last year, Congress set aside \$314 billion in a reserve fund for Medicare expansion. This year, despite a drop of nearly \$4 trillion in projected surpluses, the House budget resolution and the Senate Budget Committee plan (not yet considered on the floor) increase Medicare set asides to \$350 billion and \$500 billion respectively.

Adding a prescription drug benefit to Medicare, without comprehensive cost-saving reform, would not only pressure the budget in the medium-term but would make the program's long-term funding gap even wider. None of the respective plans conditions new money on such reform. Moreover, other entitlement expansions have been proposed. Overall, the Senate Budget Committee plan allows for an increase in entitlement spending of nearly \$670 billion.

The series of escalating tax cuts enacted last year is also poised to drain the budget over the medium-term by \$1.6 trillion. The phased-in nature of these tax cuts, and the "sunset" provision that cancels them all in 2010, give policymakers a valuable opportunity to reprioritize in view of new circumstances by permanently extending some of the tax cuts and delaying the effect of others until a non-Social Security surplus is achieved again. Unfortunately, the Administration and the House leadership have been pushing to lock in the entire package of tax cuts at a cost of nearly \$400 billion over 10 years. They have also proposed new tax cuts even as they call for higher spending on defense, homeland security, and Medicare. It is a recipe for sustained deficits.

Such imprudence is compounded by attempts to obscure the full budgetary effects of fiscal decisions. This year saw the return to five-year budget plans by the Administration and the House. By itself, this development is not problematic. However, last year's tax plan was based on highly uncertain 10-year projections, and its huge costs come at the end of the 10 years. The shift now to a shorter budget window seems designed mainly to disguise those costs.

Finally, the medium-term outlook is threatened by the absence of any mechanism, procedural or rhetorical, for defining and enforcing a fiscal policy goal. Both parties' pronouncements about the inviolability of the Social Security surplus are long forgotten. While the respective budget plans of the Administration, House, and Senate

Budget Committee all contemplate the return of surpluses no later than 2005, none of them would produce a non-Social Security surplus before 2012. Meanwhile, the discretionary spending caps and the PAYGO rules of the 1997 Balanced Budget Act expire this year. Without any markers for discipline, politicians have little incentive to scale back budget busting promises. Instead, they have shown a troubling comfort with using the Social Security surplus to either offset tax cuts or expand other government programs—new entitlements have even popped up in the trade and defense authorization bills.

LONG-TERM GRADE: D -

Rampant denial is the best way to describe Washington's response to the long-term fiscal challenge. While much has changed in the past year, two things remain depressingly consistent—the unsustainable path of long-term fiscal policy and the unwillingness of most political leaders to do anything about it. Concord's grade for the long-term is a D minus.

While President Bush campaigned on the need for Social Security reform, he has not followed through with a specific proposal. At his request, the commission he appointed last year did not produce a recommendation but instead came back with three illustrative models for adding personal accounts to the system. Two of the plans contained explicit provisions to improve the fiscal sustainability of the program, which personal accounts alone do not. Even though these provisions were designed to avoid any impact on current beneficiaries, political leaders of both parties reacted with horror, and the Administration has kept the commission's report firmly planted on the shelf.

Social Security has been reactivated as the third rail of American politics—touch it and die. Without any plan of their own, many Democrats have restored to scare tactics by accusing Republicans of having a "secret plan to privatize Social Security." For their part, many Republicans implausibly insist that personal accounts can be added to the current system without costing anyone anything.

Neither party is discussing the tough choices that are needed to make the program sustainable over the long-term. Instead, they are jockeying for short-term political advantage by offering free lunch solutions that rely on such diversions as an imaginary "lockbox" or meaningless benefit guarantee certificates. Regardless of the long-term challenge, the House even voted 418-0 for a small benefit expansion.

The demographic and fiscal challenges go well beyond Social Security. Medicare poses an even more difficult challenge. Together, Social Security, Medicare and Medicaid are expected to double as a share of the economy by 2030.

It will take a combination of fiscal discipline and cost saving reform to put Social Security and Medicare on a sustainable path for all generations. Washington policymakers are not pursuing either strategy. They are pursuing The Do Nothing Plan, which ultimately leads to crushing debt, burdensome taxes or broken promises.

OVERALL GRADE: D

Good policy and political expediency are often at odds, but so far in 2002, politics is trouncing policy. Surpluses "as far as the eye can see" have vanished, yet policymakers remain intent on delivering more government spending—including entitlement expansions—and more tax cuts. With the midterm elections looming, no particular fiscal goal in place, and no procedural mechanisms to rein in spending, Congress is reverting to its old "spend and borrow" habit.

Worse, the debate on how to finance the unfunded retirement costs of the coming demographic transformation has dramatically degenerated from an already low level.

Congress and the Administration can still re-establish fiscal discipline this year. But they cannot do so unless they confront the hard choices. Deficits are back and it is time to close the budget bazaar.

THE MYSTERY OF THE DISAPPEARING FY 2002 SURPLUS

(In billions of dollars)

| | |
|--|-------------|
| January 2001 CBO Baseline Unified Surplus Projection | 313 |
| Changes: | |
| Tax act w/interest | -42 |
| New Spending w/interest | -49 |
| Economic and Technical w/interest | -242 |
| Total Change | -333 |
| January 2002 CBO Baseline Unified Deficit Projection | -21 |
| Re-estimate in CBO Baseline since January 2002 | +26 |
| Economic Stimulus Package (P.L. 107-147) | -51 |
| Farm Bill Outlays: (P.L. 107-171) | -2 |
| Supplemental Outlays: (H.R. 4775) ¹ | -8 |
| Lower Than Expected Tax Receipts | -75 |
| Debt Service | -2 |
| Total Change | -112 |
| Tentative FY 2002 Unified Deficit | -133 |
| Tentative On-Budget Deficit | -290 |
| Tentative Off-Budget Surplus | 157 |

¹ The Senate Appropriations Committee version of the bill, S. 2551, is slightly higher.

Note: Numbers may not add due to rounding.

FISCAL FACTS

(Dollars in billions)

| | |
|--|----------|
| CBO March Baseline: Fiscal Years 2003-2012: | |
| Projected Unified Surplus | \$2,380 |
| On-Budget Deficit | -102 |
| Off-Budget Surplus | \$2,483 |
| Percentage of Surplus in First Five Years | 21% |
| Percentage of Surplus in Last Five Years | 79% |
| Percentage of Surplus in Last Two Years | 47% |
| Discretionary Spending: | |
| Average Annual Growth Rate Assumed in CBO Baseline | 2.6% |
| Average Annual Growth Rate 1998-2002 | 7.6% |
| Decrease in Surplus if Spending Continues to Grow at 7.6% | -\$2,719 |
| Decrease in Surplus if Spending Grows at the Rate of GDP (5.3%) | -\$1,442 |
| Change in Projected Surplus Over the Next 10 Years Since January 2001: | |
| Causes of Reduction in Surplus (As a Percentage of Decrease): | |
| Tax Cuts | 42% |
| Economic and Technical Changes | 40% |
| Increased Spending | 18% |
| National Debt: ² | |
| Gross Debt | \$6,019 |
| Increase over the past year | \$363 |
| Debt Held by Public | \$3,433 |
| Increase over the past year | \$157 |
| Intergovernmental Debt | \$2,585 |
| Increase over the past year | \$206 |
| Net Interest on National Debt in FY 2001 | \$206 |
| Net Interest as a Percentage of the Budget in FY 2001 | 11% |

¹ Includes costs of increased debt service.

² As of May 31, 2002. Note: The gross debt figure of \$6,019 trillion exceeds the statutory debt limit of \$5,950 trillion because a small portion of the gross debt is not subject to the debt limit.

Mr. MCCAIN. This amendment by Senator GREGG and Senator FEINGOLD is an effort to at least pose some kind of fiscal brakes, caps, that have worked fairly well in the past—not perfectly. But I also worry that without the enactment of this amendment, we may find ourselves continuing this hemorrhaging of spending, which is really quite almost unprecedented in the time that I have had in Congress.

In the name of the war on terrorism, we are now endangering the financial future of this Nation, and every spending issue seems to be somehow related to the war on terrorism. And clearly it is not.

I congratulate the sponsors of this amendment. I look forward to voting for it.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I thank the Senator from Arizona. I am delighted to have his support on this important amendment.

Madam President, I yield 4 minutes of my time to the distinguished Senator from Ohio, Mr. VOINOVICH, who is a cosponsor of the amendment as well.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Madam President, I rise today in support of the Gregg-Feingold amendment.

I realize that some of my colleagues will say that this is not the right time or place to consider budget process reforms. I strongly disagree. In fact, I wonder if my colleagues realize how bad the budget situation has become.

According to the most recent calculations from the Senate Budget Committee, the budget outlook has swung dramatically in the past year. Last year, CBO predicted a \$313 billion surplus for fiscal year 2002. Now, instead of a surplus, we face a tremendous deficit. We will borrow and spend the entire \$163 billion Social Security surplus and on top of that we are going to have to borrow an additional \$137 billion from the private markets. To sum it up, we are going to borrow \$300 billion in the 2002 budget.

This is new debt, on top of the staggering \$6 trillion debt we already owe. The budget outlook for fiscal year 2003 is just as bad. The way things look now, we will borrow and spend the entire \$179 billion Social Security surplus projected for next year. And on top of that we will have to borrow at least another \$100 billion to fund the Government next year.

Some people might think a surge in economic growth is going to bail us out of our budget problems. It won't. These skyrocketing deficit figures are based on CBO's assumption that the economy will grow by 5.4 percent next year. If that does not happen, the 2003 budget deficit is even going to be worse. My point is: these deficits will not go away on their own. We must prioritize. We must make hard choices. Unfortunately, our record on making hard choices is not encouraging. Just look at the farm bill. It speaks volumes about the lack of fiscal discipline in this body. We need to put our foot down and recognize the obvious. In order to be fiscally responsible we have to live within our means and we must rein in spending.

That is why I am cosponsoring this amendment. The amendment won't solve all our budget problems. As everyone in this Chamber knows, we regularly circumvent budget rules, and I have no doubt that we will push in some instances to do the same thing this time. Nonetheless, we need to do something. This amendment marks an

important first step to regain control. I am working with my friend from Wisconsin and other Senators on other legislation to improve the budget process. And we hope to introduce that legislation soon. But in the mean time, this amendment would help keep the national debt in check. We cannot wait. We have to act now. We have a moral obligation to our children and grandchildren. Remember, at the end of the day, it is their future we are mortgaging away.

I urge my colleagues to join me in supporting this very important amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, momentarily I am going to yield time to my colleague on the Senate Budget Committee, Senator DOMENICI. Before I do that, I want to respond quickly to something the Senator from Arizona said.

I am in agreement with virtually everything the Senator from Arizona said. I am going to be offering the budget disciplines that are expiring at the end of September after this amendment. I think it is absolutely critical, as the Senator from Arizona indicated, that we continue those budget disciplines. It would be a profound mistake in this country to let those lapse.

But I say to my colleagues, the amendment being offered by the Senator from New Hampshire, the Senator from Wisconsin, and others, I believe, has enormous loopholes in it, such that would actually make our circumstance worse rather than make them better.

Madam President, I hope my colleagues are listening. Under the current pay-go law, if mandatory spending or tax cuts would increase the deficit, it triggers a sequester at the end of the year. Under this amendment, it would allow projected surpluses—hear me; projected surpluses—to be used to pay for additional spending and more tax cuts, without triggering a sequester.

Are colleagues listening? They are talking about fiscal discipline, and they are backing an amendment that would impose fiscal discipline based on projections? We tried that before. It did not work because what we got were gimmicks and rosy projections.

My colleagues are well intended. I am absolutely on their side with respect to the fundamental question of fiscal discipline. But this amendment, I believe, opens a major loophole because it is based on projections rather than real results.

How much time does the Senator from New Mexico want?

Mr. DOMENICI. Is the Senator short on time?

Mr. GREGG. Will the Senator yield on that point?

Mr. CONRAD. I yield 5 minutes to the Senator from New Mexico, and then I would be happy to engage the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I hope I do not use that much time.

In the end, after I am through analyzing it, I am not going to vote with the proponents. I am going to vote against the waiver that is before us and return us to the position we were in before this amendment, if it had passed.

First, I want to, nonetheless, congratulate Senator GREGG and Senator FEINGOLD on their amendment. I think I understand why they have offered this amendment on this supplemental bill.

The amendment was offered in the Senate Budget Committee back in March, and it failed by a tie vote. But it probably would not have mattered if it had been added to the Senate Budget Committee reported resolution because, of course, the Senate has not yet considered a budget resolution, and it certainly has not considered that one.

This brings us to my second point. The failure to adopt in the Senate a budget resolution, let alone a conference on a budget with the House, has put the Congress in a unique position of not having a budget for the first time in 27 years. The one time we did not achieve a conference agreement between the House and Senate, in 1998, we nevertheless did add a so-called deeming resolution in the Senate so that the process could proceed based on a Senate-passed budget resolution in that year. We are now seeing the problems of not having any blueprint. Whether it is good or medium or not so good, we are not going to have any blueprint, and I fear as we proceed through the summer and the fall that the problems will only increase, not decrease.

I don't think I am overstating it when I say the budget process in Congress is hanging by a thread. There are some here who might say "good riddance," but with no budget resolution, no spending limits, no way to set priorities, not even some indication that we are interested in fiscal discipline, those who would do away with the budget process will live to regret the direction in which we seem to be headed and what it will yield.

That is why, absent a good and agreed-upon budget for next year, particularly as it relates to the level of appropriations I have been pressing for, at a minimum, a fiscal year 2003 spending cap, extension of expiring Budget Act enforcement provisions, including certain points of order, and other provisions that will maintain some discipline throughout the year, that is the way of supporting a major portion of the amendment you plan to offer if this one does not pass. That does not mean I approve of all of them, but they are among the provisions I think we must have if we are going to have any kind of enforcement.

I have been working with the chairman of the Budget Committee, the chairman and ranking member of the Appropriations Committee, and our leadership to develop an amendment that would provide for this needed discipline. At this time, it is unclear that

we will be able to offer this amendment or if it would have the 60 votes needed to waive the Budget Act in order that it be raised because it, too, would require a hearing before the Budget Committee and a report to escape the 60-vote requirement.

This brings me to the Gregg-Feingold amendment. Absent an alternative, I support their amendment in order to lay down a marker to establish some discipline absent a budget resolution in place. But at this time I cannot support a waiver of the Budget Act.

There are parts of their amendment with which I disagree. I am not sure we need 5-year spending caps if we are not going to have a budget resolution. I don't agree with the procedure that is being recommended in the amendment to remove provisions from an appropriations bill in a rifleshot manner. But, in general, except for the 5-year spending caps and the individual appropriations procedures, their proposal captures the major provisions of extending the pay-go provisions and the Budget Act points of order that expire this year.

Again, I prefer to continue to work on an alternative 1-year cap proposal, and that is why I will not vote in favor of the Budget Act waiver that is required for this amendment. But if an alternative is not found, then the problems and the chaos I portend for this summer are certain to prevail in this Chamber. Maybe we still have a little time to correct it before it ends up as what I have just predicted.

I thank those who have spent a lot of time trying to figure out what to do. It is difficult. In conclusion, the reason I will not vote for this is that there is \$36.8 billion more in spending than the President's total appropriations, \$26 billion less in Defense appropriations, and \$63 billion more in other mandatory spending.

I yield the floor and thank the Senator for graciously yielding me 5 minutes.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from North Dakota.

Mr. CONRAD. I thank the distinguished ranking member of the Budget Committee. I agree with every word he said. We have a budget process that is hanging by a thread. That is exactly right. We desperately need to put in place the budget disciplines that can allow us to keep the spending from spinning out of control as we go into the budget process.

The amendment by the Senators from Wisconsin and New Hampshire, which is completely well intended, will not accomplish the result they seek. I believe that is the case because it is dependent upon OMB projections of surpluses. We tried that. It didn't work. Why didn't it work? Because what occurred was a rosy scenario.

I put up the chart for 1990. They said the deficit was right on target. It was going to be reduced to \$100 billion. It wasn't reduced to \$100 billion. It was

\$221 billion. Let's not have a massive loophole like that put back into the budget law of the Congress.

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

Mr. KERRY. Madam President, the amendment before us, the Gregg-Feingold-Chafee-Kerry Budget Enforcement Act of 2002, is critical to restoring a sense of fiscal responsibility to the congressional budget process. I urge my colleagues to support it.

The amendment reinstates and extends for 5 years the caps on discretionary spending, keyed to the levels in the Senate Budget Committee-passed budget resolution. The caps are scheduled to expire at the end of fiscal year 2002. The amendment also reinstates and extends for 5 years the pay-as-you-go rules for tax cuts and entitlement changes. The pay-as-you-go rule would apply to legislation which increases the non-Social Security budget deficit. The rule would not apply when the budget is running a surplus outside of Social Security. Sixty-vote points of order and the threat of sequestration would continue to provide enforcement for both the discretionary caps and pay-as-you-go violations.

To guard against budget evasions, the amendment would shut back-door ways around the caps and pay-as-you-go enforcement by requiring 60 votes to change the discretionary caps, alter the balances of the pay-as-you-go scorecard, or direct scorekeeping. All emergency designations would require 60 votes.

I was one of the first cosponsors of the Gramm-Rudman-Hollings deficit reduction legislation in the late 1980s. I understand the importance of fiscal responsibility and budget discipline. The discretionary caps and PAYGO rules have helped impose a sense of fiscal discipline since they were first enacted in 1990. Budget enforcement mechanisms played a key role in stemming the tide of runaway deficit spending. As individuals such as Federal Reserve Chairman Alan Greenspan and former Treasury Secretary Robert Rubin have recognized, the benefits of spending and fiscal restraint are enormous. The remarkable turn-around in the Federal budget during the 1990s contributed to a virtuous cycle of lower inflation, lower interest rates, and higher economic growth.

Unfortunately, the budget enforcement mechanisms are scheduled to expire this year. As the Concord Coalition has noted, it would be particular ironic and careless to let the caps and PAYGO rules expire just when the budget is plunging back into deficit. Our bipartisan amendment would prevent that from happening. It will also encourage a discussion of the tough choices that must be made, regardless of procedural mechanisms, to restore fiscal responsibility.

As quickly as surpluses appeared, they have disappeared. We must not allow ourselves to return to the previous days of cutting taxes, increasing

spending, consuming the Social Security surplus, and running up debt. Beginning in 10 years when the Baby Boomers retire, Congress will face huge unfunded retirement and health care costs. Congress and the President lack a strategy for dealing with these liabilities or for returning to budget balance. Our amendment represents a crucial step for reversing a rapidly deteriorating budget outlook. Formal budgetary restraints are needed to balance the competing claims on the Federal budget.

Some opponents express concern that the amendment would place overly restrictive limitations on appropriations. Others outright suggest that the legislation will result in domestic appropriations cuts. In reality, the legislation fully funds the appropriations levels requested in the Senate Budget Committee-passed budget resolution. The amendment exceeds the spending levels requested by the President, allow for more spending on education, health care and other priorities. For fiscal year 2003, the bill would allow \$768 billion in discretionary spending. This is a figure commonly cited in current budget negotiations, and considerably higher than the House budget level of \$759 billion. If this should prove insufficient, Congress can either raise the caps or declare the spending as emergency spending to avoid enforcement consequences.

Finally, some opponents criticize the amendment's pay-as-you-go entitlements/tax rule because it allows spending or tax cuts when the government is running a surplus outside of Social Security. This exception is important because it will facilitate the funding of national priorities when the Federal Government is not facing major budgetary deficits. In addition, it allows for a more flexible response to the budget situation. It recognizes that the will for strict pay-as-you-go enforcement may not exist when government is running a substantial surplus.

Overall, the Gregg-Feingold-Chafee-Kerry Budget Enforcement Act of 2002 is an important safeguard against runaway deficit spending. It will provide an important super-majority obstacle against fiscally irresponsible tax cuts. It is flexible enough to allow spending on critical national investments regardless of the budget situation, provided there is sufficient support. Perhaps most importantly, it will force a national dialogue on priorities and reestablish deficit reduction as a strategic goal. I urge my colleagues to support the amendment.

Mr. LEVIN. Madam President, I cannot support the Gregg amendment regarding caps on annual appropriations and modifying the so-called "pay-as-you-go" provisions controlling entitlement spending and the costs of tax cut legislation. The Gregg amendment, while well-intentioned, bases budget enforcement mechanisms on unreliable budget projections by the Office of Management and Budget. If there were

an OMB projection upon which tax cuts were based, and then the projections proved overly optimistic as is often the case, Medicare and other critically important program cuts would be automatically triggered to pay for those tax cuts.

I will support an alternative budget enforcement mechanism amendment which will be offered by Senator CONRAD, the Chairman of the Senate Budget Committee which will extend rules controlling annual appropriations, entitlement spending, and the costs of tax cuts. The Conrad amendment would extend procedures which proved successful since their adoption in 1990 in eliminating deficits.

Mr. KYL. Madam President, I rise to offer support for the Gregg/Feingold amendment and urge my colleagues to vote in favor of that amendment. Fundamentally, the amendment would make two changes. First, it would extend discretionary spending caps for five years, and second, it would make legislation that fails to pay for itself with appropriate offsets subject to points of order and mandatory enforcement mechanisms.

Although I appreciate the assurances that an alternative scheme for budget enforcement will be offered if this amendment is defeated, I remain concerned that the vote on this amendment will provide the only opportunity to ensure real fiscal discipline after the current protections expire later this year.

The spending levels provided for in this amendment are more than generous. In fact, I would prefer to see the caps keyed to the spending levels in the President's budget, rather than to those set forth in the budget resolution reported by the Senate Budget Committee in March. But that is not the choice before us. The choice before us is whether there will be any limits at all on spending and whether there will be any enforcement mechanisms to restrain spending.

If we head into this year's appropriations process without any such tools, we will set the stage for a monumental dereliction of duty. The sky will be the limit in terms of spending. Any notion of priorities in wartime will be cast aside. All of the rhetoric about ensuring that Social Security Trust Fund surplus revenues be held sacrosanct will be rendered hollow. This amendment provides a means, however imperfect, of keeping us focused on trade-offs and priorities. Accordingly, I urge the waiver of the Budget Act and the adoption of the amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from New Hampshire.

Mr. GREGG. What is the present status of the time?

The PRESIDING OFFICER. The Senator from New Hampshire controls 4 minutes; the Senator from Wisconsin, 6 minutes; the Senator from North Dakota, 8½ minutes.

Mr. GREGG. Madam President, let me respond quickly to the comments

made relative to the technical aspects of the amendment. First, I am impressed that it has received such adulation but so little support. The Senator from New Mexico, whom I immensely respect, said it is a wonderful idea except for a couple little points but he thinks it might be a good marker. The Senator from North Dakota appears to be saying essentially the same thing with a little more intensity. I am glad we have put something out here that appears to be pretty close to what we need.

Why do we need it? We need it because without any budget disciplines in place, we will be in serious trouble as we move down the road, as was highlighted by a number of speakers. We need to have something in place that we can look to at least to give us some guidance, some signposts.

On the issue of pay-go, obviously you don't need pay-go if you are in surplus. It makes no sense to have pay-go if you are in surplus. In fact, we have shown that every time we have been in surplus, with the last appropriations bill coming out across the floor, we have basically put a hold on or stopped the application of pay-go.

This bill makes it very clear. The language says:

There shall be no sequestration under this section for any fiscal year in which a surplus exists.

It is very specific. There must be a surplus in order for pay-go to be withdrawn. But if there is not a surplus, clearly pay-go exists, and it is available.

How do you find out if there is a surplus? You have to have scorekeeping, and that is the way we work around here. We have scorekeeping for lots of spending.

Rosy scenarios, I seriously doubt it. In fact, I suspect just the opposite is going to be the case for the next few years. That is a bit of a straw dog. Nobody is projecting any surpluses. I point to the chart of the Senator from North Dakota. He is not projecting any surpluses out there. Nobody else is for the foreseeable future. It is important we have pay-go in place during this period of that red ink.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I would like to respond to some of the arguments of the chairman of the Budget Committee as well.

The chairman argues that what Senator GREGG and I are proposing is new and radical. In large part what we are doing is merely extending the Budget Enforcement Act of 1990. Let me tell my colleagues what would be radical: If we go through this process without any budget rules at all. Based on my 10 years here, that would be radical and dangerous and harmful to Social Security and to the future of our budget. As far as I am concerned, we are on the precipice of going back to the bad old 1980s in terms of the budget process.

This is a good-faith, bipartisan effort to try to keep some rules in place.

The chairman speaks, fairly, of course, with great knowledge about the new deficits and the new problems we face, especially in the last couple of years, especially since 9-11.

Let me remind everyone that we used the chairman's numbers, not pre-9-11 numbers, but his post-9-11 numbers, with regard to his 5-year scenario. That is what this is based on. It is based on our knowledge about the tragedy and difficulties that occurred.

I find it hard to understand when the chairman argues for flexibility that somehow Senator GREGG and I don't recognize the need for flexibility. He, too, apparently, if we don't prevail, intends to offer caps. He intends to offer limits. The fact is that the chairman acknowledges that even in difficult times such as these, there have to be rules and there have to be limits.

There is nothing irresponsible about proposing limits even in difficult times, such as a war against terrorism. In fact, I argue that the worst that can happen, at a time when we are fighting terrorism and other crises in the world, is to have no rules at all. Then it is more likely that legislation such as the farm bill will pass with unlimited amounts of inappropriate action and provisions. Some of the provisions in the energy bill and some in this bill are more likely to happen with no rules at all.

For the sake of our national security, for the sake of the fiscal integrity of our country, at this time it is more important than at any other time that we have some rules and procedures so the American public can know we are wisely using their tax dollars to proceed with this war against terrorism, and to protect them, and that we are not using it for pork projects at home.

The chairman complains that our amendment would not have budget enforcement at times when we are running a surplus without counting Social Security. Yet his idea guarantees us no discipline at all. I wish him well if we end up going with his amendment and considering that, but, obviously, I hope ours prevails. There is no guarantee. Defeating this amendment would leave us with no enforcement at all if these current rules expired in September, as they are expected to do. He says we only have constraints on spending. We followed the same constraints on taxes as they exist in current law. Taxes and entitlements are constrained in our amendment, as well as by the pay-as-you-go procedure.

He also seeks to argue that somehow we are doing something different or something radically inappropriate with regard to the OMB. The amendment gives the OMB the job of calculating whether we have complied with the caps or the pay-as-you-go discipline. But this is exactly as it has been since 1987. Nothing is new about this provision.

When Congress first enacted the Gramm-Rudman-Hollings bill in 1985, it

gave the job of calculating compliance to the Comptroller General, head of the General Accounting Office. But the Supreme Court ruled, in 1986 in the case of *Bowsher v. Synar*, that Congress could not constitutionally give that power to anybody outside of the executive branch of Government. That is why we do it. That is why Congress gave the job of calculating compliance to the OMB in the rewriting of the budget laws and continued that process in the 1990 Budget Enforcement Act. This argument doesn't hold water. Our amendment merely continues the same rule for the OMB.

As to the chairman's argument that we erred by not requiring pay-as-you-go enforcement in times of budget surplus, we disagree as a matter of policy. We believe that when the Government is taking in more tax revenues than it needs to fund existing programs, even after putting all Social Security surpluses aside, then it is altogether appropriate for Congress to consider fiscal choices, such as updating Medicare to include a prescription drug benefit. Do we want a 60-vote requirement in times of surplus to provide the American people with a prescription drug benefit? I hope not. If you are listening to your constituents, they desperately need this. So that doesn't seem to be appropriate.

Finally, I think this is a critical test on this vote. Are we serious about protecting Social Security, even in these difficult times? Are we going to go forward with no rules and continue down the road we are heading in—the road of a \$100 billion deficit already? Especially after 9-11, the American people have a right to know that we are being especially careful with their dollars, that we can track it, and that they can follow the caps and the rules and enforcement procedures to see if we are doing their bidding and if we are truly putting our priorities straight—with the war on terrorism at the top, but also guaranteeing the safety and security of Social Security, which is very dear to them.

I yield my time.

Mr. CONRAD. Madam President, let me respond to the Senator from Wisconsin. The alternative is not their proposal versus no rules. That is not the alternative. I will offer an amendment that will extend the supermajority enforcement of budget points of order that extends the Budget Enforcement Act provisions—all of them—and that restores the Senate pay-go rules—in fact, toughens them. That is the alternative: serious budget discipline versus the proposal before us by Senators who are absolutely well intentioned. They have the diagnosis right, which is that we have deficit and debt problems, but their solution takes us back to a provision that did not work in the past and will not work in the future.

Have we forgotten 1990? When you base budget discipline and enforcement on projections, you are basing your dis-

cipline on quicksand. What could be more evident? In 1990, the Office of Management and Budget told us we were meeting our deficit projections, that the deficit was only going to be \$100 billion. It turned out to be \$221 billion because the whole budget discipline process was based on projections.

That is what this budget proposal does. It won't work. It didn't work then; it won't work now. It is absolutely misleading and will take us down a road not to budget deficits, through budget deficit elimination, not to reduce debt, but to more gimmicks, more game playing, more rosy scenarios.

After this amendment I will offer an amendment that has real budget discipline.

I retain the remainder of my time.

Mr. GREGG. Madam President, what is the status on the time?

The PRESIDING OFFICER. The Senator from New Hampshire has 2 minutes. The Senator from North Dakota has 6 minutes.

Mr. GREGG. Will the Senator allow us to close since it is our amendment? I will yield our last 2 minutes to the Senator from Washington.

Mr. CONRAD. The Senator has used his time, and I am going to use mine.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. I yield to the Senator from Washington 1 minute 45 seconds.

Ms. CANTWELL. Madam President, I rise today in support of the Gregg-Feingold amendment. The premise underlying this amendment—and its extension of the budget enforcement procedures—is that we as a body must be fiscally responsible.

We have real responsibilities and real priorities on which we have to make decisions, but we also must have fiscal discipline. In order to accomplish this it is important for us to have a framework by which this body can make these fiscal decisions.

This amendment helps us at a time when we have seen a surplus of \$5.6 trillion over ten years disappear and turn into a \$2.7 trillion deficit. And we know that the current deficit is a result of last year's tax cut, the recession, and the tragic events of September 11, 2001.

Having spent time in the private sector, I can tell you this: No private sector organization thinks it can spend its way out of problems; nor can we as a country.

I believe one of the most important actions we can take for the nation's future economic stability, is to pay down the national debt. According to Chairman of the Federal Reserve Board, Alan Greenspan, paying down the national debt lowers interest rates and keeps the capital markets and investment going. In January, he told the Senate Budget Committee that one of the reasons long-term rates have not come down is the sharp decrease in the surplus and the diminishing prospects for paying down the debt.

Our total budget must be crafted within the need to maintain fiscal discipline, and stimulate economic growth through continued federal investment in education and job training, while also protecting the environment. Furthermore, we need to invest in our nation's economic future by making a commitment to public research and development in science and technology—maintaining our status as a global leader.

It is a balance. We need to make these investments, but within a framework that ensures we don't spend beyond our means. If we want our economy to be strong, if we want revenues, and if we want to make the right decisions, we need to keep paying down the debt.

We must have fiscal discipline in budget and appropriations process. We cannot focus solely on the individual items and programs in our budget, but must look at the whole picture. The budget enforcement procedures help us do this, and help us keep a reign on our spending. These procedures worked successfully as we struggled to get out of deficit spending in the 1990s, and they will work as we struggle to get out of the current recession and deficit financing.

The PRESIDING OFFICER. The Senator has used her time.

The PRESIDING OFFICER. Who yields time? The Senator from North Dakota.

Mr. CONRAD. Madam President, I hope people are listening and paying very close attention. There is a lot at stake in the series of votes that are going to occur. The Senators have made the case that we are back in an era of budget deficits. I say to them, I warned our colleagues that is where we were headed. I did not do it this year. I did it last year. And I begged our colleagues not to go down the road that was taken. I warned them that we would be back to raiding Social Security, Medicare, and every other trust fund in sight, but they cast all caution aside and went down that road.

Today there is a fundamental question of whether or not we are going to have budget disciplines in place as we go through this year's appropriations process. I will offer an amendment that extends those budget disciplines. Every colleague is going to have a chance to be recorded as to whether or not they want budget discipline.

The amendment before us has very serious defects. It is not the budget disciplines that worked in the nineties that helped us get back on track. It is not those. It is a new scheme, and it is a scheme that has an enormous loophole. The loophole is that discipline is based on projections of what is going to happen.

Have we learned nothing? Last year, we were told there was going to be \$5.6 trillion available in surplus over the next decade. That was a projection. Do you know what it is now? Nothing. Zero. The money is all gone. Let's not base budget discipline on projections.

Does the Senator from New Mexico seek time?

Mr. DOMENICI. Yes, I would like 2 or 3 minutes.

Mr. CONRAD. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes 50 seconds.

Mr. CONRAD. I yield 3 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I thank the Senator. I failed to call him chairman. He has been chairman for 6 more months. In any event, we wish the Senator well next year in whatever capacity.

I wish to discuss not so much the amendment because I have explained why I do not think we should waive the Budget Act. We have to do better in trying to put discipline into what is currently a totally undisciplined situation with reference to goals and priorities.

Appropriations will have no responsibilities on the various bills. There will be no total dollar number that flows. This amendment will not help that.

I close my few remarks talking about, once again, the mistake we are making—and we are making it for whatever reason—in not passing a budget resolution. I am not filled with acrimony, but I do believe that in the over 27 years of serving, I felt a responsibility to get a budget, and actually we could have gotten a corner after an extremely tough year 3 years ago and said: Let's not do it. The Senator from New Hampshire could have been with me trying to keep discipline in this process. We could have said: Let's not do a budget resolution. It did some good. Some people are saying it did not.

I would personally look at the area of entitlements and how many had caps which precluded passage of more than we spent. It is the same on appropriations. Obviously, there is friction against those two institutions, but we did some good.

We happened to budget based upon an extremely powerful American economy which was with us for 10 years, and we got clipped in the 11th and 12th year when the economy did not stay strong. That is all that happened.

If we could have kept the budget resolution, it would have forced it or would have done something better, and we would probably be right back to moving close to a balanced budget in the next 5 years. I am not sure we are going to get there without something like a budget resolution, something to shoot with each year.

That is why I am saying we ought to do better than the Gregg amendment. He is on the right track. Maybe we can include him and his cosponsor with a group of us trying to do a little bit better.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. Madam President, would you alert us as to the time situation?

The PRESIDING OFFICER. The Senator from North Dakota has 50 seconds. The Senator from New Hampshire has 15 seconds.

Mr. CONRAD. Madam President, in conclusion, I agree absolutely with what motivates the sponsors of this amendment. We need budget disciplines. I will offer those as a package, all of the budget disciplines—every one; in fact, a strengthened pay-go provision—after we dispose of the amendment that is before us.

Madam President, I say to my colleagues, I believe the amendment before us has a giant loophole, unintended I am sure, but it is based on projections, not real results. We have seen what happens with that kind of budget approach.

I go back again to 1990 when we had a similar scheme in place based on projections from the Office of Management and Budget.

The PRESIDING OFFICER. The time of the Senator from North Dakota has expired.

Mr. CONRAD. Madam President, does the Senator from New Hampshire still have time?

The PRESIDING OFFICER. Fifteen seconds.

The Senator from New Hampshire.

Mr. GREGG. Madam President, I thank my colleague from Wisconsin and my other cosponsors for offering this amendment. This amendment is going to be our best opportunity to put in place long-term, effective budget enforcement mechanisms. There are no significant loopholes in this amendment.

The PRESIDING OFFICER. All time has expired.

The Senator from North Dakota.

Mr. CONRAD. Madam President, I raise a point of order that the pending amendment violates section 306 of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, pursuant to section 904 of the Congressional Budget Act, I move to waive the applicable section of that act for the consideration of the pending Gregg-Feingold amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Madam President, I wonder if Senators will permit me to speak for 30 seconds on another matter?

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

Mr. DOMENICI. Madam President, I am sending an amendment to the desk. If I can have the attention of Senator CONRAD, I am sending a copy of the amendment he is going to propose following the disposition of this amend-

ment, if we defeat it, so Senators can look at it and we can get rid of some delays. They can study it during the next 30 minutes or so.

Mr. CONRAD. Is the Senator filing the amendment?

Mr. DOMENICI. I am sending it to the desk so anybody who wants to may look at it. If the Senator has concerns, I will not do it.

Mr. CONRAD. I will be constrained to object because I am told Senator BYRD would object if he were here. But I am very hopeful we can accomplish that same purpose momentarily.

Mr. DOMENICI. I do not want to argue, but I am not sending an amendment to be operative. I can put in a letter. If I want somebody to look at a proposed bill, why would anyone object?

Mr. CONRAD. No one will object to that.

Mr. DOMENICI. I am sure they cannot if they wanted to. It is not intended as anything other than for Senators to look at. If they are interested in how we might fix this situation, they might look at what is being recommended by the chairman.

I thank the chairman.

Mr. CONRAD. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Jersey (Mr. TORRICELLI) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote "yea."

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

The yeas and nays resulted—yeas 49, nays 49, as follows:

[Rollcall Vote No. 133 Leg.]

YEAS—49

| | | |
|-----------|------------|-------------|
| Allard | Feingold | McConnell |
| Bayh | Fitzgerald | Miller |
| Bennett | Frist | Murkowski |
| Brownback | Graham | Nelson (NE) |
| Bunning | Gramm | Nickles |
| Burns | Grassley | Roberts |
| Cantwell | Gregg | Santorum |
| Carper | Hatch | Sessions |
| Chafee | Hutchinson | Shelby |
| Cleland | Hutchison | Smith (NH) |
| Collins | Inhofe | Smith (OR) |
| Craig | Kerry | Snowe |
| Crapo | Kyl | Thomas |
| DeWine | Lieberman | Thompson |
| Edwards | Lott | Voinovich |
| Ensign | Lugar | |
| Enzi | McCain | |

NAYS—49

| | | |
|----------|----------|-----------|
| Akaka | Campbell | Domenici |
| Allen | Carnahan | Dorgan |
| Baucus | Clinton | Durbin |
| Biden | Cochran | Feinstein |
| Bingaman | Conrad | Hagel |
| Bond | Corzine | Harkin |
| Boxer | Daschle | Hollings |
| Breaux | Dayton | Inouye |
| Byrd | Dodd | Jeffords |

| | | |
|----------|-------------|-----------|
| Johnson | Murray | Stabenow |
| Kennedy | Nelson (FL) | Stevens |
| Kohl | Reed | Thurmond |
| Landriou | Reid | Warner |
| Leahy | Rockefeller | Wellstone |
| Levin | Sarbanes | Wyden |
| Lincoln | Schumer | |
| Mikulski | Specter | |

NOT VOTING—2

Helms Torricelli

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. REID. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3764

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

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

Mr. McCAIN. I object. I want the amendment read.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 3764.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ____ . BUDGET ENFORCEMENT.

(a) EXTENSION OF BUDGET ENFORCEMENT POINTS OF ORDER.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (c)(2)—

(A) by inserting “and” before “312(b)” and by striking “, and 312(c)”; and

(B) by striking “258C(a)(5)”; and

(2) in subsection (d)(3)—

(A) by inserting “and” before “312(b)” and by striking “, and 312(c)”; and

(B) by striking “258C(a)(5)”; and

(3) in subsection (e), by striking “2002” and inserting “2007”.

(b) EXTENSION OF BUDGET ENFORCEMENT ACT PROVISIONS.—

(1) IN GENERAL.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 note) is amended to read as follows:

“(b) EXPIRATION.—Sections 251 and 258B of this Act and sections 1105(f) and 1106(c) of title 31, United States Code, shall expire September 30, 2007. The remaining sections of part C of this title shall expire on September 30, 2011.”

(2) STRIKING EXPIRED PROVISIONS.—

(A) BBA.—The Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) is amended by striking section 253.

(B) CONGRESSIONAL BUDGET ACT.—The Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.) is amended—

(i) in section 312, by striking subsection (c); and

(ii) in section 314—

(I) in subsection (b), by striking paragraphs (2) through (5) and redesignating paragraph (6) as paragraph (2); and

(II) by striking subsection (e).

(c) EXTENSION OF DISCRETIONARY CAPS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)) is amended

(1) in the matter before subparagraph (A), by striking “2002” and inserting “2007”;

(2) by striking subparagraphs (C), (D), (E), and (F); and

(3) by redesignating subparagraph (G) as subparagraph (C).

(d) EXTENSION OF PAY-AS-YOU-GO.—

(1) ENFORCEMENT.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) is amended—

(A) in subsection (a), by striking “2002” and inserting “2007”; and

(B) in subsection (b), by striking “2002” and inserting “2007”.

(2) PAY-AS-YOU-GO RULE IN THE SENATE.—

(A) IN GENERAL.—Section 207 of House Concurrent Resolution 68 (106th Congress) is amended in subsection (g), by striking “2002” and inserting “2007”.

(B) SENATE PAY-AS-YOU-GO ADJUSTMENT.—For purposes of Senate enforcement of section 207 of House Concurrent Resolution 68 (106th Congress), upon the enactment of this Act, the Chairman of the Committee on the Budget of the Senate shall adjust balances of direct spending and receipts for all fiscal years to zero.

(3) PAY-AS-YOU-GO ENFORCEMENT DURING ON-BUDGET SURPLUS.—If, prior to September 30, 2007, the Final Monthly Treasury Statement for any of fiscal years 2002 through 2006 reports an on-budget surplus, section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall expire at the end of the subsequent fiscal year, and the President, in the next budget, shall submit to Congress a recommendation for pay-as-you-go enforcement procedures that the president believes are appropriate when there is an on-budget surplus.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, this amendment is to provide the fiscal discipline that I think we all seek, at least the framework for it.

This amendment extends the supermajority enforcement of budget points of order. It extends the Senate’s 60-vote Budget Act points of order for 5 years. These points of order, including points of order that protect Social Security—

Mr. REID. Will the Senator yield without losing the floor?

Mr. CONRAD. I am happy to yield.

Mr. REID. I would like to say—the Republican whip is on the floor and the Republican leader—when this amendment is completed, we will go back to the procedure we have always followed. If there appears to be no disagreement, we will have a Democratic amendment and Republican amendment and go back and forth.

Mr. NICKLES. If the Senator will yield, I appreciate that because there is some angst on our side. People thought we were in line to do an amendment. I appreciate your accommodation with the recognition, and we will have an amendment ready when we conclude this amendment.

Mr. REID. The last two amendments have been offered by both Democrats and Republicans, but this is offered by a Democrat, so we will go to a Republican. The leaders have agreed on that.

Mr. CONRAD. Madam President, when we debated the last amendment, the point was made, and the point was made correctly, that the various budget disciplines are going to expire on September 30 of this year. That could allow budget discipline to go right out the window.

What I am offering today is a continuation of the budget disciplines that have worked—the budget disciplines that allowed us to move from deficit to surplus. It is critically important that those budget disciplines be extended. I think there is strong support in this body for that proposition.

As I have indicated, these points of order, including points of order that protect Social Security, limit total spending and total tax cuts, enforce discretionary spending limits, and committee and subcommittee spending allocations are scheduled to expire on September 30.

The Senate has had Budget Act points of order that require 60 votes to waive since 1985. But unless action is taken starting October 1, it will only take 51 votes to waive most Budget Act points of order. Only 51 votes would be required to raid Social Security, or to exceed discretionary spending limits, or to increase total spending above agreed upon levels, or to cut taxes below agreed upon levels, or to exceed committee spending allocations.

Without the extension of these 60-vote points of order, it will become much more difficult to enforce budget discipline in the Senate. Senators who favor spending, or tax cuts, or exceed agreed upon budget limits would not be deterred by the need to convince 60 of their colleagues that the limits should not apply to their proposals.

In addition, the amendment I am offering extends Budget Enforcement Act provisions. The amendment extends for 5 years the Budget Enforcement Act procedures that limit discretionary spending and requires increases in mandatory spending or tax cuts to be offset. The discretionary spending limits are scheduled to expire on September 30 of this year. The pay-as-you-go procedures that control mandatory spending and tax cuts will cease to apply to newly enacted legislation after September 30, although pay-as-you-go sequestrations will continue to apply to legislation enacted before that date.

Under the amendment, the pay-as-you-go enforcement will expire earlier than scheduled if an actual non-Social Security surplus is reported before fiscal year 2007. Although it has not been evident for the past several years, the discretionary cap and pay-as-you-go enforcement actions of the Budget Enforcement Act of 1990 have proved to be very effective tools for budget enforcement.

Let us put up the chart that shows the long-term budget surplus standards we face.

Here is the long-term relationship between spending and revenues. This goes back to 1980. The red line is the spending of the Federal Government. The blue line is the revenue. We had this very significant gap between the two—spending exceeding revenue—back in the 1980s, and that led to a quadrupling of the national debt.

In 1993, we passed historic legislation that cut spending and raised revenue to eliminate this gap between spending and revenue—to eliminate deficits and to begin to allow us to pay down debt. We did that. The lines cross. Spending went below the revenue line. And in 1997 we passed additional legislation that led to budget surpluses. The revenue line was above the spending level.

That has all changed. Now we are back to deficits. After making all that progress, after moving out of deficits into surplus, after the fiscal mistakes of last year, the President proposed a massive tax cut with a major defense buildup and said we could have it all, said we could have all of the spending and all of the tax cuts, and that we would still have surpluses. He was wrong by a country mile. Instead of surpluses as far as the eye can see, we have deficits as far as the eye can see. The question is, Are we going to reinstitute the budget discipline to provide the framework for the appropriations process?

From the time the budget disciplines were enacted through 1998, they helped to control spending, limit tax cuts, and played an important role in the dramatic turnaround in our budget circumstance.

That is what this chart shows. We lifted this country out of deficits and put it in surplus. Then, unwisely, last year, a whole new fiscal policy was put in place. That policy has plunged us back into deficits as far as the eye can see. We are going to be facing red ink throughout the entire next decade.

Without these tools which expire on September 30, it is unlikely the budget would have gone from a record total deficit of \$290 billion in 1992 to a surplus in 1998. After 1998, these enforcement tools fell victim to the unrealistic, low discretionary caps that were set in the 1997 Balanced Budget Act.

It is the reason I opposed the last amendment. It was going to repeat the mistakes of the past, put in unrealistic numbers in light of the attack on this country, and base budget enforcement on projections rather than real results.

These budget enforcement provisions are based on actual results, not projections, and don't leave us vulnerable to the office of Management and Budget going back to the rosy scenario days in which they told us there were surpluses even when that was highly unlikely.

We are back in deficit now and for the foreseeable future. We should extend and enforce the Budget Enforcement Act procedures, not let them ex-

pire and either give up on fiscal discipline or pretend there are some other procedures that might work better than these proven procedures.

In addition, my amendment extends the Senate pay-as-you-go rule. The amendment extends through 2007 the Senate pay-as-you-go point of order that prohibits surpluses from being used to pay for new mandatory spending or tax cuts.

Let me repeat that because I think it is critically important.

The pay-go provision will protect us from using Social Security money for other tax cuts or other spending. We must have this discipline put in place or else we risk losing control of the entire spending process.

I hope my colleagues will think very carefully about the circumstance we face. We have put in here the framework for budget caps. We have not put in the number for this year. We have negotiations going on right now to determine whether or not we can agree now on a number for this year. As you know, we are very close. After weeks of discussion, we were very close yesterday to agreeing on a number. Perhaps this can give us an opportunity to achieve an agreement. Even if we don't today reach agreement on what the budget numbers should be for this year, it is critically important that we put in place the budget enforcement framework. We cannot let that lapse. Even if we don't agree on a cap number for spending today, we can agree on the budget enforcement framework. We can then settle on a number if not today, sometime in the near future so that these disciplines have something to apply to.

It is critically important that this budget enforcement mechanism not be allowed to lapse. That would be a serious mistake given the fiscal condition of the country. Literally, for weeks we have engaged in good-faith negotiations with people on the other side of the aisle.

I thank Senator DOMENICI, the ranking member of the Budget Committee, and his staff. They have played a very constructive role in these discussions. That can be said of the chairman and ranking member of the Appropriations Committee as well. Senator BYRD, the chairman, and Senator STEVENS, the ranking member, have worked for many days to try to agree to a set of provisions that would allow us to provide a budget framework and to also provide for a continuation of these budget disciplines.

Unfortunately, those talks hit a bump in the road yesterday. We have a chance now to get back on track. We have an opportunity now to extend these budget discipline provisions. We have an opportunity now to agree on a budget limit, an appropriations limit for this year.

I do not know if we can agree on that in the next few hours, but perhaps we can. It would allow us, then, to go into the appropriations process with not

only the budget disciplines intact but with an agreement on what total appropriations will be for this year. That would be a very positive development. We would then have a budget for the year, and we would have the budget disciplines so that we could, with greater confidence, ensure we stay within the limits agreed to.

At the very least, we ought to put in place those budget disciplines. We ought to put in place that framework. We ought to be ready for when the negotiations achieve a result and we are able to agree on a number. We can do that today, at a minimum. It would be even better if we could agree to an amount as well. But at the very least, let's send a signal that we are not going to have chaos in the budget process.

Senator DOMENICI, the distinguished ranking member, has served on the Budget Committee for a long time. He has been chairman and ranking member. He warned us: Look, we are in uncharted waters; this is dangerous ground; we should have a budget in place.

This is an opportunity to have a budget framework so that disciplines that are set to expire on September 30 continue. This is also an opportunity to agree on a budget amount.

I very much hope that people who are discussing this issue at this moment think very carefully about what is at stake. I hope they will think very carefully about what we need to consider.

If we allow these budget disciplines to lapse, and we go into the appropriations process without an agreed-upon budget amount, it does not take much imagination to think of what could occur. We could have spending spin out of control. I do not think anybody wants that to happen. Think of the implications. Think of the signal that would send to the financial markets of this country. Think of what that could mean to the economy of this country.

We have already seen that the equity markets are extremely vulnerable. We have already seen the stock market go down 200 points in a day. If the markets got the sense that we were not going to take serious action on the budget deficits that now confront the country, that could further destabilize equity markets and put us in an even more vulnerable position.

(Mr. CARPER assumed the chair.)

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

Mr. CONRAD. I will be happy to yield.

Mr. MCCAIN. I thank the Senator.

I don't often like to expose my ignorance of certain issues on the floor of the Senate, but I preface my question with the assumption that I am not an expert on the budget, as is the Senator from North Dakota. I don't know the nuances and the ins and outs of the budget process, nor have I ever quite understood the different categories and what falls in and what falls out of it.

Would the Senator explain to me, according to the amendment proposed by

the Senator from North Dakota, as I read it, there is no budget number associated with the Senator's amendment; is that correct?

Mr. CONRAD. The Senator is absolutely correct. We are awaiting additional discussions that are going on right now, that the Senator may be aware of, to see if we could reach agreement on that critical component. Obviously, that would be a very important part of this package.

I say to the Senator, there are really two parts to this. One is the budget number for this year. The other is the budget enforcement mechanisms. Both of them are necessary. Neither is sufficient. They are both necessary.

Even though we do not have yet an agreed-upon number, the reason I am offering this amendment is that at least we would then have the framework and discipline when a number is agreed to.

Mr. McCAIN. If the Senator will yield for a further question.

Mr. CONRAD. Yes.

Mr. McCAIN. I do not quite understand. Since there is no number, then enforcement would basically be meaningless because you do not have a number to enforce.

Why wouldn't we wait until we had an agreed-upon number and then present the amendment as such? Because it seems to me, if you pass this, it may do more damage than good, because then the conferees, who are appropriators, well known for their sense of fiscal discipline, would be the ones who would decide what the cap is.

My question to the Senator from North Dakota is, without an agreement on what the cap would be, we are now putting in rules that are basically unenforceable because there is nothing to enforce. Why wouldn't we wait and see if there was some agreement on the overall budget number instead of proposing that at this time? That is my question.

Mr. CONRAD. The Senator asks a very good question. There are really two pieces to this puzzle. We need a number for this year. We also need the budget disciplines reinstated because they expire on September 30. This may be one of our best opportunities, I say to the Senator, to reinstate those budget disciplines.

We may also have an opportunity to have the number agreed to today. That would be a full package. That would be a very desirable outcome, I say to the Senator. But at the very least, I think we want to get the budget disciplines put in place.

Let's say we do not agree. Let's say we are not able to reach agreement on a number for this year. Does that mean we have lost all opportunity? No. Because, I say to the Senator, then certain of the numbers that were in last year's budget resolution serve as a basis for the disciplines that we would now be extending. In other words, even if we did not reach agreement, at least we would have the structure of budget

disciplines that could agree to certain spending levels that come from the budget resolution of last year.

Mr. McCAIN. I thank the Senator for his courtesy in allowing me to question him and for his responses. I am still not quite clear why we would pass an amendment without something to enforce. But I certainly appreciate the courtesy of the Senator from North Dakota, and again I applaud his knowledge of the intricacies of a very complicated process which I have been unable to master in the years I have been in Congress. I thank the Senator from North Dakota.

Mr. CONRAD. Let me say to the Senator, for example, even if we were not able to agree on a discretionary spending amount for this year, if we have these budget disciplines in place, they would apply to the mandatory numbers from last year's budget. As the Senator knows, we have two pots of money. We have mandatory spending, and we have discretionary spending.

In the best of all worlds, what many of us would like to achieve is a discretionary limit agreed to for this year—in effect, a budget for this year. But we also have mandatory spending, and, in fact, mandatory spending is a bigger part of Federal spending than is discretionary. Even if we are not able to agree on a discretionary limit, if we have this budget discipline framework in place, we would have a way of disciplining mandatory spending.

In the best of all worlds, we get a discretionary spending limit, and we have these budget disciplines that apply on both sides of the equation, mandatory spending and discretionary spending. But at the very least, if we passed these budget disciplines, if we extend them, we have some way of disciplining mandatory spending. That is the biggest part of Federal spending.

It would also be very useful and important and certainly my goal to have a discretionary spending limit as well.

Mr. McCAIN. I thank the Senator.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I wonder, does the Senator still control the time?

Mr. CONRAD. I still control the floor. I would be glad to yield.

Mr. DOMENICI. I would ask for about 3 or 4 minutes, and I will yield back.

The PRESIDING OFFICER. Without objection, the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wanted to have a few moments with the chairman and Senator GRAMM and others who are interested, building off your current amendment, which is pending—and I thank you for the accommodations that you have made to it—one which is very important to our side, very important to everyone, as we have come to know it, with the understanding that you know these enforcement provisions are not, for the most part, found in the Budget Act. These enforcement provisions were designed principally by a huge conference that

was presided over by former White House OMB Director Darman—remember him—and Senator ROBERT BYRD—you know him—and a few other people. We were about 2 weeks out there at Andrews Air Force Base when we tried to negotiate a budget.

It fell apart in terms of numbers, most interestingly. Some people didn't get treated well politically, and others did. Those who know have said the most important thing we did in 1990 or 1991 were the enforcement provisions. We were doing something rather significant. It turned out the tax part didn't work out as well for the President as it should have, but these enforcement provisions survived.

The principal author of those was Senator ROBERT BYRD, because we were giving, in a sense, many things he wanted, and in exchange he was trying to make sure that if they didn't do their job, something could happen to them, including his committee.

Today the distinguished Senator, on an appropriations bill, is trying to see if we can save some of those. I want to say, I have looked at them. I think the language I have used for the last 2 or 3 minutes means that I like them. In particular, they have been changed a little bit. I like them. I think we would have changed them a little bit, whether we were down here or not, from 1990 because a couple of the provisions don't work too well.

I regret that I can't seem to get a consensus on what else ought to belong in this. I think it is good, but it is half a measure because we ought to have some numbers in it. We ought to have some numbers for defense and some numbers for the rest of Government. Clearly, without any question, we don't need 5-year numbers at this point in the process.

The process is questionable mostly because of the number assumptions, not these enforcement provisions, speaking in the past.

But adults are going to sit down and arrive at this total; if not here, in a vote. If not tomorrow morning in a vote, they will go to a meeting someplace, and they are going to vote on how much we are going to allow for expenditures. We could go back to the day I arrived in the Senate, with Senator Nunn, Senator HELMS, and others. We never knew what we spent until all the bills were added up. Nobody bothered to give you any interim reports on six committees that reported and six bills. We were new. We said: How can you run a government where nobody knows until you are finished and by then you have already spent it all?

About 6 months later, the Budget Act was born on a premise that Senators JOHNSON and DOMENICI, heads of the freshman class, sent out a letter saying: Next year we will vote against all the measures together, 13 of us, if we don't have some process that tells us the pieces before we start. That was the beginning. So it has some pretty good history.

I have been there and enforced it a lot of times. You know about 35 percent of the votes of the Senate are points of order, and most of those points of order are 60-vote points of order, which is the only effective means this Congress has found to make it difficult to spend money. That is the only one. Because when it is controversial and you are seeking something with a lot of money, it is not easy to get 60 votes. So you ought to have that around here next year, too, and the year after; right?

The question is, how are you going to have it if you don't adopt it? Then to what are you going to make it applicable? I would have hoped that we could have gotten together beyond what is proposed and that we would go ahead and put the numbers in and get it done and then take a look, with our leadership, at where we go next. We still have a lot of amendments, but at least we could conceivably be through with this part.

I am trying as best I can in my few comments to put a little life into this debate; otherwise, who wants to talk about budgets. I do because when you live them, it is interesting to talk about them. How did you get this thing done?

Even the issue raised here, if we don't get one, we will deem one. I kept wondering, if that is the case, why in the world didn't we deem them when they were all so darned difficult? It is because when you finally go to look and see, what is that, it ain't so. We deemed a budget resolution that the Senate had adopted. That is what we deemed done.

Incidentally, we deemed a budget resolution that had been done by the Senate but wasn't getting adopted, and so we said, rather than let this whole year go with nothing, we will have a deeming resolution. And what do we deem up against? A budget resolution. So even when we were in foxholes shooting at each other because we couldn't agree on anything, clearly we chose to get something that said the Budget Act is being enforced.

As to the numbers I am giving you and others who want to be part of this, if they do, I am more than willing to come back and talk about them and see if we can put them together. Our leader will have them very shortly, and we will see where we go.

I thank you very much for yielding.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, let me, first, thank the distinguished Senator from New Mexico, the ranking member of the Budget Committee. I think he has done something very constructive because it kind of leads us to the point of all the decisions that need to be made. The Senator from New Mexico is saying, yes, we need the budget enforcement mechanism and framework. We also need a budget. We need a budget. The Senator from New Mexico has come forward with numbers that are

very close numbers that I could agree to, I say to the Senator.

Mr. DOMENICI. I had them there because they are close to what the Senator has agreed to before.

Mr. CONRAD. That is exactly right. The Senator basically has the President's number, which the President proposed for outlays—not the President's policy, I am quick to acknowledge. Really, the significant difference—there is not a difference on the budget authority number. It is the President's number. We have said all along that we could agree to the President's number for spending this year. We would not agree to this so-called accruals policy that would say that retirement funding of Federal employees is somehow discretionary rather than mandatory spending. It doesn't seem to us that that is realistic. When you have Federal employees, you have costs for their retirement. That has always been mandatory spending because, obviously, it is required. It is not discretionary. But the overall President's number is one to which I would agree. It is in the budget resolution that passed the Senate Budget Committee.

The Senator from New Mexico has provided a number for outlays that is very close to a number to which I could agree. He has also provided a defense firewall. Well, I think the realistic outcome in the Senate is that if we had a vote, there would be a commitment to spend that amount of money for defense. I think that would probably be the overwhelming vote.

I say to my colleagues, the Senator from New Mexico has come forward with the other part of the package. We have the budget discipline framework and he has now provided the numbers, provided a budget for this year that is very close to the numbers we have discussed for days.

I hope my colleagues will think about the need to get a budget and budget discipline in place for this year. We can do it now.

Mr. President, I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

AMENDMENT NO. 3765 TO AMENDMENT NO. 3764

Mr. SANTORUM. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM] proposes an amendment numbered 3765 to amendment No. 3764.

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

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

The amendment is as follows:

(Purpose: To adopt the concurrent resolution on the budget for fiscal year 2003 reported by the Committee on the Budget for the Senate)

At the end of the amendment add the following:

SEC. . The provisions of S. Con. Res. 100 (107th Congress) as reported by the Committee on the Budget and placed on the calendar is adopted by the Senate and the House of Representatives as the concurrent resolution on the budget for fiscal year 2003 in accordance with section 301 of the Congressional Budget Act of 1974.

Mr. SANTORUM. Mr. President, what I have sent up is the Democrat budget that was passed out of the Senate Budget Committee.

We heard the chairman lecture the Senate that we need to have budget discipline and we need a budget. Yet for the first time in the history of the Senate, since the Budget Enforcement Act was put in place in 1974, we have no budget. We have not even been offered a budget.

The chairman of the Budget Committee, whose responsibility it is to bring a budget to the floor, has not brought a budget to the floor. This is the same chairman of the Budget Committee who, back in 1998, after we passed a budget but it had not gotten a conference report, said:

The budget resolution was due by April 15—

He said this in October.

The President plays no role in the budget resolution. That is the responsibility of this Senate and of the House of Representatives. These bodies have failed in their responsibilities.

He made that comment after we passed a budget here, but we were not able to agree between the House and Senate. In this case, the Senate has not even brought up the issue. We are in a situation where we are now, after a few years of surplus, heading into a deficit and we have no budget discipline in place. We have not even had a debate on the floor of the Senate as to the future of the budget of the United States of America.

Every single family in America has to budget. It is our responsibility—in fact, it is an obligation under the law that we pass a budget. But the chairman and the majority party in the Senate have refused to consider the budget, refused to bring this resolution to the floor.

We have seen all these amendments back and forth about why we are going to create psuedobudgets and deeming resolutions and sort of psuedobudget enforcement, skimming around the issues of the budget, without being serious with the public as to what the budget really is. That is disingenuous on the part of the Senate. We should have a full and fair debate on a budget and see whether we can get a compromise.

Last year we had a divided Senate. We did something historic, and I give credit to the chairman and ranking member for putting together a bipartisan budget for the first time in a long

time that actually passed the Senate. It was tough. I am sure if you ask the Senator from New Mexico, he would say it was one of the hardest things he ever did. He had a 50-50 Senate. It was not easy to craft a budget that could get votes on both sides of the aisle. It is hard when it is divided. It was a difficult task, but it was one that the Republican majority and Senator DOMENICI took on because we knew it was important for the future of the country to have fiscal discipline, to have a budget in place, so enforcement mechanisms could be put into place, so we could put some sort of caps on discretionary spending and have enforcement mechanisms for taxes and mandatory programs. It is an important framework to governing this country. It is not even a discussion that we have had.

We are almost 2 months past the time we were supposed to have this budget, and this is the first day I can remember we even have had this discussion, much less had the bill before us. So I thought it was important, since we are having this sort of kabuki dance here about budgets, that we actually put a budget on the floor. So that is what is on the floor now. We have on the floor the budget passed out of the Senate Budget Committee. If we adopt it, if the majority can get the votes to adopt their budget, then we can have a budget resolution on the floor and we can go through the process of amending the budget resolution, coming up with what is important for this country, which is setting forth the framework of operating the Government of the United States. It is our responsibility.

The President has sent a budget. He sent up a budget that was very specific. The House has passed a budget. It was hard to do with the very narrow majority over there, but they were able to pass a budget. The fact that we had not even brought a budget up, almost 2 months after the date which it was due to be here, is something we should not be proud of. We set a precedent that is not a good one. It is a precedent that says we are going to leave things to chance in the Senate at a time when the appetite for spending is always very high.

What does this budget do? Well, it does several things. The President laid out in his budget three priorities: national security, increasing defense spending so we can address not only the threats that we have had for many years, which are sort of the conventional threats that we have had to deal with—we were potentially going to be involved in some sort of conflict with a large deployment of our troops, which is what our military has been geared to fight. We have a lot of equipment and trained men and women who are there to do that. But as you know from recent events—and even before recent events—the military was going through a transformation process—now accelerated because of these asymmetric threats to America. Not only do

we have to maintain the existing force, but we have to deal with another security threat on Americans here and in the world at large. So in this environment, in a war against terrorism, faced with different threats, we need to dramatically increase defense spending. It is not really that dramatic; it is less than 10 percent in spending. They fund the President's priorities, as far as defense, for the next 2 years. After that, it does not. In fact, it reduces defense spending back basically to the rate of inflation, or below, but it dramatically increases and continues to allow the increase in domestic spending.

At the same time, it takes even more money that was due for tax reductions by making the President's tax cuts permanent and puts that money back and, of course, spends that money, too—not on defense spending but on domestic spending—in a time of war, a time of reshaping our military to protect this country. It reshapes the budget into more porkbarrel projects for Members of Congress. That is what this budget does. It takes money out of your pockets and puts it—

Mr. CONRAD. Will the Senator yield?

Mr. SANTORUM. Yes.

Mr. CONRAD. The Senator makes an assertion about the Senate Budget Committee that is flatly untrue.

The budget I offered that passed the Senate Budget Committee fully funded defense for 2003 and 2004. After that, it increased defense by the rate of inflation and set all of the additional defense spending aside that the President has requested in a defense reserve account. Every penny of that money that is not needed for defense goes to debt reduction. The Senator has said it goes to porkbarrel projects. That is absolutely false. Every penny of that money—every penny—either goes for defense or it goes for debt reduction.

When the Senator makes statements, I hope the Senator will at least be constrained by the facts.

Mr. SANTORUM. Reclaiming my time, I suggest that given the way this body operates and the Congress has operated over the past several years since I have been in Congress, we have not seen very many reserve accounts set aside for debt reduction that are not raided continually for spending in Washington, DC.

The Senator can say that money is set aside, and that is a nice little accounting mechanism, but the fact is we will spend that money and then some increases—whether it is supplemental appropriations without caps, since we do not have caps now, we would be flying through that money and we would be blowing through caps as we have in the past.

Second, I did say the tax dollars would not be given to the American public. They would be back in the budget and, yes, they would be used to increase spending in Washington, DC.

The fact is, it does not fund the President's priorities or the Nation's priorities with respect to national security, No. 1.

No. 2, it does take money that was targeted hopefully for the pockets of the American taxpayers and brings it back to Washington to be spent.

No. 3, and I quote the Washington Post headline, "Senate Democrats Tap Social Security in Budget Plan." I hear over and over how these horrible Republicans want to raid Social Security and raid the Social Security trust fund.

The budget we have before us, in the words of those who use this lingo, "raids the Social Security trust fund." It is horrible to suggest that, but it does. It does not fund the Nation's priorities with national security. It does increase spending in Washington, DC, for more and more domestic spending programs. It does raise taxes vis-a-vis the President's budget, and it does raid the Social Security trust fund.

Given what this budget does, I can understand why it might be difficult or why many Members, the leader, and the chairman of the Budget Committee did not want to bring this bill to the floor because such a budget would be very difficult to pass because it does not please very many Members on either side of the aisle.

There was no attempt in the process to try to form a bipartisan budget. Every effort by Senator DOMENICI and the budget Republicans was thwarted by the majority. So there was no attempt to build a bipartisan budget. Faced with very difficult fiscal realities, including raiding the Social Security trust fund, which this budget does, it is very difficult to get votes on a bipartisan basis when we have a very closely divided Senate.

I am not saying this would not be a very difficult political task—it would be—but it is one the Senate is required to do. This is a debate that we should have. This is a debate that has been denied to the Senate, has been denied to the American public, and, as a result we are going into waters very much uncharted, uncertain waters when it comes to setting spending priorities over the next few months through the appropriations process and whatever other bills that may be coming through that require expenditure of funds.

I understand there are attempts being made to create mechanisms to do other things that are sort of quasibudget in nature. That is all well and good. But the fact is, the chairman of the Budget Committee and the majority leader had a responsibility and obligation under the act to bring a bill before the Senate and debate a budget, and they have abdicated their responsibility. They have abdicated their responsibility to the Senate and to the American public.

I am going to give them an opportunity. We have waited 2 months. Many on our side were suggesting: Why don't we offer this on April 15? Because many of us thought: Let's see if we can work out something; let's see if we can, in fact, get some bipartisan resolution; maybe the chairman of the Budget Committee will bring forth a budget

resolution. Senator DASCHLE continually in his dugout said: We will get to that budget resolution; we will get to it; we will get to it.

I was willing to hold off longer. Now there are all these phony budget talks going on in this Chamber where we are going to do all these machinations to look like we are doing a budget. I thought: I am willing to put off while people have good-faith negotiations to get something done. But when we come out to the Chamber in the context of a supplemental and start playing games like we are doing a budget, let's call a spade a spade. Let's do a budget. You have not done a budget. Let's do a budget. I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, the Senator from Pennsylvania must have missed what has been going on. He has not been party to any of these discussions, any of these talks, but people on his side of the aisle have been, including the ranking member of the Budget Committee and the Republican leader. We have even involved the White House in an attempt to get a budget for this year.

The fact is, the Senate passed a budget resolution through the Budget Committee, a budget that is a 10-year budget as required under the law. The President presented a 10-year budget, and we will give our colleagues a chance to vote on that budget as well, just as we did in the Budget Committee.

Interestingly enough, some Republicans did not support that budget. We will see if they want to support that budget on the floor.

The Senator from Pennsylvania talks about raiding Social Security. The President's budget really raids Social Security. We will give the Senator from Pennsylvania the opportunity to vote on that budget and see if he wants to raid it by \$500 billion more. That is what the President's budget does.

How are we in this deficit situation? Is it because we have not considered a budget resolution on the floor of the Senate? The Senator from Pennsylvania knows the answer to that question. We are in deficit for as far as the eye can see before a budget has been considered for fiscal year 2003, and I remind the Senator that the new fiscal year does not start until October 1. We have time to get a budget in place for this year.

The Senator perhaps has forgotten that the Senate has been involved in the election reform bill, the energy bill, the trade bill—all of these the administration requested us to take up. Now we are on the supplemental bill which the President also asked us to take up and dispose of. So the budget kept getting pushed back.

On the fundamental question of how we got in this circumstance where we see deficits as far as the eye can see, the facts are very clear. The Senator from Pennsylvania and his colleagues bear substantial responsibility. They

are the ones who put a budget in place last year that plunged us back into deficits. We opposed it.

It was the Senator from Pennsylvania and his colleagues who said we can have it all, who said we can have a massive tax cut, we can have a major defense buildup, that we can have maximum paydown of the Federal debt. That is what they told us last year. And now they are here, after saying they were going to have maximum paydown of the Federal debt, asking for the second biggest increase in the debt in the history of the country.

This is their fiscal policy that is in place. It is their fiscal policy that has put us back into deficit. It is their fiscal policy that has put this country back into accumulating debt at a record rate.

No budget has yet been acted upon for the year 2003. It is their budget, the budget they passed last year, that they offered in both Chambers of the Congress, that they passed that has put us in this deep ditch. That is the fact.

Last year, we were told there would be nearly \$6 trillion of surpluses over the next decade.

In fact, the President's Office of Management and Budget told us there was going to be \$5.6 trillion of surpluses over the next 10 years. Now we are told maybe \$400 billion, and that is before the revenue shortfall of this filing season.

The fact is the money is all gone. Where did it go? More than 40 percent went to the tax cut that the Senator from Pennsylvania and his colleagues pushed through this Congress. Twenty percent of the disappearance of the surplus went from increased expenditures as a result of the attacks on this country, 20 percent, and every Republican supported those expenditures.

Twenty percent of the disappearance of the surplus happened because of the economic slowdown. About 20 percent occurred as a result of underestimations of the cost of Medicare and Medicaid. That is where the money went.

So if the Senator from Pennsylvania is wondering how the money disappeared and who is responsible, he can look in the mirror because it was his fiscal policy, his budget, his plan, his promises that put us back into deficit and back into debt. That is where we are.

I warned against that fiscal policy. I warned that it would put us in danger of raiding Social Security and raiding Medicare and every other trust fund in sight. But, oh, no, the Senator from Pennsylvania and his colleagues said: We know better. There is going to be even more money than has been projected. That is what they said then, and now we reap the whirlwind and the devastation of deficits and debt as far as the eye can see.

We have an opportunity to get a budget framework in place. We have an opportunity to put in place the budget disciplines that are necessary to pre-

vent spending from spinning out of control, but this kind of ad hominem attack is not going to solve those problems.

We presented a 10-year budget. I am proud of that budget. The budget I presented, that passed through the Budget Committee, did the following: No. 1, fully funded the President's defense request for 2003 and 2004, and for the years beyond put the money in a reserve account so that every penny would be available for the defense of this country if needed. But in those future years, where none of us can say with certainty what might be required for defense, to the extent any of that money is not needed for that purpose, it goes to reducing the debt of America. That is a good policy. It is one we ought to adopt.

In the budget I have offered our colleagues, we fully fund all of the money the President has requested for homeland security because we believe everybody in this Chamber understands our first obligation is to defend this Nation.

The budget I have offered also has greater debt reduction than the President has offered in his budget, \$500 billion more in debt reduction than what the President proposed, if the defense reserve fund is not needed for defense. If it is all required for defense, we still are paying down the debt by \$230 billion more than the President's proposal.

On the other key issues before us, the budget I offered my colleagues said there would be no additional tax cuts unless they are paid for because we are now in deficit. It contains no tax increases, and it also has no delay of the scheduled tax cuts.

The budget I offered also attempts to address the priorities of the American people because it rejects certain of the cuts the President proposed. The President proposed cutting the highway construction program in this country by 27 percent. The President's budget proposes a \$9 billion cut in highway and bridge construction funding. I do not think that is the priority of the American people.

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

Mr. CONRAD. Since the Senator has presented the budget I offered, I would like to complete the description of that and then I would be happy to yield.

I do not think it is wise to reduce the highway and bridge construction budget of the United States by 27 percent. No. 1, it would cost over 350,000 jobs in America. No. 2, it would reduce the efficiency of the transportation system in our country. What sense would that make?

It does not end there. The other major difference in the priorities of my budget from the President's budget is in education. Everybody says education is their priority, but the President's budget actually cut his signature education proposal, No Child Left Behind. The President, with great fanfare, went across the country drawing

attention to the No Child Left Behind Act, but in the first budget he proposed, he cut the funding for No Child Left Behind.

I also, in my budget, kept the Federal promise that was made long ago to the States with Disabilities Act funding for education. Educators all across America told us this was the single highest priority. It is the one thing that would help school districts across America the most, if the Federal Government would keep its commitment to fund 40 percent of the costs of the Disabilities Act. That is a promise we have not kept. Under the budget I have proposed, we would keep it.

We have some additional funding for education, some additional funding for law enforcement as well. The President cut dramatically the funding for the COPS Program. What sense does that make, when we face a terrorist threat, to cut cops on the street? This is a program that has put tens of thousands of policemen on the streets of America. So we restored that cut.

We also dealt with some of the other priorities of the Nation. In addition to education, in addition to law enforcement, we dealt with the health care needs of America.

The President had about \$250 billion set aside for a prescription drug benefit and to expand health care coverage. The House in their budget resolution set aside \$350 billion for a prescription drug benefit and for adjustments to providers. They did not pick up the President's proposal for expanding health care coverage.

In the budget I have proposed, we have a \$500 billion reserve fund for health care, for prescription drugs, for the President's proposal on expanding health care, and for the third category of adjusting for providers, the Medicare cuts that are in place that endanger the health care of the people of the country because there are additional cuts to hospitals, additional cuts to doctors that go beyond what was anticipated when the 1997 Deficit Reduction Act was put in place.

Some have asked, how can it be that there are fewer cuts than the President proposed but on the other hand there is more debt reduction? How can that be? The way we achieved that result was not to adopt the President's proposal of additional tax reductions on top of the stimulus package that has already been put in place this year, and on top of the massive tax cut that was put in place last year that extends over the next 10 years. We say, yes, there can be additional tax cuts, absolutely, but they have to be paid for.

I think that is a pretty reasonable budget. Those are principles that ought to be adopted. Those are things that make sense.

I want to review how we got in the circumstance we are in today. It was not the fact that we have not yet adopted a budget for 2003 that put us into deficit.

I conclude by saying we got in this soup because of the fiscal policy put in

place last year by the Senator from Pennsylvania and his colleagues. They are the ones who told the American people: You can have it all; it all adds up, massive tax cut, major increases in spending. They will have maximum payoff of the Federal debt, they will do all these things based on a 10-year forecast that even the people who made the forecast warned was uncertain. But they bought it hook, line, and sinker, and they sold it to the American people.

What is the result? Before we have a budget for fiscal year 2003, massive deficit is the result, deficit not just for this year but next year and the next year and the next year and the next year, because that party that claims to be the party of fiscal responsibility put us right back into the soup of deficits, debt, and decline. Their plan did not add up. Now we have an opportunity and an obligation to try to agree on a budget for this year.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I want to make sure everyone understands what it is we are debating on the Senate floor.

The President made a request of the Senate to pass an emergency appropriation that would directly respond to the terrorist attacks in the United States. He asked for more money for defense. He asked for more money for homeland security. He asked for more money for New York. That is the pending legislation.

Our colleagues on the other side of the aisle have said this bill is on a slow train to nowhere. Mr. President, it is disconcerting, at best, that on an issue of this import—dealing with troops overseas while the nation is on high alert after being told repeatedly in the last 3 weeks about the inevitability of a further attack—somebody has unconscionably come to the floor and slow-walked this important bill, slow-walked it, stopped it, brought it to a grinding halt. But that is exactly what is happening.

We need to get this legislation passed. There ought to be a good debate about budget. We have been trying to do that. We will have one. But to offer a budget resolution on the amendment that is currently pending is inexcusable. It is politics. It has everything to do with slowing this bill down to a screeching halt and ignoring the plea of the President of the United States to enact this legislation as quickly as we can. That is what we are doing.

Members of his party have said: We don't care what the President is requesting, we are going to slow-walk this, we are going to put this on a slow train, and we are not going to pass this legislation this week. We will vote against cloture tomorrow. We are actually going to continue to filibuster a bill the President has requested to deal with homeland defense, to deal with aid to New York, and to deal with the defense needs of this country. That is inexcusable.

I move to table the second-degree amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

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

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 134 Leg.]

YEAS—96

| | | |
|-----------|------------|-------------|
| Akaka | Dorgan | Lott |
| Allard | Durbin | Lugar |
| Allen | Edwards | McCain |
| Baucus | Ensign | McConnell |
| Bayh | Enzi | Mikulski |
| Bennett | Feingold | Miller |
| Biden | Feinstein | Murkowski |
| Bond | Fitzgerald | Murray |
| Boxer | Frist | Nelson (FL) |
| Breaux | Graham | Nelson (NE) |
| Brownback | Gramm | Nickles |
| Bunning | Grassley | Reed |
| Burns | Gregg | Reid |
| Byrd | Hagel | Roberts |
| Campbell | Harkin | Santorum |
| Cantwell | Hatch | Sarbanes |
| Carnahan | Hollings | Schumer |
| Carper | Hutchinson | Sessions |
| Chafee | Hutchison | Shelby |
| Cleland | Inhofe | Smith (NH) |
| Clinton | Inouye | Smith (OR) |
| Cochran | Jeffords | Snowe |
| Collins | Johnson | Specter |
| Conrad | Kennedy | Stabenow |
| Corzine | Kerry | Stevens |
| Craig | Kohl | Thomas |
| Crapo | Kyl | Thompson |
| Daschle | Landrieu | Thurmond |
| Dayton | Leahy | Voinovich |
| DeWine | Levin | Warner |
| Dodd | Lieberman | Wellstone |
| Domenici | Lincoln | Wyden |

NOT VOTING—4

| | |
|----------|-------------|
| Bingaman | Rockefeller |
| Helms | Torricelli |

The motion was agreed to.

Mr. REID. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The deputy majority leader.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CONRAD. Mr. President, I want to reflect for a moment on the events of today and say to my colleagues, we

have to find a way to break the gridlock. The bill that is before us is for defense, for homeland security, for dealing with the tragedy of the attack on New York, and to deal with some other urgent needs, including the shortfall in Pell grants and VA medical care.

The bill before us is a \$31 billion bill. Fourteen billion dollars is for defense, money requested by the President to respond to the continuing terrorist threat to this country; \$8.3 billion is for homeland security, again funds requested by the President to respond to the continuing threat against our Nation; \$5.5 billion is to respond to the needs of New York after the attack of September 11; \$1.9 billion is for foreign security assistance to strengthen our embassies against terrorist attacks; \$1 billion to deal with the shortfall in Pell grants; \$400 million for VA medical care. That is the bill that is before us. Those are requests of the President of the United States.

I want to make clear that what is at stake is spending items requested by the President of the United States to respond to the threats against our country and the devastation that occurred as a result of those attacks. I think it also must be said that we need to have a budget put in place for this year. It is needed. Now we are being told by some on the other side, they will block any attempt to have a vote on a budget framework for this year.

There are others on both sides who want to work together to achieve that result. There are others on both sides who believe it is important to have a budget put in place for this year, to have the budget disciplines extended for this year. I hoped we could do that before we conclude work on this supplemental. This is one of the best alternatives, one of the best options we will have to put in place a budget framework for this year.

I might say that people on both sides of the aisle have worked very hard to do that, are very close to an agreement to do that, but we have to have an opportunity to vote before cloture is invoked or that effort will fall.

That is the hard reality. We have an opportunity to put in place a budget for this year, to extend the budget disciplines for this year, and to provide some order to this process. That is in the interest of all of us. That is in the interest of the Nation. I would hope very much that tomorrow we would have the opportunity to vote on that on a bipartisan basis.

Ms. STABENOW. Will the Senator yield?

Mr. CONRAD. I am happy to yield.

Ms. STABENOW. I ask the Senator, who is the chair of our Budget Committee, about issues that are in that budget which I think are so critical for all of us, and I share with the Senator his frustration about the lack of willingness or ability to move ahead in order to pass this supplemental and to be able to pass the budget. One of the important provisions that we have

worked on together relates to the question of prescription drugs and putting forward a comprehensive Medicare prescription drug benefit that I know the Presiding Officer has been deeply involved in leading and advocating as well.

Would the Senator not agree that it is critically important that we be able to move ahead with this budget so we can address the issue of Medicare prescription drugs and be able to address the spiraling costs of medications, affecting every part of our economy and that our budget resolution, in fact, puts in place the ability to do that?

Mr. CONRAD. I would like nothing better than to have the opportunity to have a full plan. At this moment, what is at stake is having any plan just for this year. That is clearly in the Nation's interests. It is in the interest of an orderly appropriations process to have a budget for this year and to have the various budget disciplines put in place for this year. That is now what is at risk, much less having a longer term plan. What is at risk at this moment is having any plan. That is what is at risk.

There are some Members who do not want any plan, some Members who want chaos. They think somehow they benefit by not having a discipline in this entire process. That is regrettable, I say to my colleague, who is a very valuable member of the Senate Budget Committee. We voted out a resolution, a blueprint on how to proceed, one that was fiscally responsible, that had substantially more debt paydown than the President proposed, one that has no tax increases, one that has no delay of the scheduled tax cuts, one that provides everything the President requested for the defense of this Nation, both in terms of the defense budget and the budget for homeland security. We did that.

We are asking for at least the opportunity to vote on one year of that plan so we meet the defense needs, so we meet the needs for homeland security, so we get this supplemental budget in place that the President has requested, so that, yes, we have the budget disciplines continue past September 30 when they expire. We do not want to see a circumstance where spending spins out of control. Just be here in October with no budget disciplines available and see what real chaos can be.

I say to my colleagues, I know there are people who have strong feelings on all of these issues. I do, as well. We ought to let the Senate work its will. We ought to have a chance to vote. That is how we determine outcomes here.

I have been told there are some who have the idea of preventing the Senate from voting. They do not want a chance to vote because they think they would lose, although there is a 60-vote requirement. They are right. They would lose. We would then have the opportunity to have not only a budget for this year and also the budget dis-

ciplines continue, that is very much in the public interest.

I hope some of my colleagues overnight will think about the consequences of the failure to act. I thank the Senator from Michigan for her contributions on the Budget Committee.

Ms. STABENOW. I commend the Senator from North Dakota for his ongoing leadership on the Budget Committee. These are challenging times. He has forecast for over a year great concerns about an evaporating surplus and what could happen with a downturn and other pressures on the budget. He has continued to advocate fiscal discipline. I join the Senator in that and in setting the right priorities for the country, the right priorities for our families.

ASSISTANCE FOR ISRAEL

Mr. BYRD. Mr. President, I want to take a moment to discuss the amendment of the Senator from Kentucky, the ranking minority member of the Foreign Operations Subcommittee, Senator MCCONNELL, concerning assistance for Israel.

This amendment would permit the transfer of all or a portion of the funds in the supplemental for Israel, to the "Nonproliferation, Anti-Terrorism, Demining and Related Programs" account (NADR), to be used for "defensive, non-lethal anti-terrorism assistance." It is my understanding that the purpose of this amendment is to provide the authority to utilize these funds to purchase bomb detection equipment, x-ray machinery, body armor, and similar types of border security and other defensive equipment to prevent acts of terrorism. Am I correct?

Mr. MCCONNELL. I thank the chairman of the Appropriations Committee for his question. Yes, he is correct. That is exactly what these funds would be available for. The recent bombings in Israel—including one this morning that killed 16 people—have only demonstrated the urgent need for this type of assistance.

Mr. BYRD. I thank the Senator. I want to be certain that there is no ambiguity about what these funds are for. We are all aware that there was never any intention that these funds would be available for lethal assistance or for the expansion of settlements, but I think it is important to reaffirm that understanding. These NADR funds would not be available for offensive purposes, or for any purpose unrelated to the purchase of defensive, non-lethal anti-terrorism equipment, and the Senator from Kentucky has confirmed that.

Mr. MCCONNELL. Let me thank the chairman for including the assistance for Israel in his mark.

WAIVER OF THE LOCAL MATCH FOR THE COMMUNICATIONS INTEROPERABILITY FUNDING

Ms. LANDRIEU. Mr. President, I would like to engage my colleague, the distinguished chairman of the Commerce, Justice, State appropriations Subcommittee, Senator HOLLINGS, in a

colloquy on the local match requirements for Federal grant funding. This pressing concern was raised by the local elected officials we heard from during the Appropriations Committee homeland security hearings. One of them testified that in many of these grant programs, particularly in the public safety area, our larger cities with the greatest needs cannot afford to meet a local requirement, while wealthier area with relatively fewer needs are able to take full advantage of these funds.

I hope the distinguished chairman will join me in this colloquy at this time.

Mr. HOLLINGS. I would be happy to speak with my colleague from Louisiana on this important issue.

Ms. LANDRIEU. I thank the Senator. I believe that local match requirements are an important shared investment in Federal grant making. So there is a need for it and I think my colleague would agree.

Mr. HOLLINGS. I certainly do agree. By giving the local jurisdiction "buy-in" to a grant, the local match adds an incentive for communities to use Federal funding effectively. A wide variety of grant programs have them. I also share in the Senator from Louisiana's concern that many of our communities may not be able to afford that match. Many grant programs provide waivers of the match in certain cases.

Ms. LANDRIEU. I would like to talk to the Senator about the \$80 million in interoperable communications funding in the Department of Justice title of the bill. In the District of Columbia Subcommittee we have held hearings on the emergency preparedness needs for Washington, DC. During 9-11, District fire and police personnel had to have the ability to communicate with multiple jurisdictions that responded to the Pentagon. So interoperability is crucial for public safety officials.

The funding in the bill would be administered by the COPS program at the Department of Justice. You have been a leader in the Senate in your support of that program. COPS grants require a 25 percent local match for its grants. The COPS program does allow for a full or partial waiver of the local match for communities that are facing severe fiscal distress. Communities can qualify for a waiver in a wide variety of ways. Some qualify because they have been declared a FEMA disaster area or have been placed in receivership or bankruptcy. Communities can also get a waiver if they have had a recent large, one-time financial expense, like replacing a water treatment facility. The COPS program will also grant waivers to communities that had to make across-the-board budget cuts as a result of difficult economic circumstances.

Mr. HOLLINGS. Congress designed the COPS program to meet the specific law enforcement needs of individual communities. This is true not only with the waiver of the local match, but

in how communities can use COPS funding in general.

Ms. LANDRIEU. Is it your understanding that the COPS interoperable communications funding in the bill will be administered in the same manner as the other COPS grant programs regarding the local match and the waiver process?

Mr. HOLLINGS. Yes. These funds will be administered in the same manner as other COPS grants funds regarding both the matching requirements and the waiver process.

Ms. LANDRIEU. I thank the chairman of the subcommittee. I look forward to working with you on this issue.

Mr. GRAHAM. Mr. President, I rise today in support of the funding for the U.S. Coast Guard aviation programs in the pending supplemental appropriations bill.

On February 20, I spent a day at Coast Guard Air Station Clearwater in St. Petersburg, Florida. I observed first hand some very impressive Coast Guard aviation operations, but also several helicopters that were inoperative due to problems associated with a shortage of spare parts. I am pleased that the pending supplemental will help restore adequate funding for the Coast Guard aviation program, including spare parts, and get these aircraft flying and operational again soon.

The Coast Guard needs this assistance to cover their basic operational expenses. According to the Coast Guard, the first supplemental this year provided funding to operate seven additional aircraft (4 HU-25 Falcon jets and 3 HH-65 helicopters) and provided a 15 percent increase in flight hours. The pending supplemental contains approximately \$22 million to continue to operate the entire aviation fleet for the remainder of the fiscal year, with an adequate inventory levels of repair parts. I am also pleased that the Coast Guard reports that the President's fiscal year 2003 budget request contains the necessary recurring funding to support the additional aircraft and flight hours brought on by fiscal year 2002 supplemental funding, as well as continues to resolve the Service's aviation parts shortfalls.

I do recognize that some of the HH-60 helicopter problems that I saw in February are due to aging aircraft issues that affect the entire U.S. H-60 fleet, including those owned by the Department of Defense, and are not just the Coast Guard specific issues.

As one of the nation's first lines of defense in stemming the flow of illicit drugs and illegal immigration into the United States, it is imperative that the U.S. Coast Guard be appropriated the resources that they require to carry out their critical missions on behalf of the American people. And we must remain committed to ensuring that our Coast Guard has adequate resources not just now, but well into the future. The U.S. Coast Guard is important to Florida and important to the nation.

I urge my colleagues to join me in support for the Coast Guard's supple-

mental funding for fiscal year 2002 as well as for their annual appropriations in fiscal year 2003.

Mr. MCCONNELL. Mr. President, I very much enjoyed Thomas Friedman's op-ed in today's New York Times entitled "Land of Denial." I could not agree more with his assertion that Egypt can—and should—be doing more to be a leader in the Arab world.

Egypt is a land of missed opportunities, and it has forfeited its historical place in Middle Eastern history as a progressive and pluralistic country. Friedman points out that while other countries—Jordan, Bahrain, Qatar, and even Tunisia—have forged ahead with democratic, free press, and economic reforms, Egypt "has been stagnating."

I could not agree more with Friedman's assertion that "[t]he intellectual air has gone stale in Egypt from too many years of controlled press and authoritarian politics."

In the past, I have taken issue with Egypt's cold peace with Israel, its jailing of democracy advocates, its suspicious involvement with North Korean missiles and weapons technicians, and its reckless and irresponsible government-controlled press that fuels extremism on the streets of Cairo and throughout the Arab world.

It is not too late for President Hosni Mubarak to embark on a reform path that will ensure a stable and prosperous Egypt. It is in our interests—as well as those of the Egyptian people—that Mubarak invests in the development of functioning democratic institutions and political processes.

In the supplemental bill I carved out a portion of assistance provided in the Economic Support Fund account for the professional training of Egyptian and other Middle Eastern journalists. I did so because I firmly believe that a free and independent media in Egypt will contribute to our war against terrorism, peace in the region, and the political, legal, and economic development of that country.

The abuses of the government-controlled Egyptian press are legendary, and include personal attacks against Secretary of State Colin Powell and National Security Adviser Condoleezza Rice. America has been repeatedly tarred and feathered, Israel vilified, and Hitler criticized for not killing all the Jews "so that the world could sigh in relief without their evil and sins."

Such inflammatory nonsense fuels ideological extremism that has repercussions on our shores and throughout the world.

Let me assure my colleagues that in my capacity as ranking member of the Foreign Operations Subcommittee, I will continue to examine the assistance America provides to Egypt. I have already suggested to Secretary Powell that we reassess our assistance to Egypt to ensure that it effectively promotes critically needed reforms, and I look forward to working with the administration on this matter.

MORNING BUSINESS

Mr. REID. Mr. President, I have spoken to both the majority and the Republican leader and told them that we were going to go into a period for morning business for the rest of the evening, and they both are aware of what we were going to do. Therefore, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators permitted to speak therein for a period up to 10 minutes each.

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

ORDER OF BUSINESS

Mr. REID. Mr. President, for the information of all Members, I have spoken with the two leaders, and what we would like to do this evening is propound a unanimous consent request that we be in morning business in the morning from 9:30 until 10:30, with the time from 10:30 until 11 equally divided with the proponents and opponents of the motion to invoke cloture.

We, of course, will be on cloture whether there is an agreement or not. That is the rule. So that is what I am going to propose later on. As I have said, I have explained that to both leaders, and I think that is what they want.

Of course, Mr. President, there are no more rollcall votes today.

CRITICAL ISSUES

Ms. STABENOW. Mr. President, I rise to ask our colleagues to move beyond the obstructionist position, to work together to get the supplemental passed so we can move on to other critical issues that affect our families. This is one. It is important. There are important pieces in this bill that deal with our issues of homeland security and certainly, representing the great State of Michigan, issues of border security are critical. We are very concerned about making sure we have the resources in place. There are other important resources in this supplemental bill.

However, I am equally concerned about the ability to move beyond this, to get this completed on a bipartisan basis and move beyond this to the rest of the agenda that has to happen.

The Presiding Officer has spoken eloquently about the sense of urgency families feel about medicine and the inability to afford critical lifesaving medicine, whether you have cancer, a heart condition, high blood pressure, or a disabled child and you need to be able to provide that child with medicine that is needed.

We have the ability and, within our budget resolution, the capacity to pass a Medicare prescription drug benefit that will update Medicare and make sure there is a voluntary universal plan in place for those who need it, to be able to afford their prescription drugs.

We also have the ability to lower prices across the board. Our side of the aisle has put forward a strategy to provide a way to lower prices for our business community, large and small. I have seen the business communities come forward, small businesses that are losing the ability to provide health care for their employees because premiums are going up 30 and 40 percent this year.

The big three automakers shared some statistics with me. I came from a weekend-long event on Mackinaw Island, which I invite the Presiding Officer and my colleagues to come and enjoy during the beautiful summer months. There is a wonderful gathering of business and political leaders and university educators who come together once a year to discuss challenges facing the economy in southeastern Michigan and across Michigan and the business concerns. High on their list, if not at the very top, was the rising costs of health care, predominantly due to the explosion of the prices on prescription drugs.

We heard a presentation from DaimlerChrysler that indicated on a SUV today priced at \$18,600 the cost of employee health care is \$1,300, and that the fastest growing part of that is prescription drug costs. We not only need to be providing Medicare prescription drug coverage for seniors and for the disabled, but we need to close the loopholes which allow the companies to stop compensation through generics that go on to market or are supposed to go on to market once the patents run out where the formula is available to other countries to use and to produce prescription drugs at a lower cost.

We also need to open our borders to Canada. Two weeks ago, we passed fast-track trade authority, but the only thing we could not trade between the United States and Canada is prescription drugs, which makes absolutely no sense. We know, and we will be demonstrating next week in bus trips from a number of States across to Canada, that you can lower your prices at least in half.

I am pleased to have joined with Senator DORGAN from North Dakota, Senator JEFFORDS from Vermont, Senator WELLSTONE from Minnesota, and many others, in an effort to open the border so we can have that competition, and our pharmacists, our hospitals, and our businesses can have business relationships with the Canadians, bringing back American made drugs sold to them at lower prices. We have that bill. If we had the opportunity, we could complete the supplemental and bring up that bill and lower prices immediately.

We have been able to put forward a bill that caps the amount the taxpayers subsidize in excessive advertising costs. The drug companies are spending 2.5 times more to advertise a drug than to create a new lifesaving drug, and we have a bill—and the Pre-

siding Officer has joined in the effort—to cap the amount that can be written off on advertising and marketing costs to the same level that research costs are rip-offs on taxes, so taxpayers are subsidizing no more for advertising and marketing sales than we do for research. That would cut costs immediately.

We also have a bill to allow more flexibility for States using innovative techniques as in Maine and Vermont, where they are being sued by the drug companies for coming up with creative ways to lower prices.

We have an agenda to lower prices. We have an agenda that includes a comprehensive, voluntary, Medicare prescription drug benefit. If we can get beyond the current stalemate, we will have the time and opportunity to bring forward these issues that directly affect every single American—every business, every farmer, every worker, every family, every senior. It is an issue whose time has come.

People in our States are saying it is time to act. It is past time to act. We have been talking about this. You would think, given all the time we spent talking about it, on both sides of the aisle, we could have funded a prescription drug benefit.

The reality is we need to act. We need to do it now. I am deeply concerned that we are seeing, day after day, stalemate on moving forward on critical issues such as the supplemental that are so important to us and that are blocking us.

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

Ms. STABENOW. I am happy to yield to the distinguished Senator.

Mr. REID. I say to the Senator from Michigan how much I appreciate her leadership on this issue. Yesterday the Presiding Officer gave a speech, right close to where the Senator was standing. It was one of the most significant speeches I have heard since I have been here. He illustrated, in the mind of anyone who was listening, why we cannot wait.

I say to my friend from Michigan, I was on an elected board of trustees from a hospital district in 1966 when Medicare came into being. Prior to Medicare coming into being, 40 percent of the seniors who came into our hospital—it was a county hospital—had no health insurance. We were brutal. That is just the way it was all over America. We would go after whoever brought their mother or father, son or daughter in the hospital. We would go after them for their wages; we would attach their homes. That was the way it was all over America.

Medicare is imperfect, but now virtually every senior citizen who comes into a hospital has some health insurance.

In 1966, I think the Senator would agree, there really was not a paramount need for a health insurance plan that covered seniors for prescription drugs. That was not really a part of the