

high-definition television as part of industrial policy; the Japanese were doing it, and we could lose our cutting edge in technology.

Well, what happened? Fortunately, we did not do it. I opposed it. The Japanese invested over \$1 billion in their technology, which failed. The world adopted our private technology, and we now dominate the world market. Crony capitalism does not work in America, it does not work in Japan, it certainly did not work in Korea and Thailand, and the sooner they change their system, the better off they are going to be.

If they want to set their economy right by using a system that we know works—capitalism and democracy—then we want to help. If they want to keep trying crony capitalism and socialism, we wish them good luck, we will include them in our prayers, but we will not fund that experiment, because we know it does not work.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

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UNANIMOUS CONSENT AGREEMENT—2-DAY CONTINUING RESOLUTION

Mr. SPECTER. Mr. President, I have been asked to make a unanimous consent request on behalf of our leader, Senator LOTT.

I ask unanimous consent that when the Senate begins consideration of the two-day continuing resolution, there be 10 minutes equally divided between the chairman and ranking minority member of the Appropriations Committee, and following the conclusion or yielding back of time, the resolution be agreed to and the motion to reconsider be laid upon the table, all without additional action or debate.

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

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THE BUDGET PROCESS

Mr. SPECTER. Mr. President, I have sought recognition to comment about the budget process and the status of events now pending between the Congress and the Administration.

We have come to a stage on appropriations where so many decisions are left, in the final analysis, to negotiations which involve only four Members of Congress and now the Chief of Staff of the President's administration, which I believe is far removed from the regular order of the United States Congress and the regular order as envisioned by the Constitution where the Congress legislates, presents bills to the President, and the President either signs or vetoes those bills.

We have, as we all know, 100 Members of the Senate and 435 Members of the House of Representatives. And it is my view that, if unconstitutional, it is certainly an unwise de facto delegation of power to four Members of Congress:

The Majority and Minority Leaders of the Senate, the Speaker, and the Minority Leader of the House of Representatives.

My bill is illustrative. I chair the appropriations subcommittee which has jurisdiction of three major Departments: The Department of Education, the Department of Health and Human Services, and the Department of Labor. And my staff and I worked during the month of August, a recess month, so that when we came back into session on August 31 we would be prepared, as we were on September 1, to have the subcommittee act. The full committee then acted on September 3 in an effort to have this complex and important bill considered early on by the Senate.

The bill never came to the Senate floor because of other pressing business and candidly, because the bill was so controversial that it would likely be tied up in matters which might not be resolved. However, I believe that had these issues been debated on the Senate floor, I think that they would have had chance, a realistic chance. Ultimately, with enough time and effort, we could have prevailed. Similarly, in the House of Representatives there was never floor consideration to the legislation covering these three important departments.

So the subcommittee chairman and the ranking members met and tried to work out many of the points of contention. The matters have never been considered on the floor of the Senate where under our procedures Senators have the right to offer amendments, the right to modify figures in the regular legislative consideration.

We are going to have to take a hard look at our procedures when we reconvene next January so that we go back to the regular order and to the process under which this body, the Senate, considers the legislation we have handled on the floor and then in the conference report and then present it to the President for his signature or for his veto, as he exercises his Presidential judgment.

We had a conference last Friday with representatives from the Office of Management and Budget and the chairmen of the Appropriations Committees from both Houses, as well as the chairmen of the subcommittees and ranking members. At that time we were considering an objection which the President had raised to the appropriations bill covering education. The President had just had a rose garden news conference and was very, very critical of Congress for failing to meet his demands, his requests, his priorities on education.

I was asked to participate in a responsive news conference which, unlike the President's power of the bully pulpit, received virtually no attention. The facts are these: The President has requested for education \$31,185,302,000; on Friday the House-Senate Conference Committee had come to a figure of \$31,832,358,000. Rounding off the numbers, the President was at \$31.2 billion

and the House-Senate conference was at \$31.8 billion. We were \$600 million over the President's figure. It led me at that news conference to comment that the President either did not know what the figures were or was negotiating not in good faith in representing that the Congress had not met his requests for an education funding figure.

A further controversy developed, and I believe is still pending, although those negotiations are ongoing. And minute by minute we do not know whether agreements are made or not until we hear their final report. The President asked for \$1.1 billion for classroom size. The President proposed paying for that item with the proceeds from the tobacco settlement, except there never was a tobacco settlement and we never had those proceeds to work with.

My subcommittee had anticipated that problem and had, in the report which we filed, provided for reduction in classroom size to meet what the President considered a priority. We agreed with him that it was a priority. We allocated some \$300 million for that effort. According to the information presented in our conference, the maximum expenditure for the next fiscal year would have been \$50 million. So we had adequately taken care of the President's priority and we had more than enough funding to proceed for the first year.

It was our concern that the congressional authorizing committees had not taken up the item, which should be done in the context where we saw there was adequate funding. Had we had the tobacco proceeds, I think a good bit more attention would have been paid to this. When the funding did not come through, the subcommittee made its best efforts. I believe the facts are illustrated on these items, which were the bones of contention. The subcommittee had provided more funding for education than the President had requested, and it made an appropriate allocation for classroom reduction size. Congress had done its job on education.

It is obvious that when the President speaks from that bully pulpit he may even get more attention than when a Senator addresses the same subject on the Senate floor, seen by very few people on C-SPAN2. But at least we do what we can to establish the record for the propriety of our congressional action.

The business of having 535 elected Members of the Congress delegate authority to four individual Members, short-circuiting our process, is not in the national interest.

One of the items which has been under consideration in the subcommittee has been a complex question of organ transplants. The subcommittee has adopted the recommendation of the administration, put forward by Secretary of Health and Human Services Donna Shalala, to establish regulations issued by her Department. We held a hearing on the subject and tried to

come to grips with that issue. A differing point of view was put forth by the House of Representatives.

I concede that while the House advocates had parochial interests of their State, I, too, had an interest in Pennsylvania on this issue. Looking at the broader national aspects, it really is a matter to be decided by the medical experts. I think that was provided for in the regulations proposed by the Secretary of Health and Human Services. The Secretary had no parochial interest and was speaking for the national interest. If the Secretary was wrong, that is a matter which ought to be decided by the authorizing committee. It ought not to be left to the appropriators.

That is only illustrative of many, many riders we have where the appropriators are called upon to decide very, very complex questions which ought to be resolved after hearings, analysis, floor debate, and a decision on what is public policy. They really are not issues to be decided by how much money ought to be allocated to a specific line, which is the function of appropriations.

It is my hope that these procedures will be corrected when the Congress reconvenes next January, to find a way to return to regular order and to have these issues considered by the full Senate, considered in a Conference Committee, and presented to the President.

When we had our conference last Friday, I raised the question head on with members of the Office of Management and Budget where this education item was a matter for veto. He had some difference of opinion of some \$330 million, which is not insignificant, but is not enormous on a \$32 billion budget. The representative of the administration couldn't answer the question. If we had passed a bill and submitted it to the President, I think he would not have vetoed. My instinct is if we passed a bill and submitted it to the President, the funding figure which he wished for, classroom size reduction, which has now been conceded by the congressional negotiators, but it left open the issue of whether it would be decided by the States and local government or decided by the Federal Government, with the President pressing to have a man-

date from the Federal Government operated out of Washington instead of leaving it to local government.

Here again, I think the President would not have exercised his veto, or at least had we followed regular order and the constitutional procedure without having the President in the negotiations on the appropriations bill—where he ought not to be, his representative ought not to be—we would have had a determination as to whether it rose to the magnitude of a Presidential veto.

Our institutions have been well served, as we know, when we follow constitutional procedures, when you follow regular order on what has been established. I do believe that these shortcuts are not in the public interest and we ought to return to the tried and tested ways of the appropriations process.

I ask unanimous consent to have printed in the RECORD the chart I referred to earlier.

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

LABOR, HEALTH HUMAN SERVICES AND EDUCATION APPROPRIATIONS

	1998 comparable	Budget request	House committee bill	Senate committee bill	Tentative agreement—House	Tentative agreement—Senate	Open Issues UA
<b>Title II—Department of HHS, current year (federal)</b> .....	162,167,174	177,149,724	176,289,059	176,178,717	178,665,109	178,695,109	30,000
Prior year advances .....	31,036,993	31,718,189	31,718,189	31,718,189	31,718,189	31,718,189	
Trust funds, current year .....	1,798,072	1,951,665	1,951,665	1,694,715	1,955,665	1,955,665	
<b>Total</b> .....	<b>195,002,239</b>	<b>210,819,578</b>	<b>209,958,913</b>	<b>209,591,621</b>	<b>212,338,963</b>	<b>212,368,963</b>	<b>30,000</b>
<b>Mandatory, current year</b> .....	<b>132,981,566</b>	<b>145,960,968</b>	<b>146,055,968</b>	<b>146,040,968</b>	<b>146,230,968</b>	<b>146,230,968</b>	
Prior year advances .....	29,099,993	29,618,189	29,618,189	29,618,189	29,618,189	29,618,189	
<b>Subtotal: Mandatory</b> .....	<b>162,081,559</b>	<b>175,579,157</b>	<b>175,674,157</b>	<b>175,659,157</b>	<b>175,849,157</b>	<b>175,849,157</b>	
<b>Discretionary</b> .....	<b>29,185,608</b>	<b>31,188,756</b>	<b>30,233,091</b>	<b>30,137,749</b>	<b>32,434,141</b>	<b>32,464,141</b>	<b>30,000</b>
Prior year advances .....	1,937,000	2,100,000	2,100,000	2,100,000	2,100,000	2,100,000	
Trust funds, current year .....	1,798,072	1,951,665	1,951,665	1,694,715	1,955,665	1,955,665	
Projected HCFA user fee collections .....		(264,500)					
Child Care Welfare Reform rescission .....	(3,000)						
Viagra Limitation .....			(40,000)		(40,000)		40,000
Adjustment for legislative cap on Title XX SSBGs .....	(81,000)	(471,000)	(81,000)	(471,000)	(81,000)	(81,000)	
<b>Subtotal: Discretionary</b> .....	<b>32,836,680</b>	<b>34,504,921</b>	<b>34,163,756</b>	<b>33,461,464</b>	<b>36,368,806</b>	<b>36,438,806</b>	<b>70,000</b>
<b>Total: 302(b) scorekeeping</b> .....	<b>194,918,239</b>	<b>210,084,078</b>	<b>309,837,913</b>	<b>209,120,621</b>	<b>212,217,963</b>	<b>212,287,963</b>	<b>70,000</b>
<b>Title III—Department of Education current year (federal funds)</b> .....	<b>30,701,330</b>	<b>32,142,182</b>	<b>31,481,671</b>	<b>31,867,651</b>	<b>32,250,768</b>	<b>32,797,056</b>	<b>546,288</b>
Mandatory, current year .....	2,555,086	2,615,266	2,616,640	2,615,266	2,622,584	2,622,584	
Discretionary, current year (federal funds) .....	28,146,244	29,526,916	28,865,031	29,252,385	29,628,184	30,174,472	546,288
Prior year advances .....	1,298,386	1,658,386	1,658,386	1,658,386	1,658,386	1,658,386	
<b>Subtotal, Discretionary</b> .....	<b>29,444,630</b>	<b>31,185,302</b>	<b>30,523,417</b>	<b>30,910,771</b>	<b>31,286,570</b>	<b>31,832,858</b>	<b>546,288</b>
<b>Total, 302(b) scorekeeping</b> .....	<b>31,999,716</b>	<b>33,800,568</b>	<b>33,140,057</b>	<b>33,526,037</b>	<b>33,909,154</b>	<b>34,455,442</b>	<b>546,288</b>
<b>Title IV—Related Agencies (federal funds, current year)</b> .....	<b>17,738,380</b>	<b>23,195,669</b>	<b>23,058,541</b>	<b>23,207,418</b>	<b>23,173,046</b>	<b>23,182,836</b>	<b>9,790</b>

**HATE CRIMES**

Mr. SPECTER. Mr. President, we have seen the issue of hate crimes again tragically before the American people with a horrendous event in Laramie, WY, on October 6, just last week, where a young man, Matthew Shepard, was kidnapped, robbed, severely beaten, and left tied to a fence in freezing weather. He died 5 days later from his wounds.

Two men have been charged with the murder. It appears that the attack was motivated at least in part by an antigay bias. Police have stated that while robbery was the main motive for the attack, that Mr. Shepard was apparently chosen as a victim because he was gay.

It has been reported by the investigators that the two suspects lured Mr. Shepard from the bar by stating that they, too, were gay and wanted to meet with him. The girlfriend of one of the two suspects has stated that Shepard was targeted because he had flirted with the suspect earlier that evening and allegedly embarrassed him.

The issue of hate crimes was very much a national focus months ago, on June 7 of 1998, when Mr. James Byrd, Jr., an African-American, was kidnapped and killed by being dragged from the back of a pickup truck. Three white men have been charged with the murder. The evidence indicates that there was racial motivation for the attack. Authorities have stated that all

three suspects were white supremacists and had white supremacist tattoos on their bodies. All three were identified as belonging to the Ku Klux Klan and the Confederate Knights of America while serving in prison. Racist literature was seized from the home shared by the suspects.

The current hate crime legislation was deemed inadequate on the murder of Mr. Byrd because the victim was attacked in a way where he was not seeking to exercise a federally protected right.

On November 13, 1997, Senator KENNEDY, Senator WYDEN, and I introduced the Hate Crimes Prevention Act, which has not moved forward. It is my view that there is no place in America for