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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, April 21, 1998, at 12:30 p.m.

Senate

THURSDAY, APRIL 2, 1998

The Senate met at 8:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Gracious God, we begin this day by making the psalmist's prayer our moment by moment petition. "Teach me to do Your will, for You are my God."—Psalm 143:10. Remind us that discovering and doing Your will is not like flying on automatic pilot where we turn on the flight plan and forget about it. Instead, it is a sensitive, attentive relationship with You in which You communicate Your guidance to receptive minds each step of the way. You lead us when we concentrate all our desires on clearly knowing what is Your will for us. Our yearning to know Your will drives us back into deeper fellowship with You. We want to be spiritually fit so that no debilitating memory, broken relationship, or unforgiven hurt would render us incapable of receiving Your guidance.

Bless the Senators as they seek Your best for America in vital issues and in minute details lest real concerns are trivialized and minutia becomes momentous. In the Name of our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the distinguished Senator from New Mexico, is recognized.

Mr. DOMENICI. I thank the Chair.
Mr. REID. Will the Senator yield for a unanimous consent request?
Mr. DOMENICI. Yes.

PRIVILEGE OF THE FLOOR— S. CON. RES. 86

Mr. REID. Mr. President, I ask unanimous consent that congressional fellow Scott Conroy be given floor privileges during the pendency of action on the budget resolution.

The PRESIDING OFFICER (Mr. DEWINE). Without objection, it is so ordered.

Mr. DOMENICI addressed the Chair.
The PRESIDING OFFICER. The Senator from New Mexico.

SCHEDULE

Mr. DOMENICI. Mr. President, this morning the Senate will resume consideration of S. Con. Res. 86, the budget resolution, with the time until 9 a.m. equally divided on the Bumpers amendment relating to mines. At 9 a.m., by previous agreement, the Senate will proceed to a series of seven consecutive rollcall votes. The first two are in relation to two judicial nominations, the nominations of G. Patrick Murphy to be a U.S. district judge for the Southern District of Illinois and Michael P. McCuskey, of Illinois, to be U.S. district judge for the Central District of Illinois. The remaining five votes are on or in relationship to amendment No. 2218, Senator DORGAN's amendment relating to the Tax Code; amendment No. 2170, an Allard amendment regarding

Federal debt; amendment No. 2195, a Lautenberg amendment on environmental programs; amendment No. 2213, a Bond amendment on housing; and then amendment No. 2228, a Bumpers amendment relating to mines.

It is hoped that during all of these votes Senators will contact the managers to inquire as to if their respective amendments may be accepted or if they require a vote on their amendment or perhaps indicate that they have decided to withdraw their amendment.

It is the intention of the majority leader to complete action on this measure as soon as possible. We ask all Senators to cooperate in that regard. Senators should be aware that today will be a busy schedule. Rollcall votes will be occurring throughout the day and into the evening, as necessary. In addition, Members are reminded that all consecutive rollcall votes are limited to 10 minutes in length. All Members' cooperation is requested with reference to the timely manner of the disposition of each vote.

As a reminder to all Members, the first rollcall vote will occur at 9 a.m. this morning.

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEARS 1999, 2000, 2001, 2002, AND 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. Con. Res. 86, which the clerk will report.

The legislative clerk read as follows:

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



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S3023

A concurrent resolution (S. Con. Res. 86) setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

The Senate resumed consideration of the concurrent resolution.

Pending:

Allard amendment No. 2170, to require the reduction of the deficit, a balanced Federal budget, and the repayment of the national debt.

Conrad (for Boxer) modified amendment No. 2176, to increase Function 500 discretionary budget authority and outlays to accommodate an initiative promoting after-school education and safety.

Brownback amendment No. 2177, to express the sense of the Senate regarding economic growth, social security, and Government efficiency.

Smith (Oregon) amendment No. 2179, to express the sense of the Senate on Social Security taxes.

Smith (Oregon) amendment No. 2180, to express the sense of the Senate with respect to the use of marijuana for medicinal purposes.

Smith (Oregon) amendment No. 2181, to express the sense of the Senate concerning increases in the prices of tobacco products.

Kennedy amendment No. 2183, to express the sense of the Senate concerning the enactment of a patient's bill of rights.

Kennedy amendment No. 2184, to increase Function 500 discretionary budget authority and outlays to support innovative education reform efforts in urban and rural school districts.

Kennedy amendment No. 2185, to express the sense of the Congress regarding additional budget authority for the Equal Employment Opportunity Commission.

Wellstone modified amendment No. 2186, to provide a reserve fund to pay for increased Pell Grants by reducing or eliminating corporate welfare tax expenditures.

Wellstone/Moynihan amendment No. 2187, to express the sense of the Senate regarding a report of the Secretary of Health and Human Services evaluating the outcomes of welfare reform.

Wellstone modified amendment No. 2188, to provide additional funds for medical care for veterans.

Thurmond amendment No. 2191, to clarify outlay levels for major functional categories.

Thurmond amendment No. 2192, to clarify outlay levels for national defense.

Lautenberg amendment No. 2194, to express the sense of the Senate to ensure that the tobacco reserve fund in the resolution may be used to protect the public health.

Lautenberg amendment No. 2195, to establish a deficit-neutral reserve fund for environmental and natural resources.

Lautenberg (for Kohl/Reid) modified amendment No. 2204, to express the sense of the Senate regarding the establishment of a national background check system for long-term care workers.

Reid/Bryan amendment No. 2206, to express the sense of the Senate that the landowner incentive program included in the Endangered Species Recovery Act should be financed from a dedicated source of funding and that public lands should not be sold to fund the landowner incentive program of the Endangered Species Recovery Act.

Domenici (for Hutchison) amendment No. 2208, to express the sense of the Senate that any budget surplus should be dedicated to debt reduction or direct tax relief for hard-working American families.

Lautenberg (for Torricelli/Jeffords) amendment No. 2212, to express the sense of the Senate on battlefield preservation.

Bond/Mikulski modified amendment No. 2213, to express the sense of the Senate that the Elderly Housing program shall be funded at not less than the fiscal year 1998 funding level.

Kerrey amendment No. 2215, to express the sense of the Senate regarding passage of the IRS Restructuring and Reform Act of 1997.

Murray amendment No. 2216, to increase Function 500 discretionary budget authority and outlays to accommodate both Administration investments in education and the \$2.5 billion increase assumed by the resolution for IDEA.

Murray amendment No. 2217, to express the sense of the Senate regarding the expansion of Medicare benefits.

Dorgan modified amendment No. 2218, to strike section 301 of the concurrent resolution, which expresses the sense of Congress regarding the sunset of the Internal Revenue Code of 1986, and replace it with a section expressing the sense of Congress that important tax incentives such as those for encouraging home ownership and charitable giving should be retained.

Dorgan amendment No. 2219, to establish a reserve fund for health research at the National Institutes of Health, funded by receipts from tobacco legislation.

Biden amendment No. 2220, to permit the use of Federal tobacco funds to reimburse the Veterans Administration for the costs of treating smoking-related illnesses.

Kyl amendment No. 2221, to express the sense of the Senate supporting a supermajority requirement for raising taxes.

Domenici (for Grams) amendment No. 2222, to use any budget surplus to reduce payroll tax and establish personal retirement accounts for hard-working Americans.

Bingaman/Lieberman amendment No. 2223, to establish a deficit-neutral reserve fund for civilian research and development.

Feingold amendment No. 2224, to establish a disability reserve fund.

Domenici (for DeWine) amendment No. 2225, to state the sense of the Senate regarding the quality of teachers.

Lautenberg (for Rockefeller) amendment No. 2226, to revise outlays and new budget authority for transportation (400) programs and allowances (920), and to strike those provisions with regard to outlays and new budget authority for programs of function 700, Veterans Benefits and Services.

Lautenberg (for Conrad) amendment No. 2227, to ensure that the tobacco reserve fund in the resolution may be used to strengthen social security.

Lautenberg (for Bumpers) amendment No. 2228, to provide for funding to help the states comply With the Individuals with Disabilities Education Act by eliminating an unjustified tax loophole.

Lautenberg (for Feinstein) amendment No. 2229, to express the sense of the Senate on education goals.

Lautenberg (for Kerry) amendment No. 2230, to ensure that tobacco reserve fund in the resolution protects public health.

Lautenberg (for Wellstone) amendment No. 2231, to express the sense of the Senate supporting additional funding for fiscal year 1999 for medical care for veterans.

Lautenberg (for Robb) amendment No. 2232, to ensure that the tobacco reserve fund in the resolution protects tobacco farmers.

Lautenberg (for Biden) amendment No. 2233, to provide for the Senate's support for Federal, State and local law enforcement.

Lautenberg (for Boxer) amendment No. 2234, to expand the uses of the tobacco reserve fund to include funding for health research, including the National Institutes of Health.

Lautenberg (for Bingaman/Lieberman) amendment No. 2235, to express the sense of

the Senate regarding the analysis of civilian science and technology expenditures in the budget.

Lautenberg (for Bingaman) amendment No. 2236, to express the sense of the Senate regarding long-term civilian science and technology budget trends.

Lautenberg (for Kerrey) amendment No. 2237, to express the sense of the Senate on long-term Federal budgeting and the repayment of the public debt.

Lautenberg (for Moseley-Braun) amendment No. 2238, to express the sense of the Senate regarding tax legislation that increases the complexity of any tax return.

Lautenberg (for Moseley-Braun) amendment No. 2239, to express the sense of the Senate that the President should submit a generational study with the budget request.

Lautenberg (for Moseley-Braun) amendment No. 2240, to express the sense of the Senate regarding the value of the social security system for future retirees.

Lautenberg (for Durbin) amendment No. 2241, to express the sense of Congress regarding the right to affordable, high-quality health care for seniors.

Lautenberg (for Dorgan) amendment No. 2242, to express the sense of the Senate on ensuring social security solvency.

Lautenberg amendment No. 2243, to express the sense of the Senate that the Congress and the Administration should fulfill the intent of the Amtrak Reform and Accountability Act of 1997 and appropriate sufficient funds in each of the next five years to enable Amtrak to implement its Strategic Business Plan, while preserving the integrity of the \$2.2 billion provided under the Taxpayer Relief Act for the statutory purpose of capital investment.

Lautenberg (for Daschle) amendment No. 2244, in the nature of a substitute.

Lautenberg (for Torricelli) amendment No. 2245, to express the sense of the Senate on battlefield preservation.

Lautenberg (for Torricelli) amendment No. 2246, to express the sense of the Senate on the Land and Water Conservation Fund.

Lautenberg (for Moynihan) amendment No. 2247, to express the sense of the Senate that the Committee on Finance should consider legislation to preserve social security and ensure its long-run solvency; and that no policy options, affecting either outlays, revenues, or the manner of investment of funds, should be excluded from consideration.

Domenici (for Bond) amendment No. 2248, to express the sense of the Senate regarding Immigration and Naturalization Service circuit rides in the former Soviet Union.

Domenici (for Abraham) amendment No. 2249, to express the sense of Congress that the Budget Act should be amended to facilitate the use of future unified budget surpluses to strengthen and reform social security, reform the tax code, and reduce the tax burden on middle-class families.

Domenici (for Thurmond) amendment No. 2250, to express the sense of the Senate regarding long-term care needs.

Domenici (for Sessions) amendment No. 2252, to express the sense of the Senate regarding the display of the Ten Commandments by a judge on the circuit court of the State of Alabama.

Domenici (for Stevens) amendment No. 2253, to express the sense of the Senate regarding outlay estimates of the Department of Defense budget.

Domenici (for Specter) amendment No. 2254, to modify the use of the tobacco reserve fund.

Domenici (for Specter) amendment No. 2255, to modify the tobacco reserve fund to allow up to \$10.5 billion to be spent on post-service smoking related Veterans compensation benefits.

Domenici (for Specter) amendment No. 2256, relating to the distribution of certain receipts from tobacco legislation.

Domenici (for Nickles) amendment No. 2257, to establish a prohibition on precatory language on budget resolutions.

Domenici (for Frist) amendment No. 2258, to express the sense of the Senate regarding funding for the Airport Improvement Program.

Domenici (for McConnell) amendment No. 2259, to express the sense of the Congress that the award of attorneys' fees, costs, and sanctions of those amounts ordered by U.S. District Judge Royce C. Lamberth on December 18, 1997, should not be paid with taxpayer funds.

Domenici (for Sessions) amendment No. 2260, to express the sense of the Senate regarding limitations on attorneys' fees under any global tobacco settlement.

Domenici (for Craig) amendment No. 2261, to express the sense of the Senate on the eligibility of individuals suffering from post-service smoking-related illnesses for VA compensation.

Domenici (for Coverdell) amendment No. 2262, to express the sense of the Senate on the procurement of Blackhawk utility helicopters for Colombia to reduce illicit drug trafficking.

Domenici (for Santorum) amendment No. 2263, to express the sense of the Senate regarding reauthorization of the Farmland Protection Program.

Domenici (for Santorum) amendment No. 2264, to express the sense of the Senate concerning health care quality for participants in the Federal Employees Health Benefits Program.

Domenici (for Kempthorne) amendment No. 2265, to express the sense of the Senate regarding the Market Access Program.

Domenici (for Gramm) amendment No. 2266, to extend the Violent Crime Reduction Trust Fund.

Domenici (for Coverdell) amendment No. 2267, to express the sense of the Senate regarding the Department of Justice's pursuit of Medicare fraud and abuse.

Domenici (for Coverdell) amendment No. 2268, to express the sense of the Senate regarding national response to the threat of illegal drugs.

Domenici (for Coverdell) amendment No. 2269, to express the sense of the Senate regarding wasteful spending in Defense Department acquisition practices.

Domenici (for Coverdell/Kyl) amendment No. 2270, to express the sense of the Senate regarding the United States' response to the changing nature of terrorism.

Domenici (for Coverdell/Dodd) amendment No. 2271, to express the sense of the Senate regarding a multinational alliance against drug trafficking.

Domenici (for Mack) amendment No. 2272, to express the sense of the Senate regarding funding of the National Institutes of Health.

Domenici (for Hatch) amendment No. 2273, to assume that the use of the tobacco reserve fund is consistent with tobacco legislation approved by the Senate.

Domenici (for Sessions) amendment No. 2274, to express the sense of the Senate regarding limitations on attorneys' fees under any global tobacco settlement.

AMENDMENT NO. 2228

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the Bumpers amendment No. 2228 on which there shall be 30 minutes of debate equally divided. Who yields time?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I yield myself 5 minutes.

Colleagues, not long ago we debated what we called unfunded mandates to the cities and States of the country. A lot of tears were shed on this floor, because we said we were imposing all sorts of obligations on the cities and the counties and the States and making them pick up the tab for it. I am here this morning to tell you about the biggest unfunded mandate of all.

In 1975, the Congress—this body, along with the House—passed what is called the Individuals with Disabilities Education Act, IDEA, and we said in 1975 in the legislation that we wanted disabled children taken care of and that we would pay 40 percent of the cost. Twenty-three years later we are paying 9 percent of the cost.

The schools of this Nation have been literally bankrupting themselves to make up the difference. You are talking about billions of dollars that the United States made a solemn obligation to pay and has reneged on.

Having said that, let me tell you about the most unwarranted tax loophole in the Nation, and it is called a depletion allowance. It goes to the oil companies. It goes to natural gas companies. It goes to coal companies. And it goes to people in the mining industry who hardly paid a red cent for the gold, silver, platinum, palladium, zinc, copper—you name it—that they take off Federal lands.

I stood here on this floor—this is about the 8th or 9th year—and everybody knows the arguments. Everybody knows that it is the biggest ripoff going on in America today. And you talk about—you talk about—doing away with the Internal Revenue Code and betting on the come that somehow or other we will get a new revenue code before this one expires—listen to this.

You go down to the Gulf of Mexico and you bid \$1 billion to drill for oil and gas in the Gulf of Mexico, and you are entitled to a depletion. You ought to get a depletion allowance. And how much is it? Oh, it is about—well, I do not have it here. I think it is 15 percent. Fifteen percent they get for a depletion allowance because they paid \$1 billion for it. And everybody—the coal companies—we let coal competitively. We let our oil and gas leases competitively. But for some reason or other we give away all the gold and silver and platinum and palladium and other hard-rock minerals we have.

So what else do we do? We not only give them away, we pay them to take it. How do we do that? Here it is. Let us assume that Stillwater Mining Company in Montana, for example, which says there is \$35 billion worth of platinum and palladium under a 2,000 acre tract, they intend to mine it and they intend to pay the Government roughly \$10,000 for it—\$10,000 for \$35 billion worth of minerals that belong to the taxpayers.

Oh, the poor taxpayers. How we lament their plight in this body. Except

when it comes to hard-rock mining. And then you know what the taxpayers get? They get nothing. You know what they pay? They buy this land for \$2.50 an acre. Stillwater will pay about \$10,000 for \$35 billion. That is what they are going to pay for it. And here is what they pay the Federal Government. That is what they pay the taxpayers in royalties—zip, zero, zilch. Not a red cent.

What else do they get? They get a depletion allowance of 15 percent on gold. They get a depletion allowance on silver of 15 percent. They get a depletion allowance on platinum of 22 percent and on palladium of 22 percent.

That is right. The American taxpayer—the American taxpayer—is the big sucker in this whole thing. Here is an opportunity to fulfill an unfunded mandate and remove one of the most scandalous loopholes on the tax books of this Nation.

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

How much time does the Senator from New Hampshire desire?

The PRESIDING OFFICER. The Senator has 7½ minutes remaining.

Mr. GREGG. If I could have that.

Mr. BUMPERS. I yielded myself 5 minutes and nobody interrupted me.

The PRESIDING OFFICER. If I could explain, we started late. The order was for the vote to actually occur at 9 o'clock, so we had a total of 25 minutes to divide instead of 30.

Mr. BUMPERS. I had asked unanimous consent that we be given 30 minutes, but the Chair said in the opening this amendment would be 30 minutes, equally divided.

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. I ask unanimous consent that 30 minutes be provided.

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

Mr. BUMPERS. I yield 3 minutes to the Senator from New Hampshire.

Mr. GREGG. Mr. President I rise in support of the amendment offered by the Senator from Arkansas.

First, the underlying purpose of the amendment is legitimate. The fact is that these companies buy this opportunity to go on to Federal land at basically zero dollars. They make millions, billions of dollars over the years off of this land. They pay no depletion. They pay no taxes. They get a depletion allowance that gives them a tax deduction even though they didn't have to pay anything for the land to begin with, which makes absolutely no sense. The depletion allowance is the concept that you are using up an asset which you paid something for. They didn't pay anything for the land, so why should they get a depletion allowance?

The Senator's amendment on the facts on substance is correct. More importantly, the Senator's amendment is taking this totally inappropriate deduction and applying the revenues which would occur by eliminating it to something which is totally appropriate, and that is special education.

We all know that this administration has, regrettably, underfunded special education in its budget. We have attempted to correct that in the Republican budget, but we haven't gotten as far as we need to go. Thus this opportunity to put an additional revenue stream into special education is extraordinarily important. It means that kids who are in the special needs program, who are today being pushed into a position with other kids who are not in special needs programs over a confrontation of resources, will be put in less of a situation which is detrimental to them.

The Federal Government committed to pay 40 percent of the costs of the special needs child. As a result of Republican initiatives, we have gotten from a 6 percent level to a 9.5 percent level, but we are still well short of the 40 percent commitment. This amendment by the Senator from Arkansas will help us move another step toward that 40 percent commitment. It will help relieve local taxpayers who are paying the Federal share of the tax burden of supporting special needs children from having to pay the difference between 9.5 percent and 40 percent, or some part of that.

So, essentially, the proposal of the Senator from Arkansas is right on two counts. First, it is right on the concept of eliminating the depletion allowance because there is absolutely no justification for a depletion allowance where people pay essentially nothing for the lands they are mining and the land is owned by the public. Secondly, it is right because it will help special needs children and it will start to fulfill or assist in fulfilling the obligation of the Federal Government to fund the 40 percent share which we said we would fund when we started this program.

It is a good amendment. I strongly support it.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, we have five Senators who will split time, 3 minutes each. We will not use all of our time, but we will start with Senator CRAIG, 3 minutes.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, let me say first to the Senators from Arkansas and New Hampshire, this has to be one of the most gratuitous taxes on the mining industry you have yet come up with.

Let me be blunt, let me be honest: Every citizen benefits from the wealth of the products that flow from mining, and certainly disabled Americans have benefited considerably from light metal technology and advanced computer technology that depends on our mining industry. It has made them mobile. It has made them active. It has changed their lives.

The Senator from New Hampshire knows better than to say that mining industries don't pay taxes. They are in

the 32 percent bracket on the profits of those industries. Everyone knows that, and that kind of statement ought to be taken from the record because it simply is not true.

What is true is that the mining industry is characterized by relatively rare, commercially valuable metal deposits and mineral deposits. There is high economic risk, geologic unknowns, high capital requirements, and long lead times for the development of the mining companies. We know that, and that is why this Congress years ago provided that depletion allowance, because mining industries invest so much upfront for a resource that is rapidly depleting as they mine it out.

It recognizes, by this action and by what Congress has already done, unique natural mineral extraction provides for this country the valuable base for our industrial-based economy. It is difficult to replace minerals. Much of the money must be used for exploration and development, millions and millions of dollars upfront, like no other industry that we have seen, only to play in a market that is oftentimes dramatic, in a world market with changing values, and as a result there are dramatic losses and, yes, dramatic profits. But the one thing that is clear and constant across it is a recognition of the constant use or the depletion of the resource that they have discovered.

I am disappointed that the Senator from Arkansas would try to offset this against disabled people. It just simply doesn't make sense. This Congress has been tremendously responsive to disabled people—the Senator from Arkansas has, the Senator from Idaho and New Hampshire and all of us—and now to play this kind of gratuitous game simply doesn't make a lot of sense.

Mr. DOMENICI. I yield to the Senator from Nevada, Senator BRYAN.

Mr. BRYAN. Mr. President, I will correct some misimpressions that may have been unintentionally offered here on the floor of the Senate. I think it is helpful to put this in some context.

This proposal, which has been offered by the Senator from Arkansas on previous occasions, was in my idea never a good idea, but now the timing could not be worse because the status of at least one aspect of that industry, the gold industry in my State, is facing some very critical times. The international price of gold on the markets of the world has dropped precipitously, substantially below \$300 an ounce. The break-even cost in the gold industry is approximately \$296, so in my own State of Nevada, which leads the Nation and is one of the largest gold-producing areas in the entire world, we have had just in the last year more than 2,000 layoffs and a substantial number of mines that have closed, and the spot price of gold has been as low as \$283 an ounce. So this is a very, very difficult time for this industry.

The proposal offered by the Senator from Arkansas would, indeed, have a catastrophic impact upon the industry,

and it would have a serious impact upon thousands of people in my own State. About 120,000 people in America work directly in the hardrock mining industry. In the State of Nevada, more than 15,000 have been employed at the high-level mark before these layoffs occurred. These are good-paying jobs. We talk a lot in America about good jobs that provide a full range of benefits, an adequate salary base to provide a decent living standard for America's workers. The average wage for mining in my State is nearly \$49,000 a year. That is higher by far than any other industry.

Finally, let me conclude by saying that the impression given that somehow the mining industry gets a free ride, doesn't have to pay any taxes, could not be further from the truth. The Natural Mining Association last year estimates that over \$600 million in Federal taxes was paid. According to a recent GAO report, the average tax rate for the mining industry from 1987 to 1992 was 35 percent. That is compared with other industries: the auto industry, 23 percent; chemical industry, 19 percent; 33 percent for the transportation industry. In my own State, the gold industry paid more than \$141 million in State and local taxes in 1995, including \$32.7 million in property taxes.

I note my time has expired. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. I yield 4 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President I am very pleased to join with my friend, the Senator from Arkansas, and my friend, the Senator from New Hampshire, in offering an amendment that enables States to comply with the IDEA Program Act.

Mr. President, I promised to hold a town meeting or listening session in each of Wisconsin's 62 counties each year of my first term as a Senator. At these meetings I very frequently hear from both parents and school officials talking about the merits of the IDEA program. They struggle to meet the high costs of disabled education and need additional Federal funding for the program. Of course, this amendment, as good as it is, will by no means meet all of these needs. However, it will finally provide some deserved relief for this deserving constituency.

The funds our amendment provides for the IDEA program are derived, as the Senator from Arkansas has indicated, from the elimination of the percentage depletion allowances tax deduction for companies mining on U.S. public lands. What this does is simply close an outdated subsidy that contributes to environmental degradation. We can assist States providing for our Nation's disabled youth by using some of these funds that are going for tax loopholes.

Mining companies have a special percentage depletion tax deduction that they can take which other companies can't receive. Under percentage depletion, the deduction for recovery of a company's investment is a fixed percentage of "gross income"; namely, sales revenue from the sale of the mineral. This percentage is specifically defined in the Tax Code, and under this method total deductions may exceed the capital that the company actually invested.

The rates for percentage depletion are quite significant. Section 613 of the U.S. Tax Code contains depletion allowances for more than 70 metals and minerals at rates ranging from 10 to 22 percent.

In today's budget climate, we are faced with the question of who should bear the costs of exploration, development and production of natural resources. The question is, should it be all taxpayers or the users and producers of the resource?

Given that we face significant constraints in funding other budget priorities such as the IDEA program, these subsidies are really nothing more than a tax expenditure that shifts a greater tax burden to other taxpayers to pay for the IDEA program to compensate for the special tax breaks provided to the mining industry.

I am delighted to join with the other Senators in this very appropriate shifting of our priorities.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield 3 minutes to Senator REID of Nevada.

Mr. REID. Mr. President, schools are helped every day by mining. Mining pays taxes that provide all types of things for education. It takes millions and millions of dollars to find the minerals that are hidden in the ground. You don't just walk out and say, here, I am going to dig a gold mine or find copper here. It takes millions to find these minerals.

The United States is a net exporter of gold. It was only 10 or 12 years ago we were here on the Senate floor and throughout the country telling people we need to do things so that we can become a net exporter, especially of minerals. At that time we were depending on South Africa, which was in deep trouble in the world, and the former Soviet Union. We are now an exporter of many of the minerals we weren't just a few years ago. That is good.

I want to show you some recent Nevada newspaper headlines, many from the same day. "Getchell loses \$29.4 million in '94." "Echo Bay Mines loses \$240 million in 1997." "Placer Dome loses \$249 million in 1997." "Meridian Gold loses \$69.2 million in 1997," a small company. It is very, very difficult. "Vista Gold to lay off 135 workers." Small company, big layoffs. "Newmont lays off 155 at Carlin, 460 total." "Layoffs Reach Beyond the Mining Industry."

Mr. President, it is not only Nevada experiencing these headlines. Yesterday, in the paper—I wish it were an April Fools' joke; it isn't—"487 Arizonans Lose Their Jobs as Copper Prices Fall." The United States mineral industry is suffering significantly and when the minerals industry suffers so does the rest of the economy.

Here is from one newspaper's AP story. "And the ripple effect of layoffs at Newmont Gold has spread to Carlin. Even some of the service industries are starting layoffs at this time."

Another newspaper article. "Homestake Mining Reports '97 Loss of \$168.9 million. Homestake laid off its nearly 900 strong work force while restructuring is under way and still isn't saying how many of those will be rehired according to spokesperson Steeves."

The minerals industry is suffering significantly. They are doing their best to hang on to maintain employment. The best paying blue-collar jobs in the entire Western United States are mining jobs. Thousands of people are being laid off. Gold prices are at an 18-year low. And now we are being told that they are pigs, that they are using all of these tax benefits. The fact is thousands of people have good jobs because of mining.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I wonder if Senator BUMPERS might not object to a request that we each have 1 additional minute.

Mr. BUMPERS. Not at all.

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

Mr. DOMENICI. I pose that question.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. Would Senator THOMAS like to speak for 1 minute?

Mr. THOMAS. Yes. I thank the Senator very much.

I simply want to join my friends in opposition to this amendment, for two reasons. One is that the basic facts that we set out here are not valid. More importantly, this is not the place to do that. We have been dealing with things like mining reform, and we ought to do that and we can do that. Unfortunately, to some here it is either their way or the highway, so it never happens. But this is not the place. I rise in opposition to this amendment.

I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield 3 minutes to the chairman of the Energy Committee, Senator MURKOWSKI.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, let's be sure we understand each other. The budget resolution before us already provides a \$2.5 billion increase for the IDEA program, that is, individuals with disabilities, and it does so without raising taxes and creating a new entitlement pro-

gram. The Senator from Arkansas is aware of that. When you strip away all the rhetoric, the issue boils down to the basic question of whether this Senate wants to go on record to support a nearly \$311 million tax increase on the domestic mining industry.

Retention of the depletion allowance, for those who do not understand it—and there are a few—is important to the health of the domestic mining industry because it recognizes the nature, the uniqueness of the mineral industry as an extraction industry by providing a realistic method of measuring the decreasing value of a mineral deposit which declines when you take it out, while generating the necessary capital to build a replacement project, so we can have employment. Metal prices are down, as has been evidenced. Gold has dropped from over \$400 an ounce to \$300 an ounce, the lowest price in 18 years.

On a daily basis, newspapers throughout the West announce further mine closures.

The Senator from Arkansas wants to tax the industry now. Lost jobs, lost futures. I ask my colleagues if they really believe this country has lost its hunger for raw materials, or do we simply want to send the industry overseas, import our minerals from overseas? If you do not think increased costs of operation such as proposed by the amendment by Senator BUMPERS pose a real threat to the domestic mining industry and local economies, ask the people of Lead, SD. "Homestake Mining just laid off 466 workers at the Lead mine due to increased costs of operations and diminished gold prices."

This is not the time to be launching punitive action against an industry that contributes over \$130 million annually to the American economy. We have a bill in my committee to accomplish comprehensive mining reform. The Senator from Arkansas is aware of that. I will be holding hearings on comprehensive reform on April 28. That is the place, in the hearing room, and the time to go about reforming mining law, not in a 10-minute debate on the floor of the Senate during consideration of the budget.

I strongly urge my colleagues to join with me and defeat Senator BUMPERS' amendment.

One more time. Do not be fooled. This budget resolution already provides a \$2.5 billion increase for the IDEA program without raising taxes and creating a new entitlement program. So I encourage my colleagues to recognize what this is. It is a \$311 million tax on our mining industry that is going to cause a job loss, and we are going to be more dependent on imported minerals.

THE PRESIDING OFFICER. Who yields time?

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

THE PRESIDING OFFICER. The Senator from Arkansas has 5 minutes 44 seconds.

Mr. BUMPERS. I yield myself such time as I may use.

Mr. BUMPERS. Mr. President, isn't it wonderful that the hard rock mining companies don't pay taxes? Isn't that just remarkable? We give them billions of dollars' worth of minerals for \$2.50 an acre, we allow them to create environmental disasters, we allow them to take the minerals and not pay one dime in royalty, and they are not subject to pay any taxes. Isn't that just wonderful? The oil companies, who right now are getting about 50 percent as much for their oil as they got a year ago, not only have to pay billions for the rights to drill for oil on Federal lands, but they also have to pay royalties. And they pay taxes.

If somebody walked in here and made the argument that was just made about the fact that mining companies pay taxes, if somebody made the suggestion that oil companies not pay taxes, you would be laughed out that door. If the same argument were made for coal companies who pay zillions just for the right to take the coal and a 12.5 percent royalty, and if we suggested that they not have to pay taxes, you would be laughed out the door.

What is it about the rock mining industry? We give them billions of dollars' worth of gold, silver, platinum, palladium; they create environmental disasters; they don't pay a dime in royalties; they take a depreciation allowance on top of that of 15 to 12 percent; we give it to them and then pay them to take it. The children of this Nation—we give 9 percent to the school district to take care of disabled children.

I can tell you who is going to win in this battle here today. It isn't going to be the disabled children, it is going to be the same people who have won for the last 8 years, as I presented it. It will be the mining companies. They will continue to get Federal lands for nothing. They will continue to get a depletion allowance to mine it. They will continue not paying Uncle Sam one dime in royalty. If they come to your house and say, "You have this tract of land out back loaded with gold, and we would like to mine it," do you know what they are willing to pay? Eighteen percent royalty. But they come to the U.S. Government and say, "You have this tract of land that has gold on it." We say, "Oh, really? Please take it. Please leave an environmental disaster to the tune of \$76 billion for the taxpayers to clean up. Please don't pay us any royalty. We do need a few billion dollars more for disabled children, but not from you."

One of these days, the people of this country are going to rise up in righteous indignation when it finally soaks in on the American people what is going on in this industry and how Congress is aiding and abetting one of the biggest scams in the history of the world.

Colleagues, when you walk in here to vote today, look at that chart. You

have a choice of removing an unjustified tax loophole that is not available to anybody else—nobody else. You can remove it from the biggest mining companies in the world—not the United States, in the world—and give it to the disabled children of this country, the school boards which have been waiting for us to fulfill a 23-year promise to provide 40 percent of the cost of taking care of disabled children. So far, we have paid the paltry sum of 9 percent.

I yield the floor and save remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico has 3 minutes 14 seconds remaining.

Mr. DOMENICI. Mr. President, many of us have heard people say, "Kick them when they're down." I guess we all recall when we were in high school. If you went to a high school football game, the cheerleaders would say, "Hit them again. Hit them again, harder, harder."

Mr. President, the mining industry in the United States led by the copper industry is in a deplorable economic state. As a matter of fact, copper is down 30 percent. Already in America, copper mines have been closed. All mineral resources in the world are down substantially. Oil production in the United States is down. Stripper wells are going out of business rapidly. We are more and more dependent upon foreign sources for our mineral resources, and for our oil.

Frankly, the GAO tells us that the mining industry pays an enormously high tax. In fact, the study says on average they pay 32 percent of the income. They already contribute \$14 billion to the Federal Government in revenues.

Mr. President, it is obvious that this amendment will cause more disrepair in the industry, fewer jobs, laying off people. In fact, we might call it the "Unemployed Miner Act."

Second, in terms of money for disabled young people, let me first say the budget before us has \$2.35 billion in new money for IDEA, for the disabled young people of our country. We think that is a very, very significant add-on when the President only put a few million dollars in his. We think it is the right place to put the money. But we have already put it in our budget. We don't need to destroy the mining industry in order to live up to our responsibility under IDEA and to disabled children. We found the money to do it in our budget.

It seems to me that to pick one tax, one deduction, the depletion allowance, and from that assume that the mining industry, coal mining and all the others, are not paying any Federal taxes is an absolute gross exaggeration, if not an untruth. As far as environmental degradation, since we have had environmental laws, our mining companies are not causing environmental degradation. They are bound by every sin-

gle environmental law of this land. And a statement that they are polluting today is also a gross exaggeration, if not truly an untruth.

When time is all yielded, I will move to table and ask for the yeas and nays.

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

The Senator from Arkansas has 1 minute 25 seconds.

Mr. BUMPERS. Mr. President, how much time do the opponents have?

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

Mr. BUMPERS. Mr. President, I will not belabor this any further. Everybody knows the argument. It is just a question of whether you are willing to do right or not. We are mining \$2 billion worth just in gold a year off Federal lands that we have given the mining companies—gave them. They pay no royalty. They didn't pay anything for it. I forget who it was who talked about how valuable minerals were. Eighty percent of the gold mined in this country goes for jewelry. And we are willing to subsidize that to the tune of hundreds of millions of dollars a year when we have disabled children in school waiting for us to fulfill a promise? It is just as simple as that.

I yield the remainder of my time and ask for the yeas and nays.

Mr. DOMENICI. I move to table the Bumpers amendment, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the motion of the Senator from Arkansas?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table?

There is a sufficient second.

The yeas and nays were ordered.

EXECUTIVE CALENDAR

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the hour of 9 a.m. having arrived, the Senate will now go into executive session to consider Calendar Nos. 461 and 462.

The first nomination will be stated.

NOMINATION OF G. PATRICK MURPHY, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF ILLINOIS

The assistant legislative clerk read the nomination of G. Patrick Murphy, of Illinois, to be United States District Judge for the Southern District of Illinois.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.