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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Dr. Terry Harter, First United Methodist Church, Champaign, IL.

PRAYER

The guest Chaplain, Dr. Terry Harter, offered the following prayer:

Almighty God, What is a nation without You? Indeed, who are we without You at the center of our lives? What value is all that we know, vast accumulation though it be, but a chipped fragment if we do not know You, Author of wisdom? What is the sum of all our stirring and working, even in this mighty Chamber, but a half-finished work if we do not know You, Creator of galaxies, and Starspark of life within us?

We know, Lord of all nations, that You have always taken more than a passing interest in the ways and works of all those women and men to whom You have granted stewardship of government and leadership in the nations of the world.

So it is, that at the beginning of this day, we pray for all who serve here; from the President pro tempore and Senators, to the pages and staff, from the reporters and Capitol police to the people who raise the flags over us.

We call upon You, Gracious God, that these persons whom You love may on this day be encountered by the glad surprise of Your Grace, and come to know You in the midst of their work on bahalf of the Nation.

Today, in the press of the calendar and stress of the schedule; grant them moments of Your peace.

Today, under the burden of issues which rearrange human destiny: grant them a clear vision of Your zeal for truth and justice.

Today, amidst the seductiveness of their power; grant them courage to live and work on the side of Your power.

Today, as they labor here, guard their families, heal their wounds, restore their relationships to health.

And as the day wanes, revive their sagging spirits and forgive their shortcomings. Turn them away from the temptation of bitterness and blame, so that in the darkest hour of the night they might trust Your ever-present redeeming grace and come to know that You love them. O Lord of all nations, hear our prayer. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MIKE CRAPO, a Senator from the State of Idaho, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. CRAPO. Mr. President, the Senate this morning will begin postcloture debate on the nominations of Marsha Berzon and Richard Paez. By previous order, back-to-back votes on the confirmation of the nominations will occur at 2 p.m.

Following the votes, the Senate will resume morning business for the introduction of bills and statements. The Senate may also turn to any legislative or executive items cleared for action.

I thank my colleagues for their attention.

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

Mr. REID. I thank the Chair.

LEGISLATIVE COOPERATION

Mr. REID. Mr. President, we look forward to today's activities. We hope we can move forward with an up-or-down vote on these two nominations. We also are looking forward to the legislative skills of the chairman of the Banking Committee, Senator GRAMM, to get us to the point where we can again work on the Export Administration Act, which was considered yesterday for a brief period of time. This legislation is extremely important to the country. It is important not only to the high-tech industry but our economy generally. There is not a piece of legislation that is more important to move along than this one as it will allow us to compete with foreign nations in the exportation of computers and other high-tech equipment. This is something that needs to be done, and we hope that in the week we get back from our break, we can move into a very productive session, taking care of the Export Administration Act, doing something about prescription drugs, and other waiting legislative matters, also recognizing that the minority is willing to work in conjunction with the majority in any way to move all legislation. I think we showed our good faith last week when we were able to move such a large amount of legislation including amendments on the education tax initiative that was put forth by the majority.

So we look forward to completing today's work and, after next week, doing the many things that burden us legislatively.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. CRAPO). Under the previous order, leadership time is reserved.

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

EXECUTIVE SESSION

NOMINATION OF MARSHA L. BERZON, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

NOMINATION OF RICHARD A. PAEZ, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

The PRESIDING OFFICER. The Senate will now return to executive session and resume postcloture debate on the two Ninth Circuit judicial nominations which the clerk will report.

The legislative clerk read the nominations of Marsha L. Berzon, of California, and Richard A. Paez, of California, to be United States Circuit Judges for the Ninth Circuit.

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire, Mr. SMITH, shall be in control of up to 3 hours of total debate on both nominations and the Democratic leader or his designee shall be in control of up to 1.5 hours of total debate on both nominations.

Mr. SMITH of New Hampshire. Mr. President, 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. SMITH of New Hampshire. 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. SMITH of New Hampshire. Mr. President, as we have gone through this debate, although my name was not attached to anything in terms of a filibuster, it is no secret that I have been the person who has filibustered these two nominees, Judge Berzon and Judge Paez. The issue is, why are we here? What is the role of the Senate in judicial nominations?

The Constitution gave the Senate the advise-and-consent role. We are supposed to advise the President and consent if we think the judge should be put on the court. We do not get very much opportunity to advise because the President just sends these nominations up here—he does not seek our advice—and then we are asked to consent.

Based on some of the comments that have been made to me privately and some of the things I have read publicly, it seems as if the Senate should be a rubber stamp, that we should just approve every judge who comes down the line and not do anything with the advise-and-consent role. That is not the way I read the Constitution.

I believe that is wrong. We have an obligation under the Constitution to review these judges very carefully. I have certainly voted for more than my share of judicial nominations this President has put forth. But I point out that the two nominees before us, in terms of their legal opinions—and that is all we are talking about; we are not talking about any personal matters other than their legal opinions—I believe are activist judges; they are out of the mainstream of American thought, and I do not think either one should be put on the court. The bottom line is they are controversial judges.

I was criticized by some for filibustering, that ''we are on a dangerous precedent'' of filibustering judges. The filibuster is over. We are now on the judges. The filibuster is a nonissue.

Filibuster in the Senate has a purpose. It is not simply to delay for the sake of delay. It is to get information. It is to take the time to debate and to find out about what a judge's thoughts are and how he or she might act once they are placed on the court.

I was told by some of my colleagues yesterday that we are going down ''a dangerous path'' to debate these judges and slow them down, whether it be through a filibuster or debate in this Chamber. My colleagues will find there will be very few people who will speak in the roughly 3 hours on our side under my control. That is sad. I believe we should air the concerns we have.

As far as the issue of going down a dangerous path and a dangerous precedent, that we somehow have never gone before, as I pointed out yesterday and I reiterate this morning, since 1968, 13 judges have been filibustered by both political parties appointed by Presidents of both political parties, starting in 1968 with Abe Fortas and coming all the way forth to these two judges today.

It is not a new path to argue and to discuss information about these judges. In fact, Mr. President, Chief Justice William Rehnquist sat in your chair about a year ago finishing up the impeachment trial of President William Jefferson Clinton. When William Rehnquist was nominated to the Court, he was filibustered twice. Then after he was on the Court, he was filibustered again when asked to become the Chief Justice. In that filibuster, it is interesting to note, things that happened prior to him sitting on the Court were regurgitated and discussed. So I do not want to hear that I am going down some trail the Senate has never gone down before by talking about these judges and delaying. It is simply not true. I resent any argument to the contrary because it is simply not true.

I will talk a bit about the Ninth Circuit on which these two judges are about to go. Make no mistake about it, this is going to be a tough vote to win. I know that. But it does not mean the fight should not be made. We are all judged as Senators based on what we do, what we say, and how we act. History will judge us, as it has judged the great Senators such as Clay, Calhoun, and Webster who debated the great issues before and during the Civil War. We are judged on what positions we take. Maybe history will prove a Senator is right; maybe history will prove a Senator is wrong. When it comes time to make that vote, one does not have anyplace to hide. One has to make it and take the consequences one way or the other. I do what I do with the best information I have.

I can assure my colleagues that I have researched both of these judges very carefully. I have looked at the Ninth Circuit very carefully, and I have grave concerns about two very controversial judges being placed on a very controversial circuit court, the ninth. This is a renegade circuit court that is out of the mainstream of American jurisprudence. It has been reversed by the Supreme Court 90 percent of the time. It is important to let that sink in. Ninety percent of the decisions this Ninth Circuit has made have been overturned by the U.S. Supreme Court.

I want to repeat some of those statistics. From 1999 to now, 7 of 7, 100 percent of their cases, have been reversed. In 1998 to 1999, 13 of 18 were reversed, 72 percent.

From 1997 to 1998, 14 of 17, or 82 percent, were overturned. We can go on and on. From 1996 to 1997, 27 of 28 cases this court gave a decision on were overturned, 96 percent. From 1995 to 1996, 10 of 12 were overturned, 83 percent—and on and on and on. The average is: 90 percent of the cases were overturned in the past 6 years. There have been 84 reversals in the last 98 cases. That is an abysmal record, to put it mildly.

The Ninth Circuit is routinely issuing activist opinions. While the Supreme Court has been able to correct some of these abuses, the record is replete with antidemocratic, antibusiness, and procriminal decisions which distort the legitimate concerns and democratic participation of the residents of the Ninth Circuit. Some of the more outrageous opinions include striking down NEA decency standards, creating a ''right-to-die,'' blocking an abortion parental consent law, and a slew of obstructionist death penalty decisions.

I hope the American people and my colleagues understand that when you hear these terrible stories about prisoners getting out after 5 years, or people committing terrible crimes and never going to jail or getting pardoned or getting lenient sentences, this is not an accident. This happens because of the people we put on the court.

We are here as Senators to advise and consent, or not to consent, on the basis of these nominees. How many times do you read in the paper some judge let some criminal out, and the guy committed a crime again and again, and he got out again and did it again? It goes on and on—stalking, rape, murder, robbery, armed robbery, assault, over and over and over again. Time after time after time we hear about that happening. We sit around our living rooms at night, we watch television, we talk to each other, our families, and ask: Why did this happen? What in the world is the matter with the judges?

I say, with all due respect, when you have judges who are this far left out of the mainstream, surely out of the hundreds and hundreds of judges all over America, on the various district courts in this country, we can find somebody to serve on the circuit court who is not this controversial.

That is the bottom line. That is what this debate is about. That is why I am here on the floor. That is why, even though I know I am going to lose, I want this case made. That is why I have asked for the time to do it.

Again, the Senate, and particularly Republican Senators from Ninth Circuit States, are on record in favor of splitting this court; it is so controversial, making it into two circuits.

There was a commission called the White commission that recommended a substantial overhaul of the circuit's procedures, and that has not been implemented. It found that the circuit has so many judges that they are unable to monitor each other's decisions and they rarely have a chance to work together. That is what is going on. There are so many judges they cannot even monitor the decisions.

The Ninth Circuit covers 38 percent of the country, more than twice as much as any other circuit. It covers 50 million people, more than 20 million more than any other circuit. Not surprisingly, it has the most filings in the country.

President Clinton has already appointed 10 judges to the circuit. Democratic appointees compromise 15 of the 22 slots currently occupied. There is no need to put more controversial nominees on the court from a lame duck President.

Paez and Berzon have attracted significant opposition both within and outside the Senate. Both were reported out of the Judiciary Committee by a 10–8 vote. That is a pretty narrow vote. Neither would move the circuit to the mainstream. In fact, they are activist judges.

In Paez' case, the U.S. Chamber of Commerce is officially opposed to the Paez nomination, principally due to his decision in the Unocal case in 1997 allowing U.S. companies to be sued for the human rights abuses of foreign governments. Think about that. How would you like to be a U.S. company and be sued for the human rights violations and abuses of a foreign government? That is the way Paez ruled.

The letter notes the chamber's serious concern about a judge pursuing a foreign policy agenda in this fashion and argues that it ''has the potential to cause significant disruption in the U.S. and world markets.''

The Judicial Selection Monitoring Project at Free Congress Foundation circulated a letter signed by 300 grassroots organizations opposing this nomination. The letter highlights Paez's 1995 Boalt Hall inappropriate remarks regarding pending ballot initiatives, on the belief that he ''is an activist judge,'' and his lack of ''judicial temperament.''

The ACLU of Southern California applauded his nomination as ''a welcome change after all the pro-law enforcement people we've seen appointed to the state and federal courts.'' Think about that statement by the ACLU. No matter what you think about the ACLU, let me repeat that statement. They stated, this nomination is ''a welcome change after all the pro-law enforcement people we've seen appointed to the state and federal courts.'' What does that tell you about this guy? I am telling you, my colleagues, I really wish we would stop and think about what we are doing.

Even the Washington Post, not exactly a bastion of conservatism, stated, in an October 29, 1999, editorial: ''Republican opposition to [Paez] is not entirely frivolous.'' It argued that his Boalt Hall speech was ''inappropriate'' and that a ''principled conservative could suspect, based on Judge Paez' comments, that he might be sympathetic to such [liberal activist] thinking and would be more generally a liberal activist on the bench.''

That is the Washington Post's nice way of saying: This guy may not be that good after all.

There is a lot of evidence out here. You have to understand the framework: A liberal activist court that has been overturned 90 percent of the time—the Ninth Circuit—and now we put a judge on there who is being lauded as ''a welcome change'' after all the prolaw enforcement people we have seen on the court.

I say to the American people and my colleagues, when you hear stories about people getting out of jail or not going to jail or committing crimes over and over and over again—and you ask yourself: Oh, those liberal judges, what are we going to do about them?—ask your Senators what they did about liberal judges when they came before the Senate, before we put them on the court. That is a legitimate question: Do you support people who are lauded because they are antilaw enforcement? Maybe you ought to ask them that question because that is exactly what is happening.

In Berzon's case, the Berzon nomination was described by the National Right to Work Committee as the ''worst judicial nomination President Clinton has ever made.'' She has been associate general counsel of the AFL–CIO since 1987 and has represented unions in the automobile, steel, electrical, garment, airline, Government, teachers, and other sectors both in a day-to-day capacity and in appellate practice.

Among the positions she has espoused which courts have rejected: One, State bars should be able to use compulsory dues of objecting members for lobbying. That is the way she ruled. You are forced, as a member of a union, to give dues. You are forced to allow those dues to be used for lobbying for something with which you disagree. The bottom line is: I want my job. I pay my union dues. And on top of that, they rub my nose in it further by saying: Now, in addition to that, we are going to spend money lobbying for something you disapprove of. She ruled yes; she would do that.

Secondly, unions should be able to prohibit members from resigning during a strike. So somebody goes on strike, they decide they want to perhaps do something else, resign, for whatever reason—how about if it is for their health?—she is prohibiting them from resigning during a strike. What does that mean? If somebody has a heart attack, they cannot quit?

What have we come to in this country? You should not be surprised when you hear about these outrageous decisions coming down through the courts because we are putting the people on the courts who give us these outrageous decisions. We do not deal with it in a forthright manner.

There are better judges than this. Bill Clinton can bring better judges than this before the Senate. Frankly, he has, and they have been approved. They may not believe everything to my way of thinking, but he is the President. But we do not want judges who are so far over to the left that they swing the pendulum way over there against what American people want.

Another opinion she has espoused which courts have rejected is: Unions should be able to use nonmembers to subsidize union litigation in organizing. That is the way she ruled.

She describes herself as a believer in the labor movement, which is fine, but when you come on the court with an agenda, the Constitution should be your agenda, not labor, not a conservative or liberal or moderate cause. No, the Constitution should be your cause. If it is not constitutional, then you should not be for it.

The bottom line: The Senate should not confirm more judges to the Ninth Circuit unless and until its structure is reformed, and unless the nominee will help bring the circuit's jurisprudence back into the mainstream. This is clearly not the case with Judge Paez or Marsha Berzon. Neither nominee should be confirmed. It is that simple.

Now, let's look at some of the politics of the Ninth Circuit. In the Washington Times yesterday, Wednesday, March 8, was an article by Thomas Jipping:

Politics of the Ninth Circuit. Senators should reject judicial nominees.

I want to read one paragraph out of that op-ed piece:

The Senate this week will vote on two of the most controversial judicial nominations in recent memory. The result may well demonstrate whether Republicans deserve their majority status.

President Clinton has nominated U.S. District Judge Richard Paez and labor lawyer Marsha Berzon to the U.S. Court of Appeals for the Ninth Circuit. Nearly twice as large as other circuits, it may also be the most influential, which is unfortunate because even the liberal New York Times calls it ''the country's most liberal appeals court.'' Two-

thirds of its judges are Democratic appointees. The Supreme Court has reversed its decision 90 percent of the time over the past 6 years—far more than any other circuit. And in 1996, Chief Justice Rehnquist wrote, ''Some panels of the Ninth Circuit have a hard time saying no to any litigant with a hard luck story.'' In its 1997–98 term, the Supreme Court reversed 27 of the 28 Ninth Circuit decisions it reviewed, 17 unanimously and 7 without either briefing or oral argument. Because this aggressive activism so grossly distorts the law, many Senators have long urged special scrutiny of Ninth Circuit nominees.

I ask unanimous consent that this entire article be printed in the RECORD.

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

[From the Washington Times, March 8, 2000]

POLITICS OF THE NINTH CIRCUIT

SENATORS SHOULD REJECT JUDICIAL NOMINEES

(By Thomas L. Jipping)

The Senate this week will vote on two of the most controversial judicial nominations in recent memory. The result may well demonstrate whether Republicans deserve their majority status.

President Clinton has nominated U.S. District Judge Richard Paez and labor lawyer Marsha Berzon to the U.S. Court of Appeals for the Ninth Circuit. Nearly twice as large as other circuits, it may also be the most influential, which is unfortunate because even the liberal New York Times calls it ''the country's most liberal appeals court.'' Two-thirds of its judges are Democratic appointees. The Supreme Court has reversed its decisions nearly 90 percent of the time over the past six years, far more than any other circuit. In 1996, Chief Justice Rehnquist wrote that ''some panels of the Ninth Circuit have a hard time saying no to any litigant with a hard-luck story.'' In its 1997–98 term, the Supreme Court reversed 27 of the 28 Ninth Circuit decisions it reviewed, 17 unanimously and seven without either briefing or oral argument. Because this aggressive activism so grossly distorts the law, many senators have long urged special scrutiny of Ninth Circuit nominees.

Even ordinary scrutiny shows that these nominees will push that court further in the wrong direction. The L.A. Daily Journal quotes Judge Paez, who calls himself a liberal, describing his own aggressively activist judicial philosophy. Courts, he says, must tackle political questions that ''perhaps ideally and preferably should be resolved through the legislative process.'' America's Founders, however, did not suggest that legislatures exercise legislative power merely as an ideal or a preference; the first article of the Constitution they established, and that Judge Paez is sworn to uphold, states that ''all legislative powers'' are granted only to the legislature.

The L.A. Times says Judge Paez was a liberal state court judge. When nominated to the federal district bench, no less an arbiter of liberalism than the American Civil Liberties Union considered him ''a welcome change after all the pro law-enforcement people we've seen appointed.''

Judge Paez struck down a Los Angeles anti-panhandling ordinance enacted after a panhandler killed a young man over a quarter. He ruled that companies doing business overseas can be held liable for human rights abuses committed by foreign governments. The Institute for International Economics says this novel ruling would ''vastly expand the jurisdiction of the U.S. court system.'' The U.S. Chamber of Commerce, which normally steers clear of nomination fights, cites this decision in opposing Judge Paez. His decision against any jail time for U.S. Rep. Jay Kim, guilty of the largest admitted receipt of illegal campaign contributions in congressional history, prompted the newspaper Roll Call to suggest that Judge Paez may be ''too soft on criminals to be an appellate judge.''

The nominee also appears to place politics ahead of both judicial impartiality and independence. In a 1995 speech, for example, he attacked two California ballot initiatives while they were still in litigation even though the judicial code of conduct prohibited him from comments that ''cast reasonable doubt on [his] capacity to decide impartially any issue that may come before [him].''

Marsha Berzon's record may be as a lawyer and not a judge, but the clues lead to the same conclusion. Her training in the political use of the law had early impetus as a law clerk to activist Supreme Court Justice William Brennan and continued with membership or leadership of activist legal organizations such as the Brennan Center for Justice and Women's Legal Defense Fund. Hers is not benign disinterest; the political agenda these groups pursue in the courts, she says, hold ''a lot of importance and meaning for me.''

Miss Berzon repeatedly pressed extreme arguments that ignored the plain meaning of statutes and Supreme Court precedent, the very hallmarks of judicial activism. These include arguing that state bar associations can use compulsory dues of objecting members for political lobbying and that the right to refuse to join a labor union is somehow less protected by the First Amendment than other speech. These and other aspects of her controversial record made her one of only two Clinton nominees ever to receive eight negative votes in the Judiciary Committee.

Senators concerned about a politicized judiciary should find these nominations easy to oppose. Three things stand in the way. First, since a politicized judiciary is impossible to defend, its advocates stoop to playing the race and sex cards. Mr. Clinton first chooses women and minorities as some of his most radical nominees. Senators who would oppose white males with the same record face those dreaded labels ''racist'' and ''sexist'' if they don't create a double-standard and vote for these. Hopefully, senators will reject this perverse tactic and focus on the record which has led more than 300 grassroots organizations to oppose Judge Paez.

Second, those who cannot defend a politicized judiciary continue playing the numbers game. Batting 338–1 so far, however, Mr. Clinton has appointed more than 44 percent of all federal judges in active service. Democratic appointees now outnumber Republicans throughout the judiciary.

Third, the lure of patronage tempts individual senators to put their personal interests ahead of the country's interests. Rejecting these radical nominees means showing Americans that the Republican Party stands for at least basic principles of the rule of law and a judiciary independent from politics.

In 1993, then-Senate Minority Leader Bob Dole appeared on a live public affairs television show and a caller criticizes him for failing to block Mr. Clinton's judicial nominees. He responded: ''Give us a majority and if we don't produce, you ought to throw us out.'' Americans gave Republicans the majority and rejecting the Berzon and Paez nominations is their chance to produce.

Think about that. When you think about the makeup of the U.S. Supreme Court, there are some liberal justices there and some conservative justices there, but some of these decisions have been overturned unanimously; that is, with Scalia, Thomas, and Ruth Bader Ginsburg on the same vote. So they have to be outrageous to get that kind of support to overturn it. That is the whole point. So why are we adding more fuel to the fire?

I want to break into some categories here and a few of the Court's decisions on the Ninth Circuit. Let's look at criminal justice for a moment. It is very notorious for its anti-law enforcement record, as I said. And, again, Judge Paez is being praised for his anti-law enforcement status. So we are going to put another judge on the court that is anti-law enforcement, and he is being praised because he is being put on there.

In Morales v. California, 1996, the circuit struck down the California State law governing when defendants could present claims during habeas corpus appeals which had not been made during appeals in State courts. According to the California-based Criminal Justice Legal Foundation, this holding opened ''the doors to a flood of claims that would be barred anywhere else in the country.''

In U.S. v. Watts, in 1996, the Supreme Court issued summary reversals in two cases without even hearing arguments after the Ninth Circuit allowed past acquittals to be considered during sentencing. They are so outrageous they just rule.

In Calderon v. Thompson, in 1998, the Supreme Court reversed the Ninth Circuit's decision to block the scheduled execution of a convicted rapist and murderer with a bizarre and rarely used procedural maneuver, calling it a ''grave abuse of discretion.''

In Stewart v. LeGrand, 1999, the circuit blocked an execution on the grounds that the gas chamber was cruel and unusual punishment. The Supreme Court reversed that without even hearing the arguments.

So over and over and over again, we are hearing these arguments about how bad this court is.

I know there are other speakers on the floor on both sides here. So I am going to suspend in a moment.

Mr. President, I ask unanimous consent that the majority leader be recognized at 12:30 for up to 20 minutes relative to the pending nominations, and the 20 minutes be considered as time used under the control of Senator SMITH.

I further ask consent that the votes scheduled to occur at 2 p.m. today be postponed to now occur at 2:15 p.m. under the same terms as outlined in the previous consent.

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

The Senator from Nevada is recognized.

Mr. REID. Mr. President, I know the sincerity of the Senator from New Hampshire. But I also recognize that sincerity sometimes does not create the facts that are necessary to substantiate the sincerity.

With the Ninth Circuit Court of Appeals, what we have to understand is that, yes, they have been reversed a lot of times. For example, during the 1995–1996 term, five other circuits had higher reversal rates than the Ninth Circuit.

I also say to my friend that if you take, for example, this past year, we have had seven reversals so far. Four of them have come from judges who wrote the opinions and were appointed by Presidents Reagan and Bush.

The Supreme Court reverses most cases they take from the circuits. That is what they do. With the Ninth Circuit, they have thousands of cases. There are 51 million people who live within it. Mr. President, I think there is some substance to the fact that we need to take a look at the Ninth Circuit. Maybe it is too big. Maybe we need to revamp how it operates. But don't pick on Berzon and Paez because of that.

Also, Judge Paez is a very nice man. He graduated from one of the most conservative universities in the entire country, Brigham Young University. He went to one of the finest law schools in America, Boalt Hall, University of California Berkeley. It is always rated in the top 10. It is a fine, fine law school. His record is one of significant distinction. Here is a man who is unquestionably qualified for the Ninth Circuit or any other court. He has been a judge for 18 years. They have pored over all of the decisions he has made and they found relatively nothing.

I can't help what the ACLU says, but I can relate to you that there are many organizations that support his nomination and that are law enforcement-oriented organizations. We can talk about the National Association of Police Organizations; the Los Angeles Police Protective Association; the Los Angeles County Sheriff, Sherman Block, who recognizes his skills; Los Angeles District Attorney Garcetti; JAMES ROGAN, a Republican House Member and member of the impeachment team here just a year ago, supports Judge Paez. The Los Angeles County Police Chiefs Association, the Association for Los Angeles Deputy Sheriffs, Incorporated, and its president, Pete Brodie, support him.

Also, there has been some talk about how antibusiness Judge Paez is. I don't really want to get into this, but the simple fact is that in a very important decision in California—an issue in a very important discovery matter—he ruled for Philip Morris, the largest tobacco company in America. Does that mean he is protobacco? He also ruled in favor of the Isuzu Motor Company in a suit against the Consumers Union. Does that mean he is pro-foreign car manufacturers? Does that mean he is pro-big business? The answer is no. The Unocal case shows that he is a judge who follows the law and plays no favorites, as indicated in the Philip Morris case and the Isuzu Motor Company case.

His preliminary ruling in the Unocal case to dismiss may have displeased the company. His decision on that issue no more proves he is antibusiness than he is protobacco or pro-big automobile manufacturer.

There has been some talk that this man is antireligion. He is not antireligion. In fact, the case they continually refer to is a case where they are saying he said you can't use a Bible in the courtroom. Here is an exact transcript as to what he told the defendant. This is in court. Everybody was there. He says:

> I don't have a problem with the Bible. I don't care if you have it there on the table. My concern is I don't want any attempt to sway the jury. I don't want any demonstrative gesture that is not proper.

That is the end of the quote.

The report also says he told the defendants he would consider permitting the defendants to quote the Bible during closing arguments or to carry the book to the witness stand when they testified. I am not sure I would allow that if I were a judge. But he decided he would do it.

I have tried a lot of cases. When somebody comes up to that jury stand, it would be my personal opinion that it is improper to carry the Bible up there. I just do not think it is appropriate. Judge Paez believed it would be.

There has been some talk that he has bad judicial temperament. The Almanac of the Federal Judiciary isn't written about Democrats, Republicans, conservatives, or liberals. It includes reviews from attorneys who have appeared before all the Federal judges. They not only have the ability to look at his Federal judicial record but also his 13 years as a State judge in California where he served in the courts of unlimited jurisdiction. The Almanac for 1999 that reviews both his State court experience and his Federal court experience says:

> Lawyers reported that Paez had an excellent judicial temperament.

Some of the quotes from these lawyers include:

> I think he has great temperament.
> He has a very good demeanor.
> He is professional.
> He doesn't have any quirks.
> He is very good in the courtroom.
> He is courteous to everyone.

I think we should have an up-or-down vote on Judge Paez and Ms. Berzon.

I heard the distinguished chairman of the Judiciary Committee, the senior Senator from the State of Utah, talk about Ms. Berzon. He talked about what a great legal mind she has. You may not like her clients. She has done a lot of work for organized labor. But no one questions her qualities. She has a very fine, incisive political mind and will be a great addition to the Ninth Circuit.

As I have said, the Ninth Circuit is something of which I am very proud. I am proud of the Ninth Circuit. I fought when there was an attempt to split Nevada off from California. I practiced law in Nevada and in the courts in Nevada. Whether we like it or not, I fought the landmark decision made in the State of California. I fought to make sure Nevada would remain part of the California circuit.

I also am very proud of the Ninth Circuit because the senior judge, the man who is the administrative head of the Ninth Circuit Court and the chief judge of the Ninth Circuit, is a Nevadan, Judge Proctor Hug, Jr. He is a man who has a great legal mind. He excelled academically at Stanford Law School, and he has excelled on the Ninth Circuit.

I don't know, but I would bet that Judge Hug has written some opinions that have been reversed. That doesn't make him a bad man or a bad lawyer.

I hope we will look closely at what we are doing here. Judge Paez has a great record in the courtroom, in the classroom, and in the world and society in which he lives. He is a fine man, as is Marsha Berzon.

I hope we can move forward with these nominations. I hope there is an overwhelming vote. I think it would send a great message out of this Senate that we need to start doing things on a bipartisan basis. We hear the call for that all the time. There is no clearer example to show that than by voting overwhelmingly for these fine people—Judge Paez and Marsha Berzon. Both have established in their lives records of superior quality.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, thank you very much. I just arrived on the floor. I listened to some of the extensive remarks made by my friend from New Hampshire, Senator SMITH. I really came over to refute some of those remarks and some of those comments.

I have been through this fight over the judicial nominations once before. When Margaret Morrow was nominated and kept on the hook, people came to the floor of the Senate and said she was an activist, a liberal—the same buzzwords we are hearing. These buzzwords are: ''Out of control,'' ''liberal''—all of these words.

That was a great speech. But, unfortunately, it doesn't have anything to do with Margaret Morrow, who is as mainstream and as apple pie as you can get.

I say to my friend from New Hampshire, because I know people have varied opinions of this President, President Clinton, that I happen to think he has brought us out of the deepest, darkest economic nightmare we ever faced and I think will go down in history for that. But that is up to the historians. There is one thing about this President that I don't think anyone would refute. He is a pragmatist. He knows what he can get through this Senate. He certainly knows that if he puts someone before the Senate who is not in the mainstream, they are not going to get confirmed. He is not going to go through the exercise. It is very

painful for people to be nominated if they have no chance of being approved by the Senate. This President doesn't do that. In all my recommendations to him, and in all of Senator FEINSTEIN's recommendations to him, we have been very careful to make sure we refute things.

I hope the Senator from New Hampshire will appreciate this.

If I believe a judicial nominee is not going to pass the mainstream test, I don't even bother with it. If I don't believe a judicial nominee has Republican support, I will not even bother with it.

I have had several conversations with Chairman HATCH. He has been very clear. He says: BARBARA, you are not going to get people through who are not in the mainstream. You are not going to get people through who do not have bipartisan support. You will not get people through who do not have law enforcement support.

Yesterday, as Senator SESSIONS was speaking—believe me, I respect both of my colleagues' right to vote against these two nominations, if they so choose—I pointed out this wonderful record of support these two candidates have from Republicans and Democrats alike in law enforcement. My goodness, Sheldon Sloan, the head of Governor Pete Wilson's Judicial Advisory Committee, is the one who is backing Judge Paez.

Listen to this. I will repeat it. The head of Governor Pete Wilson's Judicial Advisory Committee is backing Richard Paez.

I ask unanimous consent to have printed in the RECORD several editorials supporting Richard Paez and Marsha Berzon.

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

[From the Los Angeles Times, Feb. 6, 2000]

JUDGE DESERVES ROUSING APPROVAL

Perhaps this week the full Senate will finally take up the nomination of Judge Richard Paez to a seat on the U.S. Court of Appeals for the 9th Circuit. With a decisive vote to confirm Paez, the Senate can redeem itself after its disgraceful treatment of this worthy jurist.

Paez, since 1964 a federal district judge in Los Angeles, was first nominated for the appellate bench by President Clinton more than four years ago. No nominee in memory has waited longer for a confirmation vote, a reflection on the Senate.

The first time the Senate Judiciary Committee considered his nomination, it refused to act, and the second time it voted approval, only to have the nomination die when Senate leaders refused to call an up-or-down vote. Last July, the panel once again forwarded Paez's name to the Senate, with committee Chairman Orrin G. Hatch (R–Utah) and one other Republican supporting the judge. But not until November did Majority Leader Trent Lott (R–Miss.) agree to set a Senate vote for March. Now March is upon us and Lott says he will deliver on his promise of a floor vote.

On the bench and before that as an attorney, Paez, a 52-year-old Latino, has earned a reputation for being thoughtful, fair and committed to civil rights. He would be an asset to the circuit court.

Republican leaders, whose treatment of Paez and other nominees stems from their deep animus toward President Clinton, are now anxious to cast themselves as an inclusive lot after divisive debates over religion and race in the presidential primary campaigns. A resounding vote to confirm Judge Paez is a good place to start.

[From the Los Angeles Times, Jan. 20, 2000]

INFAMOUS ANNIVERSARY FOR COURTS

Next Tuesday, four long years will have passed since President Clinton first nominated U.S. District Judge Richard A. Paez to a seat on the 9th Circuit Court of Appeals. It's a sorry moment.

The Senate has long toyed with Clinton's judicial nominees, grilling them mercilessly at Judiciary Committee hearings, then deep-freezing the nominations by refusing to call an up-or-down floor vote. No one has waited as long as Paez. First nominated to the 9th Circuit on Jan. 25, 1996, Paez, now 52, has been before the Judiciary Committee three times. Once, the committee refused to act; once, it approved him only to have the Senate let his nomination die by failing to vote. Last July, the committee approved Paez again, but the Senate still has not voted.

Why the delays? What so troubles Senate leaders about Paez? An extensive review of Paez's record, on the federal trial bench and, before that, on the Los Angeles Municipal Court and as a public-interest attorney, was published earlier this week in the Los Angeles Daily Journal, which covers legal affairs. The record reveals a jurist who is thoughtful, smart and unbiased. Regardless, some conservatives remain convinced, largely without evidence, that Paez has ''activist'' tendencies.

Late last year, Senate Majority Leader Trent Lott (R–Miss.) said he would call a floor vote by March 15 on Paez and a San Francisco lawyer, Marsha Berzon, whose nomination to the 9th Circuit also has languished.

There are now six vacant seats on the 9th Circuit Court and 76 on federal courts nationwide. The Senate's humiliating treatment of nominees like Paez and Berzon only serves to dissuade worthy men and women from serving on the federal bench.

[From the Washington Post, March 3, 2000]

THE PAEZ AND BERZON VOTES

Senate Majority Leader Trent Lott has indicated that the Senate will finally hold up-or-down votes on judicial nominees Richard Paez and Marsha Berzon by March 15. Judge Paez has waited four years for the Senate to consider his nomination, and Ms. Berzon has waited two. Both nominees to the 9th Circuit Court of Appeals are well qualified. It is time both were confirmed.

The ostensible reason for the opposition to these appointments is that the nominees allegedly harbor tendencies toward ''judicial activism.'' In neither case, however, is the allegation justified. Judge Paez made a single ill-advised remark about a proposed anti-affirmative action ballot initiative in California; his opponents also criticize him because, as a district court judge, he refused to dismiss a human rights lawsuit against a company doing business in Burma. Ms. Berzon stands accused of favoring abortion rights and supporting the labor movement. Such positions may trouble principled conservatives, but they are not the sort of ideological differences that should keep well-qualified nominees off the bench.

Some conservatives dislike the comparative liberalism of the 9th Circuit itself and so are reluctant to confirm judges who do not obviously break with that court's current tendency. But diversity among circuits is healthy, and the 9th Circuit is by no means a rogue operation out of the bounds of respectable legal thinking. Judge Paez and Ms. Berzon would be good additions to the court—and they have waited too long for the Senate to say so.

[From the Seattle Post-Intelligencer, February 26, 2000]

SENATE GOP DRAGS FEET ON JUSTICES

More than a few defendants have been in and out of U.S. District Judge Richard Paez's California courtroom—and prison as well—in the time the distinguished jurist has been waiting for a vote on his confirmation to the 9th Circuit U.S. Court of Appeals.

If only the ''speedy trial'' rules that Paez must follow applied to the U.S. Senate.

It's just our luck here in the 9th Circuit, which encompasses eight Western states including Washington and California, that Paez has become the poster child for the Republican-led Senate's refusal to schedule timely votes on nominations submitted by President Clinton.

This circuit, the biggest and arguably the busiest in the country, has six vacancies, yet Senate Majority Leader Trent Lott, R-Miss., had the gall to tell reporters Thursday that he does not believe additional judges are needed at this time. (Lott and fellow Republicans are really rankled by what they perceive as the court's left-leaning nature, but that's another tale.)

Lott disclosed that as he announced he would vote against Paez, who still stands a chance of becoming the first Hispanic on this appellate court. Well, that's some progress. At least Paez will have his day in ''court,'' although it will come more than four years after Clinton first sent his name to the Senate.

Paez's fitness is not the issue; the American Bar Association has given him its highest ranking. Timeliness is. Seven years ago it took an average of 83 days for the Senate to vote a federal judicial nominee up or down; now it takes more than three times that long.

Justice delayed is justice denied, whether it's for judges or defendants.

[From the New York Times, March 9, 2000]

ENDING A JUDICIAL BLOCKADE

The Senate is scheduled to hold confirmation votes today that would finally end the egregious stalling by Republicans that has blocked consideration of two worthy nominees for the United States Court of Appeals for the Ninth Circuit, on the West Coast. Richard Paez, a respected federal district judge in Los Angeles, has been waiting four years for the full Senate to act on his nomination. Marsha Berzon, a prominent appellate litigator in San Francisco, has been waiting two years.

Both these candidates were approved by the Senate Judiciary Committee with the support of its chairman, Orrin Hatch. But a floor vote was stalled by a few Republicans who reflexively branded the nominees as too liberal and too ''activist.'' Only after Democratic complaints about the Republicans' slowness in approving minority and female nominees did the majority leader, Trent Lott, agree to allow the full Senate to vote on their nominations.

The Senate should approve the Paez and Berzon nominations, then promptly vote on the 35 other pending judicial nominations. At the current sluggish pace, the Senate stands to approve even fewer judges this year than the 34 it confirmed last year, an indefensible record at a time when federal courts are facing rising caseloads and huge backlogs.

The fact that this is a presidential election year is no excuse for inaction. In 1992, President Bush's last year in office, the Senate,

then Democratic, confirmed 66 judges. In the last year of the Reagan administration, 42 judges were approved. The quality of justice suffers when the Senate misconstrues its constitutional role to advise and consent as a license to wage ideological warfare and procrastinate in hopes that a new president might submit other nominees.

Mrs. BOXER. I guess we have a conflict between the Washington Times and the New York Times. The New York Times writes today: ''Ending a Judicial Blockade.''

The Senate is scheduled to hold confirmation votes today that would finally end the egregious stalling by Republicans that has blocked consideration of two worthy nominees for the United States Court of Appeals for the Ninth Circuit, on the West Coast. Richard Paez, a respected federal district judge in Los Angeles, has been waiting four years for the full Senate to act on his nomination. Marsha Berzon, a prominent appellate litigator in San Francisco, has been waiting two years.

They recite the history, then state the Senate should approve the Paez and Berzon nominations.

The Los Angeles Times, editorial board, which is now dominated by Republicans, says: ''Judge Deserves Rousing Approval.'' It says:

On the bench and before that as an attorney, Paez, a 52-year-old Latino, has earned a reputation for being thoughtful, fair and committed to civil rights. He would be an asset to the circuit court.

The Washington Post says:

Judge Paez has waited four years for the Senate to consider his nomination, and Ms. Berzon has waited two. Both nominees to the 9th Circuit Court of Appeals are well qualified. It is time both were confirmed.

We hear the word ''activist'' mentioned. If I were to name an activist on the Republican side of the aisle, it would be my friend BOB SMITH. He is the best activist that the antichoice people have. He is an activist. He is the best activist the Humane Society has. When it comes to Judge Paez, when it comes to Marsha Berzon, I dispute the ''activist'' tag. Some have made the term ''activist'' a bad name. I don't think it is.

These two nominees have temperaments that fit the court. They are well reasoned. When Judge Paez was reviewed by 15 experts in the law profession, they said his opinions will stand the test of time; that he is well reasoned. The lawyers have refuted everything that has been said on this floor by people who don't know Judge Paez.

I will read statements from lawyers, the people who appear before him day after day, and anonymous quotes they gave to the Judicial Almanac when talking about Judge Paez and his temperament.

We are turning the word ''activist'' into something different. Margaret Morrow had to struggle to be confirmed. I think some of my friends on the other side of the aisle think you are an activist if you have a heartbeat or a pulse, if you are alive. Nominees have to have some opinions; that is what a judge does.

Accusing Judge Paez of being soft on crime is an incredible statement, because, as I understand it, a criminal sentence by Judge Paez has never, ever been overturned.

To hear people talk about letting rapists and other criminals free, some might have done it but not Judge Paez. He has never been overturned on a criminal sentence in his entire career, and he has been on the bench for 18 years.

Sometimes people come to the floor making an argument about the Ninth Circuit. How about putting two people on the Ninth Circuit who will make it better? That is the opportunity we have today.

I will read some comments made by the lawyers who appear before Judge Paez all the time. These are people who take all sides of the issue: He is a wonderful judge. He is outstanding. He is highly competent. He is smart. He is thoughtful. He is reflective.

''I don't know anyone,'' one lawyer said, ''who hasn't been exceedingly impressed by him. He does a great job.''

''He is very well prepared,'' says another.

''He knows more about a case than the lawyers.''

Here is another: ''I think he has a great temperament. He never says or does anything that is off. He has a good demeanor. He is professional. He doesn't have any quirks.''

I listened to my friend, Senator SMITH, who is eloquent, but he is not talking about the man these lawyers know. He certainly is not talking about the man whom all the law enforcement people who have endorsed him know.

We hear Judge Paez is soft on crime. Why, then, does the National Association of Police Organizations endorse him? Also endorsing him is the Los Angeles Police Protective League, the Los Angeles County Police Chief Association, the Association of Los Angeles Deputy Sheriffs, the Department of California Highway Control Commissioner. Why would he have bipartisan support from California State judges and justices, such as California Court of Appeals Justice Walter Croskey, bar leaders, business leaders, community leaders, the whole Hispanic community?

There is a lot of discussion about what party deserves to get the votes of the Hispanics. I hope we can rise above this, but I do hope we can listen to the Hispanic Chamber of Commerce which strongly support Judge Paez.

I will read from their letter:

To the Senate majority leader from the United States Hispanic Chamber of Commerce:

I urge you to consider the views of the U.S. Hispanic Chamber and of the Hispanic small business community as we await a decision from the Senate on the nomination of Judge Paez. Judge Paez would be a great asset to the Ninth Circuit Court of Appeals.

They conclude:

I therefore urge you to listen to the voice of the Hispanic community and confirm Judge Paez to the Ninth Circuit Court of Appeals.

Here is a joint statement from the Hispanic Chamber of Commerce—the businesspeople—and the Hispanic National Bar:

The Hispanic community is justifiably proud of Judge Paez's achievement. He is a jurist of integrity and decency, a role model for Hispanics everywhere. Yet he has been kept waiting for more than 49 months for a Senate vote. We applaud Senator LOTT's decision to give Judge Paez a vote and urge the Senate to give him full and fair consideration.

They conclude:

If Judge Paez's record is reviewed fairly, he will be confirmed on a bipartisan basis.

I know there is some thought as we get ready for an up-or-down vote on these two nominees that there might be a motion made to indefinitely postpone this vote. I have had discussions with the Parliamentarian who believes that motion would be in order. I say it would be precedent setting. We have these candidates. They have gone through a very difficult confirmation process, being nominated a few times, getting through the committee a few times, being asked extensive questions, surviving an important cloture vote, which, frankly, they won overwhelmingly. Eighty-some Senators said they have a right to have a vote. I admire those Senators who voted for that, even though they won't vote finally for either Marsha or Richard.

I make an appeal: If we vote to indefinitely postpone a vote on these two nominees or one of these two nominees, that is denying them an up-or-down vote.

That would be such a twisting of what cloture really means in these cases. It has never been done before for a judge, as far as we know—ever. Again, it would undermine what Senator LOTT said when he said these people deserve an up-or-down vote.

So I make a plea to my friend, Senator SMITH. He and I go at it on many issues, but we are good friends and we like each other. Consider what you would do if you were to make such a motion, or another Senator would do so. You would be saying these two people do not deserve an up-or-down vote. I think that would be an undermining of the spirit of what we did yesterday.

I hope we will not go that route. What goes around comes around. Then, when you have a President who sends down a nominee, you are setting your party's President up for this kind of twisting in the wind that I do not think any nominee ought to go through.

I thank my friends for their indulgence. I believe very deeply we have two mainstream, strong candidates, supported by Democrats and Republicans alike, both inside the Senate and outside the Senate. We have two people who have proven their mettle. I thank them for hanging in there. I know there were times when they wondered whether it was worth it; that they had

to look at their families one more time and say, ''We don't know yet. We don't know yet. We don't know when we are getting a vote.'' That is why I brought their pictures to the floor the last couple of days, to put a face on these nominees. They have children. They have spouses. They have community friends. They work hard. Their lives have essentially been in limbo—for Marsha for a couple of years.

It is tough when you are in a law firm and you have been nominated. The partners don't know what to do. Do they give you more cases? Do they not? If you start a case, will you be pulled? It is a very difficult thing for an attorney in that situation.

For Judge Paez, it has been tough for him to hear some of the things that have been said when he is a man who has such broad-based support in the community.

Colleagues on both sides of the aisle, this is a big and important day. If there should be a motion made to indefinitely postpone this nomination, please do not support it. That would undermine what we promised these nominees way back several months ago when we told them they would have a vote. If we have that vote, please turn against it. And then, please vote for these nominees. They deserve your vote.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I might say to my colleague, she knows we respect each other and like each other personally.

The points she makes about the families, when a nominee comes before the Senate and there is a long delay, we understand that. That is not easy for anybody. But I might also say, as far as I know—and I speak for myself, and I am pretty sure I speak for everyone else—I remember Clarence Thomas and people going in to find out what videos he purchased. He had a family. And Robert Bork had a family. And Doug Ginsburg had a family. I remember some very nasty things being said about those nominees.

We are looking at court cases of these nominees, and that is all we are looking at. I have not said, nor has anyone said on the Senate floor, one word about their personal lives. I have no desire to go there. This is about their court cases. In terms of Judge Paez in particular, his judicial philosophy, his activist philosophy, I will use his own words:

> I appreciate the need for courts to act when they must. When the issue has been generated as a result of a failure of the political process to resolve a certain political question, there is no choice but for the courts to resolve the question that perhaps ideally and preferably should be resolved through the legislative process.

The legislative process is to write the laws. That is what we do here. It is not up to the courts to write the laws. It is up to the legislature to write the laws. You should not put your activist views, conservative or liberal, on the court. I want judges who will interpret the Constitution.

These are his own words. I also want to point out—and I am just now analyzing the case—I know it is not a criticism because I did not know it either until this morning, but apparently there was a criminal case of Judge Paez that was overturned yesterday. I am trying to analyze that now, or maybe Senator SESSIONS may get into it later. So there was at least one, in terms of a criminal overturn.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I will note, just before I start, a couple of points.

The distinguished Senator from New Hampshire spoke about video rental records of Judge Bork or Judge Thomas. He may recall when that happened, a law was passed, the Leahy-Simpson law, which I proposed, initiated, and drove through in short order, to make it illegal for anybody to go and check somebody's video records. Ideally, I would like to see us have as strong a law for our medical records, something that has been held up while we spend a lot of time on a lot of other things. That is something being held up by this Congress on medical privacy. I wish we could do the same with that situation. But on Judge Bork or Judge Thomas or any other judges, the Leahy-Simpson law says we cannot look at their records.

I also note it was the Democrats who said very strongly about both Judge Bork and Judge Thomas, there should be no filibuster. As I recall, we expedited them relatively quickly for votes. It was also this Senator, joined by some others on this side, who, on the Ginsburg matter, when items were being leaked to the press—as it turned out, some from the same White House from which his nomination came—it was this Senator who took to the floor, and spoke elsewhere, and said let us give Judge Ginsburg a hearing; he should not be subjected to anonymous leaks, wherever they are coming from. As I said, some, it turned out, came from the White House. It was the White House that then announced, news to him, he was going to be withdrawing his name, which of course he did.

It was approximately 12 weeks from the time Judge Bork was nominated until we had a vote. It was something like 15 weeks from the time Judge Thomas was nominated before we had a vote. Of course, on Judge Paez it has been 4 years; on Marsha Berzon, 2 years.

I think we should talk about facts. Up to this date, there have been a lot of red herrings set out on these two nominees. They have been held without votes. Now at the 11th hour, some have sought to raise the random assignment of the case against John Huang in the District Court of the Central District of California as another reason to extend what has already been a 4-year delay in our consideration of the nomination of Judge Richard Paez.

I have yet to hear anybody suggest that there was anything untoward in the assignment of Judge Paez on this case. The suggestion is out here, somehow this was some nefarious thing, to put Judge Paez on this case. So I checked around about what the court rules are in assigning cases, because most courts have rules on how cases are assigned. They are not secret. They are public, and they are publicly available. I know they are in my own State of Vermont. They are elsewhere. But I thought maybe there was something that those who were objecting to his assignment to this case knew that we didn't. So I checked with the Central District of California, and of course they do have court rules governing the assignment of cases.

In fact, I understand the assignment of cases in the central district is pursuant to general order No. 224 of that court. I mention this because I wonder if any of those who have impugned Judge Paez sitting on this case even bothered to check that rule as I did, as anybody can, simply by picking up the phone and calling.

Section 7 of that order deals with the assignment of criminal cases. Paragraph 7.1 says:

> The assignment of criminal cases shall be completely at random through the Automated Case Assignment System. . . .

That is how the cases are assigned. The order allows exceptions under supervision of the chief judge. In the Huang case, there is no indication any exception was involved. Quite the contrary. I am told the assignment was done pursuant to a random assignment. That is what I was told when I called. That is what anybody would have been told if they had bothered to call instead of slandering this judge.

Then to make sure, because I am amazed anybody even questioned that because it is such a longstanding rule, I went to the extraordinary length of getting a statement under oath subject to the penalty of perjury by the district court executive and clerk of court explaining how these cases are assigned; Sherri Carter, district court executive and clerk of court.

I must apologize on the record to Ms. Carter for any indication that the Senate does not take her word for this or that people insist she submit this statement under penalty of perjury. I say to her, this is a strange time. Any lawyer who practices anywhere in this country knows that practically any court has these same kind of random assignments. State courts do it. Federal courts do it. Certainly any lawyer in California knows it is a random assignment. I suspect the bailiffs can tell you that. The janitors can tell you in that court, but the Senate is so far removed from it that we need an affidavit telling us something that everybody else outside of the sacred 100 in this Chamber know.

I ask unanimous consent that the sworn affidavit of Sherri Carter, district court executive and clerk of court, saying that district judge Richard Paez was randomly assigned to the Huang case under the district court-approved random assignment methodology using an automated information processing system be printed in the RECORD.

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

U.S. DISTRICT COURT,
CENTRAL DISTRICT OF CALIFORNIA,
Los Angeles, CA.

I, Sherri R. Carter, District Court Executive and Clerk of Court, for the United States District Court, Central District of California, declare that case number CR–99–524–RAP, U.S.A. v. John Huang, was randomly assigned to District Judge Richard A. Paez, on June 14, 1999 through the District Court approved random assignment methodology utilizing an automated information processing system.

Pursuant to 28 UCS 1746, I, Sherri R. Carter, District Court Executive and Clerk of Court, declare under penalty of perjury that the foregoing is true and correct executed on March 8, 2000.

SHERRI R. CARTER,
District Court Executive and Clerk of Court.

Mr. LEAHY. Mr. President, I am sure Judge Paez had no interest in being assigned that case or the case against a former Member of Congress, Republican Representative Jay Kim, or any other high-profile case. I suspect any judge who has a pending confirmation would be delighted to avoid such high-profile cases, but they follow the rules. If the machine comes up and says ''you are assigned,'' then that judge hears that case. Judge Paez ought not continue to be penalized for doing his job in ruling in those assigned cases.

There is no allegation—no credible allegation, no believable allegation, no factual allegation, no whisper of an allegation—outside this Chamber that he did anything to obtain jurisdiction over those matters. None whatsoever. That ought to settle this matter once and for all.

It is the same as buying a lottery ticket and having the machine pick the numbers for you. It is done automatically. He did not win the lottery on this because he did not want a high-profile case, but he did his job, the job he was sworn to do. We ought to do the job we are sworn to do and vote up or down on these two people and not, as some have suggested, have a vote to suspend indefinitely. That is the Senate saying: Notwithstanding we are being paid to vote yes or no, we decide to just vote maybe.

Let's vote up or down. In this particular case that has been talked about, Judge Paez sentenced John Huang to 1 year probation, 500 hours community service, and a $10,000 fine after he pled guilty to a felony conspiracy charge on August 12, 1999. He agreed to plead guilty after he reached an agreement, not with the judge but with the prosecution for the Department of Justice. Based on that agreement, the prosecutors recommended no jail time in exchange for the defendant's cooperation. Judge Paez's approval of the prosecutor's recommendation was not unusual.

During my years as a prosecutor, I can think of a number of times when I said to the judge: Would you give this type of a sentence because we are getting cooperation from this person? I am after bigger fish; I have bigger fish to fry. I need their cooperation. Will you please sentence him to what might appear to be a lighter sentence?

Judge Paez did put the sentencing off for 10 days, from August 2 to August 12. Why? To consider a request by a Republican Congressman, DAN BURTON, who asked Judge Paez to delay sentencing until Huang testified in front of his committee investigating campaign finance abuses. The Congress asked him to delay. The Federal prosecutors objected to Representative BURTON's request for the indefinite suspension of sentencing, and having delayed to consider the matter, Judge Paez proceeded with the sentencing on August 12. I believe he was correct in doing so. Huang's lawyer told the prosecutor he would cooperate with Representative BURTON's committee, notwithstanding sentencing. My recollection is that is exactly what he did.

When it became clear, in virtually unprecedented fashion, Judge Paez and Marsha Berzon would have to leap over a 60-vote margin in cloture, and when it became clear the Senate would not add to the disgrace and humiliation of holding them up this long, that we would invoke cloture they want to suspend it indefinitely. After four years we should be more than prepared to vote for him for the Ninth Circuit.

Suspending a vote on this nomination would be a tragedy. Here is a remarkable man: a Hispanic American who has reached the Federal bench, has the highest rating that bar associations can give for a nominee, one of the most qualified people I have seen before the committee, Republican or Democrat, in my 25 years here. He has been waiting, dangling, for 4 years, humiliated by the actions of the Senate.

Now they ask to delay him again. It does not match up to what should be the standards of a body that calls itself the conscience of the Nation. Let us be clear, the Huang plea agreement, the transcript of the sentencing and related documents are not new. They have been in the possession of the Judiciary Committee since at least September of 1999. Six months they have been here.

The sentencing, his postponement, and the position of sentence did not happen in secret. It was in the glare of nationwide publicity. Thousands of sentencings go on every year in this country in all kinds of courts rarely covered by the press. This one was. These events extend back to last August and before. It is not a justification for asking for new information. It has been here.

I think the opponents misdirect their complaints about the plea agreement between the Government and Mr. Huang at Judge Paez. Complain about the Government's recommendation. That is one thing. Do not blame the judge who followed them.

Moreover, in spite of the impression sought to be created here, the plea agreement, dated May 21, 1999, expressly provides that Mr. Huang is not immune from Federal prosecution under ''laws relating to national security or espionage'' but covers only that conduct he had disclosed to prosecutors. In fact, his own attorney acknowledged at the time of sentencing that this plea agreement, OK'd by the prosecutors and the judge, leaves Mr. Huang open to further prosecution.

As far as the sentencing, let's be clear what happened. The Senate should know, pursuant to the agreement, Mr. Huang pled guilty to one count of conspiracy, a charge that carries the maximum penalty of up to 5 years. As for the calculation of the sentencing guidelines, both the Government and the probation office agreed on that calculation. They further agreed that in light of his substantial cooperation, he should receive a sentence of 1 year's probation and 500 hours of community service.

In fact, the only disagreement between the prosecutors and the probation office was on the amount of the fine. In this case, Judge Paez disregarded what the probation office recommended and went with the prosecutors' recommendation, the higher fine, and he imposed that fine.

If you read the sentencing transcript, you see the judge acted in a conscientious manner. He insisted on a probation officer's report and recommendation before proceeding. He did not proceed until he was advised of the extent and nature of Huang's cooperation that was expected. The Government informed the court that Huang provided substantial, credible information helpful in task force investigations. The judge emphasized that Mr. Huang was expected to continue to cooperate after his sentencing.

I mentioned being a former prosecutor. I can tell you, when I was prosecuting cases nothing was more infuriating than when people did not know the facts of a case or the extent of cooperation or the value of the plea agreement, and they would try to pick apart an agreement after the fact.

I can think of cases where people would say: Oh, my gosh, how can this person get a light sentence? Why? Because they helped us catch five other people we would not have caught without them.

It is easy enough to criticize and second-guess. It is always easy to say someone else settled too cheap, that they made a bad deal. That undermines the role and morale of good prosecutors. We all know how clogged the already overloaded courts would be if prosecutors could not use their best

judgment and enter into plea agreements.

We have 75 vacancies in the Federal court. Prosecutors are under pressure all the time to move cases through because we have not confirmed the judges; we have not added the extra judges they need. The courts are backlogged. You cannot get civil cases heard because of all the criminal cases. Prosecutors have to make their best judgment.

Whether one agrees or disagrees with the agreement, no one can say, with a straight face, that we suddenly found out about it, or that now we have to have a last-minute postponement. We do not need such a thing.

This has been pending for 4 years. The facts have been here for 4 years. The nomination has been here for 4 years. Local law enforcement has strongly backed Judge Paez for 4 years. His home State Senators have strongly backed him for 4 years.

He is supported by the Los Angeles district attorney, the Los Angeles Police Protective League, the National Association of Police Organizations, the Association for Los Angeles Deputy Sheriffs, the Los Angeles County Police Chiefs' Association. This guy sounds like the kind of judge I would have liked to have had my cases assigned to when I was a prosecutor.

We have made this highly qualified man jump through hoops for 4 years. He was required to review his criminal sentences for his whole career on the Federal bench. This is what we asked him to do after he was pending for 4 years. He had two confirmation hearings, and had been voted out twice by the Republican-controlled Judiciary Committee.

A lesser person would have said: Enough is enough. This is such petty harassment. He did not complain. He complied. What do the facts show? He is a tough sentencer. Those are the facts, not the comment of some reporter thrown into a political story here in Washington.

The people of California, the people who know him best, named him the Federal Criminal Law Judge of the Year in 1999. He has had sentences within the sentencing guidelines more often than the national average for district judges. We ought to be praising him for that. People say district judges don't follow the guidelines. We ought to praise him for being above average in that.

We talk about his criminal judgments appealed. There were 32 criminal judgments appealed. He was affirmed 28 times. Two of the appeals were dismissed for lack of jurisdiction; one was remanded. Only 1 of the 32 was reversed, in part.

We talk about how we want people who are going to be upheld on appeal. There isn't a district court judge—Republican, Democrat, or anything else—who would not be delighted to have a record on appeal like Judge Paez.

He is a tough judge, a really tough judge. He is also a good judge, a well-trained judge, a highly intelligent judge, and a judge who wins on appeals.

Obviously, every Senator has a right to vote how he or she wants, but at least vote. I do not think it is right to hold somebody up. It would certainly be an outrageous mark of shame on the Senate if we took the unprecedented step, for a Federal judicial nominee, after cloture, to move to indefinitely postpone. It would be the first time that sequence would be followed in the Senate. That would be a mark of shame on us.

But what bothers me is the way people look for any reason—real or imagined—to vote against Judge Paez.

There seems to be no interest in looking at his whole record of public service. I have heard no mention of Judge Paez's decision in the Great Western Shows, Inc. case. That was a controversial case. I am sure he did not ask to be assigned to it. But he applied the law fairly and objectively. Let's mention this case.

We heard he may be a liberal judicial activist, whatever that is. It must mean, like the majority in the Supreme Court in the last year or so, taking away more rights from the States and people in patent cases, and so on. But let's talk about this.

In the Great Western Shows case, he heard and granted a motion for a preliminary injunction against a Los Angeles county ordinance that would have effectively banned gun shows, the sale of firearms and ammunition on county property. He went against those who wanted to ban the gun show because he found substantial questions that the ordinance was preempted by State law. So he granted an injunction so the gun show could proceed.

To me, that does not sound like a judicial activist. It reminds me of the courage that a Vermont district court judge showed back in 1994 when his nomination to the Second Circuit Court of Appeals was likewise pending before the Senate. At that time, Judge Fred Parker handed down his decision in the Frank case in which Judge Parker held the 10th amendment prohibited Congress from usurping the power of Vermont's Legislature and declared certain provisions of the Brady law unconstitutional.

I remember that very well because it was about the same time I was down asking the President of the United States to appoint Judge Parker, a conservative Republican, who served as the deputy attorney general of our State. I was asking the President to appoint Judge Parker to the Second Circuit. I also knew Judge Parker was an extraordinarily brilliant person. He was a classmate of mine in law school. He is highly honest. Usually he had supported my opponents.

I had to tell the President, who was strongly supporting the Brady law: This judge I want you to appoint to the Second Circuit Court of Appeals has just found a hunk of that law unconstitutional. The President said: Anything else you want me to do for you today?

But to Bill Clinton's credit, he did appoint Judge Parker to the Second Circuit. Oh, just as a little footnote, to Judge Parker's credit, the U.S. Supreme Court upheld him. They said he was right, that the way it was drafted, that part of the Brady law—which we have since changed—was unconstitutional.

The point is, both these judges, Judges Parker and Paez, acted with courage to do their duty. They applied the law to the facts, and they did their judicial duty. They did so at some personal risk while their nominations to higher courts were still pending before the Senate. I think the strength they show is commendable. They are the kinds of judges we need in our Federal courts to act with independence and in accordance with the law. All the Senators who were in the Senate at that time voted for Judge Parker.

I hoped they would give the same with respect to Judge Paez. He doesn't tailor rulings or sentences to please political supporters. He is not soft on crime. This is a man who gets upheld on virtually all his criminal cases. He is a person with great resolve and temperament and intellect. Those who seek to diminish this man or his record should reconsider and support his prompt confirmation.

I understand why people support him so strongly. I ask that a sampling of letters from the Hispanic National Bar Association, national Hispanic Leadership Agenda and its more than 30 constituent organizations, the League of United Latin American Citizens, and the U.S. Hispanic Chamber of Commerce in support of Judge Paez be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

HISPANIC NATIONAL BAR ASSOCIATION,
Washington, DC, February 20, 2000.

Hon. PATRICK LEAHY,
Courthouse Plaza,
Burlington, VT.

DEAR SENATOR LEAHY: It is the understanding of the Hispanic National Bar Association that Majority Leader Trent Lott has agreed to call a floor vote on the nomination of Judge Paez by March 15. Therefore, as the Regional President of the Hispanic National Bar Association with jurisdiction over the State of Vermont, I am writing to inquire into your position on the nomination of Judge Richard A. Paez to the United States Court of Appeals for the Ninth Circuit.

The Hispanic National Bar Association is a non-partisan organization with over 22,000 members that has as one of its goals to promote the appointment of qualified Hispanic candidates to the Bench. We have reviewed the qualifications of Judge Paez and strongly support his confirmation. In fact, his confirmation is one of our top priorities for this year.

I will contact your office within the next few days to see if you, or your staff, are available to meet with us to discuss this important nomination. If you have any questions, please feel free to contact me at (617) 565–3210.

For your information, I have attached a copy of a Los Angeles Daily Journal article on Judge Paez which, upon your perusal,

should clear up any misconceptions and incorrect labels that are currently the foundations of objections to his nomination.

I appreciate your attention to this request.

Sincerely,

R. LILIANA PALACIOS,
Regional President.

NATIONAL HISPANIC
LEADERSHIP AGENDA,
Washington, DC, March 3, 2000.

DEAR SENATOR: As members of the Board of Directors of the National Hispanic Leadership Agenda (NHLA), we are writing to reiterate our strong support for Judge Richard Paez to the Ninth Circuit Court of Appeals and our request that you vote to confirm him.

About two weeks ago, you should have received a letter from the NHLA signed by our Chair, Manuel Mirabal. Because we wish to convey to you fully the importance of this matter to the Latino community, we have decided to send you this additional letter with our individual signatures.

The NHLA represents a highly diverse and important cross-section of the national Latino community. Our organizations have offices and constituents throughout the country, and we come together when we find issues of mutual concern. We submit this letter on behalf of the organizations we represent, and we sign this letter as individuals prominent in various fields, including business, legal, labor, health, scientific, among others as well.

We come together to support a highly qualified candidate to the Ninth Circuit Court of Appeals—Judge Richard Paez. In 1994, Judge Paez became the first Mexican American appointed to the Central District Court of California in Los Angeles. This was a milestone for the Latino community. Now that Judge Paez has been nominated to the Ninth Circuit, we believe he will serve well not only the 14 million Latinos living in the Ninth Circuit, but all Americans who seek a fair review of the matters they bring to court.

Thank you again for considering our strong backing for Judge Paez, and we urge you to support his confirmation.

Sincerely,

Elena Rios, MD, National Hispanic Medical Association; Kofi Boateng, Executive Director, National Puerto Rican Forum; Elisa Sanchez, CEO, MANA, A National Latina Organization; Delia Pompa, Executive Director, National Association for Bilingual Education; Manuel Olivérez, President & CEO, National Association of Hispanic Federal Executives; Guarione M. Diaz, President & Executive Director, Cuban American National Council; Gabriela D. Lemus, Ph.D., Director of Policy, League of United Latin American Citizens.

Manuel Mirabal, President, National Puerto Rican Coalition; Arturo Vargas, Executive Director, National Association of Latino Elected and Appointed Officials; Anna Cabral, President, Hispanic Association on Corporate Responsibility; Gumecindo Salas, Hispanic Association of Colleges and Universities; Al Zapanta, President, U.S.-Mexico Chamber of Commerce; Mildred Garcia, Deputy Director, National Hispanic Council on Aging; Andres Tobar, Executive Director, National Association of Hispanic Publications.

Oscar Sanchez, Executive Director, Labor Council for Latin American Advancement; Gilberto Moreno, President & CEO, Association for the Advancement of Mexican Americans; Roberto Frisancho, President, Latino Civil Rights Center; Lourdes Santiago, Hispanic National Bar Association; Ronald Blackburn-Moreno, President, ASPIRA Association, Inc.; George Herrera, President/CEO, U.S. Hispanic Chamber of Commerce; Juan Figueroa, President and General Counsel, Puerto Rican Legal Defense and Education Fund; Raul Yzaguirre, President, National Council of La Raza; Antonia Hernández, President & General Counsel, Mexican American Legal Defense and Educational Fund.

LEAGUE OF UNITED
LATIN AMERICAN CITIZENS,
Washington, DC, March 6, 2000.

Hon. PATRICK LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: On behalf of the League of United Latin American Citizens, the oldest and largest Hispanic organization in the United States, I urge you to vote to confirm Judge Richard Paez to the Ninth Circuit Court of Appeals. Judge Paez was first nominated to serve on the Ninth Circuit on January 25, 1996—more than four years ago. This is an unusually long time to wait, especially considering Judge Paez's qualifications for the position.

Judge Paez currently serves with distinction as a Federal District Judge in the Central District of California, where he has been for over five years. Before that he served as a municipal judge in Los Angeles for thirteen years. When first considered by the Senate, Judge Paez was confirmed unanimously. Many of the Senators who agreed to his nomination in 1994 are still in office. Since he was nominated to the Ninth Circuit, Judge Paez has been through two hearings to review his qualifications and both times he was voted favorably out to be considered by the full Senate. He has been rated well-qualified by the American Bar Association and is supported by a wide array of individuals and organizations, including representatives from the business and law enforcement communities.

By March 15, 2000, Senate Majority Leader Trent Lott will move for a vote on Judge Paez. I strongly urge you to support his confirmation. His confirmation is important to LULAC not only because we have the opportunity to place an excellent judge in this important position, but as a Latino, he represents one of a very few opportunities for our community to be present at this level. It is also important to our judicial system, both how it operates and how it is perceived to operate, that individuals who have worked hard, played by the rules, and are qualified receive a fair chance just like others who may be different from them. Judge Paez has done everything it takes to be qualified for the position on the Ninth Circuit; he deserves your vote.

I hope we can count on you to support Judge Paez. LULAC will be recommending that this vote be include in the National Hispanic Leadership Agenda scorecord which will be published at the conclusion of this session.

Sincerely,

RICK DOVALINA,
National President.

UNITED STATES HISPANIC
CHAMBER OF COMMERCE,
Washington, DC, October 6, 1999.

Hon. TRENT LOTT,
Senate Majority Leader,
U.S. Capitol,
Washington, DC.

DEAR SENATE MAJORITY LEADER: On behalf of the Board of Directors of the United States Hispanic Chamber of Commerce (USHCC). I urge you to encourage a vote on the nomination of Federal District Court Judge Richard Paez to the Ninth Circuit Court of Appeals. I urge you to consider the views of the United States Hispanic Chamber of Commerce and of the Hispanic, small-business community as we await a decision from the Senate on the nomination of Judge Paez.

As you may know, the USHCC's primary goal is to represent the interests of over 1.5 million Hispanic-owned businesses in the United States and Puerto Rico. with a network of over 200 Hispanic chambers of commerce across the country, the USHCC stands as the preeminent business organization that effectively promoters the economic growth and development of Hispanic entrepreneurs. In addition, the USHCC provides and advocacy on many issues of importance to the Hispanic community. Hispanic entrepreneurs are interested in promoting the growth and development of Hispanics in the United States. For this reason, the USHCC supports the confirmation of Judge Paez to the Ninth Circuit.

Judge Paez was nominated to the Ninth Circuit Court of Appeals in 1996. He has been awaiting confirmation by the United States Senate for three and a half years, one of the longest pending nominations in history. Judge Paez has demonstrated the leadership and accomplishments that are well suited to a candidate for a Ninth Circuit Court Judge. He served as a judge in the Los Angeles Municipal Court for 13 years. While serving on that court, he was selected to serve in various leadership positions, including Presiding Judge. He was also elected to serve as Chair of the Los Angeles County Municipal Court Judges Association. In 1994, he was confirmed to the Central District Court of California where he currently serves.

Judge Paez would be a great asset to the Ninth Circuit Court of Appeals. He has the support of many civil rights, law enforcement and community groups, including that of the National Hispanic Leadership Agenda (NHLA) of which the USHCC is a member organization. The NHLA is a coalition of over 30 national and leading. Hispanic organizations in the United States. The USHCC has been supportive of NHLA's efforts regarding the confirmation of Judge Paez. I therefore urge you to listen to the voice of the Hispanic community and confirm Judge Paez to the Ninth Circuit Court of Appeals.

Respectfully submitted,

GEORGE HERRERA,
President and
Chief Executive Officer.

Mr. LEAHY. Mr. President, I hope today we will close the chapter of what has not been the greatest light and the greatest time of the Senate—close this chapter of 4 years of delay and harassment of this wonderful man and confirm him today.

Mr. President, how much time remains for the Senator from Vermont?

The PRESIDING OFFICER (Mr. ALLARD). There are 33 minutes remaining.

Mr. LEAHY. Mr. President, I yield the floor and reserve the remainder of my time. I thank my distinguished friend from New Hampshire for yielding.

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

Mr. SMITH of New Hampshire. Mr. President, in a moment I will yield to my colleague from Alabama. I want to respond to a couple of points that were made during the debate, in terms of

process, by the distinguished Senator from California, Mrs. BOXER, and Senator LEAHY of Vermont.

The criticism on the filibuster is a bit unwarranted. I could have come down here and thrown the Senate into quorum calls and delayed and delayed just for the sake of delay. None of us on our side, including me, did any such thing. We worked out an agreement with the majority leader for a limited amount of time, which on our side was 3 hours—it could have been 30, No. 1—after cloture. Secondly, I agreed to move the cloture time up, and the leader agreed with me.

The real purpose of that was to get facts out about these two judicial nominees, Berzon and Paez. I know in the case of Senator SESSIONS, who will speak for himself on this, he has new information about Judge Paez. I believe that when new information is there, in spite of the fact that this judge has been before the Senate for 4 years, it should be shared with the Senate. I think Senator SESSIONS has every right to share it. Frankly, I think Senators will want to hear it. So I hope they will listen when Senator SESSIONS speaks in detail about the new information he has because I think it is very important in the case of the nomination of Judge Paez.

I want to speak for just a moment on the issue of the random rule that my colleague from Vermont talked about. He indicated, to his credit, that he called and asked about the random rule, and he got a statement from the clerk that that was in fact random. Well, that is one statement, and it may well be true. I think we have a right to check that out to make sure it was random. If it were random, I ask my colleague, should this judge who is before the Senate to be confirmed for the circuit court, nominated by President Bill Clinton—is it the right thing to do, perception-wise, to sit on a case involving Maria Hsia, who has just been convicted for part of the fundraising scandal, along with John Huang who was also involved in that scandal? It seems to me, even if it did come out randomly, it would be good, common sense to say I will recuse myself from these cases because I don't think it looks good.

The random aspect has a problem, which Senator SESSIONS will address. The random aspect presents a problem for me because there are 34 judges there, and the fact that those 2 cases would be randomly assigned to this judge is pretty suspicious. But if you give them the benefit of the doubt, a bad judgment was made by Judge Paez in taking them.

Finally, much has been made here this morning as to comments about Hispanic judges. I think the implication is, somehow there is bias here. I remind my colleagues and the American people that we had a vote of whatever it was—95–0—on Judge Fuentes the other day. I voted for that judge, as did all of my colleagues. I certainly didn't assign any racial bias when Judge Thomas was opposed by many on the other side of the aisle, who happened to be a conservative black, which was the first sin—and probably the only sin, as far as I know—he committed. For that, he went through a living hell for a long time. Had he been a liberal black judge, I don't think there would have been a problem at all.

So I don't think we need to get into name calling and give the insinuation that somehow because Paez happens to be Hispanic—that is uncalled for, and I hope we can get away from that kind of debate. I look at each person on the basis of their qualifications and their decisions. For all I know—OK, Paez, is that a Hispanic name? I don't even know. I could care less. So I hope we can get beyond that.

At this time, I yield to my colleague from Alabama, Senator SESSIONS, whatever time he may consume.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank the Senator and I appreciate his leadership on this issue and his courage in standing up for it.

It is really offensive to me that it would be suggested I or other Members would oppose someone simply because they were Hispanic, African American, or any other nationality, religion, or racial background. I hardly knew he was Hispanic until we were into this matter. He has been held up for a number of years for reasons that have been discussed in some detail. He has stated, as a State judge, a philosophy of judging that is the absolute epitome of judicial activism. He said that when a legislative body doesn't act, it is the responsibility of the judge, or the judiciary, to act and fill the void. Well, when a legislative body, duly elected by the people of the United States, fails to act, that body has made a decision—a decision not to act. But they are elected. If they do the wrong thing, they can be removed from office. But now we want to have a Federal judge who is unelected, with a lifetime appointment, to blithely walk in and say: Well, I don't like this impasse. You guys have a problem and you didn't solve it, so I am going to reinterpret the meaning of the Constitution. That word doesn't mean that, or ''is'' means something else. So I am going to make this legislation say what I want it to say. I am going to solve this problem. You guys in the legislative branch would not solve it; you failed to solve it, and you are thinking about special interests. But I am above that, and I will do the right thing.

Mr. President, that is judicial activism. That is an antidemocratic act at its most fundamental point because that judge has a lifetime appointment. He has no accountability to the public whatsoever.

It is a thunderous power that the Founding Fathers gave Federal judges. And for the most part they have handled themselves well. But this doctrine of judicial activism that they have a right to act when the needs of the country are at stake is malicious, bad, and wrong. It undermines the rule of law. It undermines the democracy at its very core.

Hear me, America. When you have a Federal judge who is an unelected person unaccountable to the people, we have gone from a democracy to something else. I believe that is not healthy. His statement in that regard is a fundamental statement that indicates to me he is particularly not a good choice for the Ninth Circuit.

As the Senator so ably pointed out, it is the most activist circuit of all. I know the Senator mentioned the recent case in which he was reversed.

The city of Los Angeles passed a statute against panhandling after an individual on the street of Los Angeles was murdered when he wouldn't give somebody 25 cents. They passed legislation. The Los Angeles City Council is not a city council that has set about to deny civil liberties. They are one of the most open cities in the world.

What did Judge Paez do, according to the Federal Supplement opinion of his district court order in 1997? He found that the ordinance was invalid on its face under the California Constitution's Liberty of Speech clause for discriminating on the basis of content between categories of speech.

The case was appealed to the Federal court. They certified that question, as they sometimes do, to the California Supreme Court. This is a California statute, and the Federal judge was invalidated by the California Supreme Court.

Out of deference and respect to the California Supreme Court, what is your opinion of that? They reviewed the matter. They came back and concluded that the judge was wrong after having delayed the implementation of a duly passed statute by the duly elected leadership of the city of Los Angeles. This one sitting, lifetime-appointed judge unaccountable to the American people wiped it out. The California Supreme Court said this:

> As noted above, the regulation of solicitation long has been recognized as being within the government's police power. And, yet, plaintiff's suggested approach to content neutrality in many instances would frustrate or preclude that means—

Let me stop—

> [T]he kind of narrow tailoring that is generally demanded with regard to the exercise of such police power regulation in the area of protected expression. If, as plaintiff suggests, lawmakers cannot distinguish properly between solicitation for immediate exchange of money and all other kinds of speech, then it may be impossible to tailor legislation in this area in a manner that avoids rendering the legislation impermissibly over-inclusive.

It is free speech to say ''stick'em up, turn over your money or your life''? No, it is not.

This is a pretty cutting and direct rebuttal, and a blunt condemnation of Judge Paez from the Supreme Court of California—not a right-wing court, I submit:

In our view, a court should avoid a constitutional interpretation that so severely would constrain the legitimate exercise of government authority in an area where such regulation has long been acknowledged to be appropriate.

Indeed, one of the main reasons our murder rate fell in this country a few years ago was because Rudy Giuliani, as mayor of New York, examined what was happening to crime in New York, and he decided that what was happening was we were allowing panhandlers and drug dealers to be wandering the streets and they focused on small crime. They had a plummeting of the murder rate in New York. It dropped by about two-thirds in almost 1 year's time. In fact, there was almost a one-half decline in the murder rate in 1 year.

This judge would say those kinds of regulations that allow a city to take control of its streets is not valid, and it was reversed by the Supreme Court of California in pretty blunt language. To say he is not an activist and not willing to use his power as an unelected public official to set public policy in America is wrong.

That is only one of the cases that is involved here.

I am concerned about the sentencing of John Huang. It is a very important case. It is a case of real national importance. His activities were followed. The Democratic National Committee had to give back $1.6 million in contributions that had come from illegal sources, mainly foreign sources—the Lippo Group, and Riady, and so forth. That was a major news story, and it was for years.

We, as members of the Judiciary Committee, the chairman of the Judiciary Committee, leaders in the House and Senate, urged Attorney General Janet Reno to set up an independent prosecutor to investigate this campaign finance problem. She steadfastly refused to do so, although she did in a lot of other cases.

The employees of the Department of Justice are answerable to the Attorney General, who holds her office at the pleasure of the President of the United States. She can be removed at any moment by the President of the United States. She decided she would hold onto that case. She would not give it up, and she assured us that they would effectively prosecute it; they would get to the bottom of it and crack down on these illegal contributions from foreign governments, mainly believed to be the People's Republic of China, a Communist nation, and a significant competitor of the United States, while they were stealing our secrets at the same time from our laboratories.

This is a serious matter. She would not give it up. She said she would do a good job with it, and they took the case and investigated it. Her underlings met with John Huang's lawyers in Los Angeles, and they discussed the case and the disposition of it.

I was a Federal prosecutor for 15 years. I have some experience. I have been here for 3 years, but most of my career was as a Federal prosecutor.

So they have this meeting and they reach a plea agreement. I have a copy of the plea agreement. They had a plea agreement and presented it to the judge.

I tell you, a judge is not required to accept a plea agreement under the law, and I can document that entirely. A judge is not required to accept a plea agreement presented to him by a prosecutor. It is common knowledge and everyday practice. You present a plea to the judge. By accepting it, he accepts the guilty plea of that defendant. If he rejects it, he doesn't take the plea.

What did the plea agreement say about that particular issue? They said: Oh, you know, the judge is just a victim of the prosecutor. He is just bound by them.

I am telling you that a judge is a force. A Federal judge to a Federal prosecutor is a force. What he says or she says goes. They can demand all kinds of things before they take a plea, and they should demand all kinds of things before they take a plea.

For those who think the judge had no authority, I will read the exact language between John Huang and the Clinton Department of Justice prosecutors.

Paragraph 15: This agreement is not binding on the court. The United States and you understand that the court retains complete discretion to accept or reject the agreed-upon disposition as provided for in paragraph 15(f) of its agreement. If the court does not accept the recommended sentence, this agreement will be void, you will be free to withdraw your plea of guilty. If you do withdraw the plea, all that you have said and done in the course of leading to this plea cannot be used against you.

In addition, should the court reject this agreement, and should you, therefore, withdraw your guilty plea, the United States agrees it will dismiss the information, the charge, that is brought against you, without prejudice to the United States right to indict you on charges contained in the information and any other appropriate charges.

This is basic. They go to the court and plead guilty. The judge does a presentence report, as the Senator from Vermont said. A judge ought to be impeached if they don't do a pre-sentence report on a case such as this. That is routine. A pre-sentence report is made, which has not been made part of the record. There was a plea on what is called an information, not an indictment.

That means the case was not presented to a grand jury of 24 citizens to have them vote on what charges should be brought against John Huang.

Remember, the investigation began out of the charges of $1.6 million to the 1996 Democratic National Committee to benefit the Clinton-Gore campaign.

Some say: JEFF, you are just playing politics. You want to talk about campaign finance reform.

I am talking about the judge who took the plea on the man who was a central figure in the gathering of this money from a Communist nation. This is serious business. We ought not to treat this lightly.

Any judge who had already been nominated by this President for a higher Federal court position, I believe, should have realized the significance of the position he was in and conducted himself with a particularly high level of scrutiny. It was produced after this plea agreement was signed between the prosecutor and John Huang and his attorneys. They produced an agreed-upon charge—not an indictment because it wasn't a grand jury; it is called an information. It is written by the prosecutor, saying: The United States charges.

They did this, and presumably filed the case on the docket. In some fashion, the case went to Judge Paez. Out of 34 judges, this case goes to the Judge who is already being nominated by the President for another high court position. I know we have a clerk who has written a letter, but clerks get their fannies in trouble if they don't say those kinds of things. I don't know how this case got to him. I would like to have that clerk under oath for about an hour, and I will know after that whether or not it was handled in a legitimate way. That is what I believe. This little one- or two-line statement doesn't say a lot that satisfies me. I have seen many of those statements. The President submitted a many affidavits saying, ''I didn't do anything wrong'' in his civil cases. We learned later that he did do some things wrong.

It is curious to me that Judge Paez had drawn the other significant campaign finance reform case for the Democratic National Committee in the Clinton-Gore campaign. That was a Maria Hsia case. Maria Hsia is the one laundered the money through the Buddhist nuns for the campaign. He got both of those cases. That is a pretty high number. I would like to see a mathematical calculation of the chances of the two most prominent campaign finance reform cases both falling to 1 judge out of 34 judges in Los Angeles, California. I don't know how it happened. Maybe there is a good explanation. If there is, I am pleased to accept it.

I have been in courts and my experience is, and this is the reason I am concerned, usually in Federal courts, if there are 50 indictments returned by grand jury, they go on some sort of ''wheel'' and are randomly assigned. Cases that proceed on information by a prosecutor do not move through a grand jury. They move through the system in a different direction and do not always go on random selection.

Years ago, I remember when we would take the case to whatever judge was available. If a defendant wanted to plead guilty and we were satisfied, we called the judge and said: Judge, can you take the plea this afternoon at 4 o'clock? He would say, OK, or we would find another judge.

It is much more possible there is ''judge shopping'' on a plea to an information than on an indictment returned by a grand jury.

I think we ought to know this before we vote on a lifetime appointee. I wish it had been discovered sooner.

This is not an individual member of a law firm who had his practice disrupted. He is now a sitting Federal judge with a lifetime appointment. If he is not confirmed by this Senate, he will still be a Federal judge. He was previously confirmed by this Senate to be a Federal judge for the district court. I submit it is not too much to ask for a few weeks, 2 or 3 weeks, to have the matter cleared up. It has been 4 years; what is 3 more weeks to get the matter settled? That is what we ought to do if we want to do our duty.

I believe the evidence shows with some clarity why I believe the judge's actions at a minimum did not meet standards required of him.

There has been a lot of talk from those who defend Judge Paez. They say he is a victim of the prosecutor. Prosecutors have to take the pleas. It is routine to take the pleas.

This was not routine, No. 1.

Then they say the prosecutors were not doing their job. The prosecutors didn't tell him everything. He could not know everything.

We have examined the portions of the sentencing record we have been able to obtain, and we know at least some of those facts of which he was aware. I will analyze, based on the record, what he knew and what the sentencing guidelines require in terms of a sentence. I think I will demonstrate to the satisfaction of any fair observer that the judge did not follow the sentencing guidelines effectively. He found a lower level of wrongdoing than he should have. That level of wrongdoing allowed him to issue a light sentence instead of a sentence in jail.

I take very seriously the sentencing guidelines that were passed by this Congress a number of years ago. In the early 1980s, I was a U.S. attorney, a Federal prosecutor. The whole world held its breath when the U.S. Congress eliminated parole. It said to Federal judges: We are tired of one Federal judge giving 25 years for bank robbery and another giving probation for the same bank robbery offense. We don't want one judge who doesn't like drug cases giving everyone probation and another judge hanging an individual for minor amounts.

We are going to have guidelines. They passed detailed guidelines, and say the range would be 26 to 30 years. If the judge desired, he would give the lowest sentence allowed, 26; if he desired, he could give an individual 30.

The guidelines mandated and controlled sentencing. It was designed out of concern that there had been racial disparity. It was designed out of concern about an individual judge's predilictions to be soft or tough, and tried to create a uniform sentencing policy.

We held our breath. We didn't know if judges got their back up. They didn't like that. They had complete discretion before. They fussed. We wondered if they would follow. They did follow it. The courts of appeals and the Supreme Court directed them to follow. If they didn't follow guidelines, they reversed the sentences and sent the case back, saying: Follow these sentencing guidelines.

Even if we don't like them, they were passed by the elected Representatives of America in Congress. We, as judges, have to abide by those guidelines.

That is the basic point on that.

The plea agreement was stunning, in my view. And the information that was filed for the case was very troubling to me. We have a national matter involving the very integrity of the Presidential election by the infusion of large sums of illegal cash. It made national news, TV, radio, magazines, newspapers. What do the Department of Justice prosecutors do? Where do we charge John Huang with this fundamental violation of the 1996 election? Is that what he pled guilty to, in this information and plea agreement? I have it right here. He did not plead to one dime of illegal contributions to the Clinton-Gore Democratic National Committee campaign in 1996. His plea was to a $5,000 and a $2,500 campaign contribution to the Michael Woo for Mayor Campaign Committee in Los Angeles. That is what he pled guilty to. That is all he pled guilty to.

What did the prosecutor recommend? He recommended a nonincarcerated sentence of 1 year probation, no jail time, don't go to the Bastille, don't get locked up, don't serve time in jail for one of the biggest intrusions of illegal cash in the history of American political life. Plead guilty to a violation in a mayor's race. Don't discuss the matter of the Presidential election; it might embarrass the boss of the prosecutor who is handling the case.

This is raw stuff. It goes to the absolute core of justice in America. As U.S. attorney in Mobile, I prosecuted friends of mine, classmates of mine, business people I knew in the community, and drug dealers galore because I swore an oath we would have ''equal justice under law.'' It is on the Supreme Court, right across this street. Go look at it: ''Equal Justice Under Law.''

I assure you that, this very day in Los Angeles, CA, 25-year-old crack cocaine dealers are getting sentenced to 20 to 25 years in jail; some, life without parole. I was involved in a cocaine smuggling case. Five guys from Cleveland or somewhere brought in 1,500 pounds of cocaine, and the five of them got life without parole the same day because the Federal sentencing guidelines are tough on drug dealers. And they have tough provisions for corruption cases. But what did he get? He got 1 year probation and a $10,000 fine.

Do you think Mr. Riady would be glad to pay that fine? Do you think the Lippo Group could afford to pay a $10,000 fine for their buddy Johnny Huang? He testified. They said, you need to get at the bigger fish, and they did this because John Huang agreed to testify. Against whom did he testify? Did he provide important information? That is what prosecutors have to ask themselves. They had apparently debriefed him at the time of his plea and gotten him to tell what he knew and what he was going to cooperate about.

Who was the big fish? Who was the big fish that this great team of prosecutors agreed to prosecute? It was Maria Hsia. That is the only person, to my knowledge, John Huang has ever testified against. From what I hear, it was a pretty weak bit of testimony in a recent case in Washington. So they plea-bargained with John Huang, the big fish, and ended up getting testimony against some little fish.

What happens to Maria Hsia, the lady who raised all that laundered money at the Buddhist temple for Vice President GORE, the President of this Senate, when he chooses to be, there raising the money? She got convicted on five counts, allowing her to be sentenced for up to 25 years in jail.

It has always been curious to me why they did not try that case in Los Angeles, which would have been a much more favorable forum, according to most experts, than here in Washington. They brought it up here. Many say the Department of Justice was shocked they got a conviction, but they got a conviction. So now we have John Huang who raised $1.6 million, who pled guilty to a piddling mayor's race case and got 1 year probation, testifying against Maria Hsia, who, in my view, would be less culpable than he. She is subjected to up to 25 years in jail.

I am not talking just about politics. I love the Department of Justice. I spent over 15 years of my career in the Department of Justice. I love the ideals of the Department of Justice. When they sentence young people to jail for long periods of time, any prosecutor, any judge who does not have a moral commitment of the most basic kind to ensure that when people in suits and ties who have a lot of money commit crimes, they serve their time, is not much of a judge or prosecutor, in my view. They are not worthy to carry the badge.

What else did they do in this great prosecution that Janet Reno held onto? I was stunned. He was given transactional immunity. Listen to page 3 of the prosecutor's agreement that the judge approved. Not only did they not indict him for the $1.6 million or any of those funds, they gave him absolute immunity. Look at the language. This is the agreement, the contract between the prosecutor and Huang:

> The United States will not prosecute you for any other violations of Federal law other than those laws relating to national security or espionage, occurring before the date this agreement is signed by you.

That is a very dangerous plea agreement. I always warned my assistant U.S. attorneys not to sign those kinds of agreements. Under this agreement, had John Huang committed overt bribery, had it been proven he walked into the Oval Office, as I think he did on a number of occasions, and met the President of the United States and gave him $1 million cash for some bribe, he could never be prosecuted for that. He had complete immunity once this plea agreement was accepted. If he had committed a murder, he had complete immunity under Federal law based on this agreement. If he brought in drugs from the East, he would have been given complete immunity and could not be prosecuted for it.

He was given a sweetheart deal, a year probation and a $10,000 fine. That is not worthy of justice in America, I submit. It is a pitiful example of prosecuting, a debasement of justice. It is wrong, not right, not according to ideals and standards. I am stunned reading this document.

How did they do it? These Federal Sentencing Guidelines contain some pretty tough stuff. How did they wiggle this thing down to get a probation deal? Let's see. I have the document here. We looked at it. We looked at the factors in this kind of case, including the evidence the judge had, according to the transcript of sentencing. There is probably more evidence than this he could have considered, but we know that the judge was given these facts.

The judge started out with a base level of 6. That is the basic sentencing level for this type of fraud or deceit activity. I do not disagree with that. The prosecutors recommended a number of things, and the judge agreed. They recommended only a four-level departure downward for his cooperation. Apparently, the prosecutors felt the level of cooperation rendered by John Huang was not that significant. They asked for a four-level downward departure.

In addition, he had to then deal with the factors that would require an upward raising from level 6.

The judge found more than minimal planning. He upped it two. Certainly there was more than minimal planning in this deal to raise the money, even for the race in Los Angeles. It was 100-something thousand dollars—$156,000, I believe, for the total—even though he pled guilty specifically to $7,500. They gave him that sentencing and some other increases and decreases and adjustments.

I will go over several on which I believe the judge was clearly wrong.

In the facts before Judge Paez, I believe the evidence was clear that a substantial part of this fraudulent scheme was committed outside the United States. Indeed, the money came from outside the United States. That is what was illegal about it.

In the facts, the prosecutor said in the very information itself:

In 1992—

This is about the mayor's race—

. . . defendant Huang and other Lippo Group executives, entered into an arrangement by which (1) Huang and others would identify individuals and entities associated with Lippo Group that were eligible to contribute to various political committees.

They would find some people who were not identified as foreign and identify them. That is the first step.

The second step, according to the Justice Department prosecutors, was:

Huang would solicit the Contributors to make contributions to various political campaign committees.

Huang would find buddies at Lippo, and say: You are eligible to give; you give this money. And he would solicit them to give the money.

No. 3, the illegal part:

Lippo Group—

A foreign corporation out of Jakarta, Indonesia, with direct connections to Communist China.

Lippo Group would reimburse the Contributors for their contributions.

Do my colleagues see what that is? It is the classic launder. Lippo Group cannot give a contribution, so they take one of their employees, Huang, and get him to identify some people who can, and then reimburse him for the contributions. That is specifically provided for in the Federal election campaign law, and it is illegal. Wrong. No-no. You cannot do that.

Did some of this involve out-of-the-United States activities? Yes. Under the Federal guidelines, a judge is required to add two levels to the sentencing for that. Did Judge Paez do that? No, he ignored that provision of the sentencing guideline. He had that information because it was in the charge brought against Huang to which Huang admitted and pled guilty.

By the way, apparently the pattern of the contributions to the mayor's race was exactly the same as they used in the Presidential race: At least 24 illegal contributions spread out over a course of 2 years involving multiple U.S. and overseas corporate entities of which John Huang was responsible for soliciting and reimbursing the illegal contributions.

Those are the facts that were before the court. Judge Paez had that information.

Under the normal reading of the sentencing guidelines, that would have added between two and four levels because he would have been acting as an organizer or manager in this criminal activity. He clearly was. He was the hub of it. He was the organizer, the manager, and manipulator of it all. He was the one doing the dirty work to put it together. What did Judge Paez do? He ignored that and did not increase it one level for being an organizer and manager. I believe he clearly was required to do so if he were following the law that was mandated from this Congress.

These were the facts before the court.

No. 3: John Huang was an officer and director of various corporate entities involved in this case and also was director and vice chairman of a Lippo bank.

According to the guidelines, if a person commits a crime, and at the time of committing that crime, abuses ''a position of public or private trust,'' such as a director of a bank—we have that all the time. Bankers are being sentenced, directors are being sentenced, and they have their sentence enhanced because if they are an officer of a bank, the court holds them to a higher standard and they get more time than a teller would get for a similar crime.

For abusing ''a position of public or private trust . . . in a manner that significantly facilitated the commission or concealment of the offense,'' as section 3B1.3, add two levels. Did the judge do that? No; no increase in levels.

When it all settled, Judge Paez was able to do what the prosecutors wanted. He helped them out. He bent the rules. He ignored the rules. He violated the rules. And what level of offense did he find? He found level 8.

Why is that important? Level 8 calls for a sentence of from zero to 6 months. A judge can give zero or as high as 6 months. That is the only range if he finds this level. If it had been level 9, zero would not be in the chart. It would not fit. If it was level 9, he would have had to serve time in jail. If it would have added up to, as I think it should have, at least to eight more levels, he would have faced from 12 to 30 months in the slammer, where he ought to be. That would be a good deal for him because that does not include the $1.6 million he raised in the Presidential campaign.

I do not know how in America we have become so blase. We have been so beaten down and so overwhelmed with manipulation of lawsuits and courts that I do not think we realize what is happening in this country. I am amazed there was not an absolute outrage by the people who were following this case over this plea. Maybe they thought he really was going to blow the whistle on somebody. Maybe they thought he was going to blow the whistle on the chairman of the Democratic Party or the Vice President or the President or the chairman of the campaign committee or some big fish. Maybe they thought this was not such a bad idea because certainly the prosecutors would not give away the case to get some piddling testimony against Maria Hsia. They probably did not need his testimony against her anyway.

I do not know about this. We need a hearing with Judge Paez. Having sentenced young people to jail with no background, no money, bad homes, dealing in drugs, how can he send them off to jail regularly and not send this guy in a suit and tie connected to one of the most wealthy enterprises in the world, the Lippo Group out of Indonesia, connected to Communist China, to jail? Why didn't he see fit to do anything about that? Did it have anything

to do with the fact the President of the United States had nominated him already for the Ninth Circuit Court of Appeals?

That is a troubling thought. He is entitled to have a day's hearing on it, be asked about it, and defend what he did. My analysis is this is not good.

Further, in my practice before Federal judges, they were not at all worried about prosecutors. If I had walked into the Southern District of Alabama, before any of the Federal judges in that district—basically, good, solid judges, not political, not out to befriend any political entity—and said, ''In our plea agreement, judge, he is going to plead guilty to contributing to the race of the mayor of Mobile; we are going to give him immunity for all these other charges'', I do not believe I would have the guts to walk in that courtroom.

That judge would say: Counsel, I am reading in the New York Times this man gave $1.6 million to the President's race. You have him plead guilty to contributing to the mayor's race, and you give him immunity for that plea? You want me to accept that plea? You are going to have to convince me. Show me.

None of that happened. He did not question this plea a bit. He facilitated this coverup because he accepted all their accounting measures which manipulated the guidelines so he could get the sweetheart deal of probation. That is wrong. That is not good. I am troubled by it.

I wish I realized this had happened and that we would have slowed down the hearings when they came up so we could have gotten into it. I wish I had. I do not supervise the staff of the Judiciary Committee who does most of the background work. They do a great job. Somehow it just did not get into our brains that this was a problem.

The more I investigate, looking in recent weeks at the actual documents from the court, and the more I read about this agreement and the sentencing guideline violations, the more this matter is stunning to me. I do not like it. I believe it is potentially an abuse of justice in America. If that is so, and it was done to protect a political party, or a Presidential candidate, or a Vice President, then why should we reward this judge with an elevation to a higher court by this very President who was protected? Why should we do that? I do not think it is a good idea.

In our committee, it was a 10–8 vote that reported out this nomination. Eight members of the committee, based on the judge's own judicial activist views, opposed this nomination. That was before we focused on this at all. I am concerned about that.

I wrestled with how to debate this procedurally. I have not agreed with some of my distinguished colleagues that we ought to conduct a filibuster. I just do not like that. I know Senator LEAHY talked about distinguished jurists and all. He did not have any hesitation to oppose Judge Bork, an extremely brilliant person, for the Supreme Court, but he did not filibuster that nomination. We took the vote. He fought it as hard as he could, but he did not filibuster it.

I am not one who thinks we need to get into filibustering these nominations. He would be 1 of 28 judges. It would be unfortunate to move us farther to the left in the Ninth Circuit and make it even harder to get back to the mainstream.

We ought to recognize he is a sitting Federal judge; he gets a paycheck every week. The difference in pay for a district judge and a circuit judge is not much, frankly; he would hardly miss the money. I think we ought to take a few weeks here and get into this. Let's have a hearing on it.

MOTION TO INDEFINITELY POSTPONE

Mr. President, I move, in a postcloture environment, to postpone indefinitely the nomination of Richard Paez in order for this body to get the answers I believe every Senator deserves with regard to the concerns I have raised about Judge Paez over the last several days. It is not in order for me to move to postpone to a time certain, according to our parliamentary and Senate rules, or I would do so.

Personally, I think 3 weeks, unless there is some complication, would be more than enough time to have a good hearing. I am willing to vote; if he is confirmed, fine. If he has good answers for all this, fine.

The PRESIDING OFFICER. The motion is debatable.

Mr. SESSIONS. Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second at the moment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. SESSIONS. 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. SESSIONS. Mr. President, 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. SESSIONS. I thank the Chair, and I thank the Senator from Vermont, the distinguished ranking member of the Judiciary Committee, who has always played a big role in these issues and is an outstanding advocate. If I ever got into trouble, I would like him to represent me.

I think that is what we should do. That is the purpose of my motion. In a prompt evaluation of this matter, the public and this country are entitled to know about it, because, remember, once that confirmation is concluded, there is absolutely no other action this or any other body in the United States can take against any judge—in this case, Judge Paez—short of impeaching him for a criminal act.

We ought to consider that and take our time here in a few more weeks to settle this matter. We will feel better about ourselves. Perhaps the judge will have an answer. He certainly has a number of friends. He has a good family.

I believe his deficiencies for the position revolve around an honestly held political philosophy that I do not agree with—judicial activism. That is the main basis for opposing his nomination. But I am very troubled by the case I cited because I do not understand how it could have been disposed of in the way it was. I believe the judge should have blown the whistle on this with a proper plea bargain. It was not done. I would like to have him have an opportunity to explain why.

I yield the floor.

Mr. SMITH of New Hampshire. Mr. President, a parliamentary inquiry: As I understand it, the debate continues, and at the completion of the debate, there will be a vote on Senator SESSIONS' motion, and a debate on Paez and then Berzon—or is it Berzon and then Paez?

The PRESIDING OFFICER (Mr. L. CHAFEE). If the motion fails, then there would be a vote on the Paez nomination.

Mr. SMITH of New Hampshire. That is the order? It is Berzon, Paez, or the other way around?

The PRESIDING OFFICER. Berzon and Paez, Berzon first.

Mr. SMITH of New Hampshire. So there will be a vote, then, on Berzon and, after that, there will be the Sessions motion. And then, if that does not prevail, a vote on Paez?

The PRESIDING OFFICER. That is correct.

Mr. SMITH of New Hampshire. I thank the Chair.

As we continue this debate, I refer back to the Ninth Circuit chart behind me. This is a situation where we see, again, nearly 90 percent of the Ninth Circuit cases have been reversed by the Supreme Court. I have had this chart up all morning because I think that is a very significant number, to say the least.

Earlier in the debate, my colleague, Senator REID, made the argument that oftentimes we have higher numbers, as much as 100-percent reversal, with some of the circuit courts. He is correct. But what he did not say is that sometimes the reversals are one or two cases. For example, he said there were several times when the First and the Second Circuits were reversed 100 percent of the time. He is right. In the two cases he cited, one was when there was only one case, another was when there were six. Several of them were in the D.C. Circuit, the Federal Circuit, and others, a 100-percent overturn rate. The

100-percent overturn rate was based on one case.

What we are talking about here in the Ninth Circuit is, in 1996 and 1997, 27 of 28 cases overturned, a 96-percent overturn ratio. I think it is very important to understand what we are talking about. This is not 100 percent based on one case or two cases; this is based on 27 of 28 cases in 1996 and 1997. In the 1997–98 term of the Ninth Circuit, 13 of 17 were reversed, for a 76-percent rate. Then again, the Senator from Nevada referred to some other circuits that year. Of course, the Eleventh had two overturned out of two, for 100 percent. So it is pretty misleading to suggest that 90 percent is very common in overturning these circuit cases because there are higher percentages in other cases when, again, it is based on 1 or 2 cases, not on 27 or 28, as it was in 1996–97. It is based on 13 out of 17 in 1997–98. As of June 1999, it was 14 out of 18, for a total of 78 percent.

Yes, wherever you see a 100-percent overturn ratio, it is usually almost exclusively one or two cases at the most. Those are very dramatic and significant statistics.

I think what we have here is a situation where we have a rogue circuit that is basically way out of the mainstream of American political thought. Now we are putting two more judges on that court who—I think it is pretty obvious based on the information we have heard—are going to add to that out-of-the-mainstream majority.

Let us look at specifically each of these judges. Richard Paez is one of the nominees we are considering. It is no secret I am opposed to that nomination. In general, I oppose nominees who are judicial activists. I don't think judicial activism is what the Constitution or the Founding Fathers meant. I don't think they meant judicial activism on the right, and I don't think they meant judicial activism on the left.

I think what they meant is, interpret the Constitution, don't legislate from the bench, and uphold the Constitution as it was written. That is what they meant. That is not what we have gotten from many, certainly not from these two judges, and it is certainly not what we have gotten from several other judges who were put on the bench over the years.

In 1981, Richard Paez became Los Angeles Municipal Court judge, where he served until 1994. Since then, he has served as a U.S. district judge for the Central District of California. We can go back through a lot of cases; we have done a lot of research. If we go back to Prop. 187 and Prop. 209 in California, Proposition 187 was the California initiative to limit public assistance to illegal immigrants, and Proposition 209 was the California initiative to end State-run racial preference programs.

In 1995, Judge Paez spoke to the University of California at Berkeley Law School. This is what he said:

> The Latino community has for some time now faced heightened discrimination and hostility which came to a head with prop 187. The proposed anti-civil rights initiative will inflame the issues all over again without contributing to any serious discussion of our differences and similarities or ways to ensure equal opportunity for all.

Here we have a sitting Federal judge. He has his right to his opinion. We all do. But he is a sitting Federal judge talking about a California ballot initiative that was likely the subject of litigation. Why is he taking that position publicly on that particular proposition? The answer is simple: Because he has an agenda. Those comments were inappropriate for a Federal judge because his agenda is that he didn't like Prop. 187. So, therefore, he said so.

I think we all know—I have heard judge after judge after judge after judge come before the Judiciary Committee and, much to my consternation and frustration in trying to find out their philosophy, not answer questions about any case that might be pending or be before them. As frustrating as it is not to get an answer, that is correct. I don't think a sitting judge should be doing this. I think that issue alone on that one statement is enough to reject this nominee, just on that.

Again, Proposition 187 later became California Proposition 209, and it passed. And Proposition 209 ended affirmative action in California State programs. Paez should know that the Judicial Code of Conduct prohibits him from comments that cast any doubt on his capacity to decide this case or any case on an impartial basis. So he went over the line on an issue that he knew was going to come before him or certainly was reasonable to assume was going to come before him.

Is there any doubt about how Judge Paez would now rule on any California proposition that affects affirmative action? Regardless of how one feels about affirmative action, that is not the issue here. We now know how he feels. He has already told us. So I don't know how he gives us a fair decision when he has already said what his decision is.

He did say he was an activist judge in his own words, even though some on the floor have said he is not. I will repeat this again. He said:

> I appreciate the need for courts to act when they must when the issue has been generated as a result of the failure of the political process to resolve a certain political question. There is no choice but for the courts to resolve a question that perhaps ideally and preferably should be resolved through the legislative process.

In the Constitution, it doesn't say ''ideally'' and ''preferably'' in terms of the legislative process. If you can find that in the Constitution somewhere, that it says ideally and preferably the legislature should pass the laws, ideally and preferably the executive branch should enforce the laws, or ideally and preferably the judicial branch should interpret the laws—it doesn't say any of that. There is a very clear distinction in the Constitution: Three separate but equal branches of the United States Government.

It is very clear who is supposed to legislate, who is supposed to write the laws. It is not the Supreme Court. It is not the circuit court. It is not the district court. It is not any Federal court. We have a Federal judge talking about a California ballot initiative that was likely the subject of litigation. I think that is inappropriate.

Now, again, let's go back to another example. This was a decision rendered by Judge Paez in the case of John Doe I v. Unocal in March of 1997. I will read an excerpt from a letter that the U.S. Chamber of Commerce sent to me Monday, March 6, about Judge Paez. I ask unanimous consent that this letter be printed in the RECORD.

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

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, March 6, 2000.

Hon. ROBERT SMITH,
U.S. Senate, Washington, DC.

DEAR SENATOR SMITH: I am writing to inform you of the U.S. Chamber's opposition to the nomination of Richard A. Paez to the U.S. Court of Appeals for the Ninth Circuit. Our opposition to this nomination rests principally on a decision rendered by *Judge Paez in John Doe I v. Unocal* (hereafter, *Unocal*) in March of 1997.

Judge Paez' decision in the *Unocal* case suggests that U.S. companies conducting business in a foreign country may be held liable for the actions of that foreign government or the actions of any business enterprise owned by the foreign government. Aside from the constitutional question of whether it is appropriate for the courts to pursue their own foreign policy agendas; the Paez decision has the potential to cause significant disruption in U.S. and world markets.

Although the decision in the *Unocal* case dealt with a pretrial motion to dismiss and is currently on appeal, we view it as a serious threat to international commerce. Moreover, the *Unocal* decision represents a dangerous and unconstitutional intrusion by the courts into the formulation and implementation of U.S. foreign policy—a prerogative that rests solely with the Congress and the Executive Office.

As you know, improving the ability of American business to compete in the global marketplace is a top priority of the U.S. Chamber of Commerce. As part of our efforts to advance free trade, the Chamber's legal arm—the National Chamber Litigation Center—has challenged similar attempts by state and local governments to impose unilateral economic trade sanctions. Recently, the United States Court of Appeals for the First Circuit upheld a challenge supported by the National Chamber Litigation Center to the so-called Massachusetts Burma Law, which imposed sanctions on companies doing business with Burma (Myanmar).

Mr. SMITH of New Hampshire. Mr. President, I am quoting a couple of paragraphs from the letter from Mr. Bruce Josten of the U.S. Chamber:

DEAR SENATOR SMITH:

I am writing to inform you of the Chamber's opposition to the nomination of Richard A. Paez to the U.S. Court of Appeals for the Ninth Circuit. Our opposition to this nomination rests principally on a decision rendered by Judge Paez in John Doe I v. Unocal in March of 1997.

Judge Paez's decision in the Unocal case suggests that U.S. companies conducting

business in a foreign country may be held liable for the actions of that foreign government, or the actions of any business enterprise owned by the foreign government. Aside from the constitutional question of whether it is appropriate for the courts to pursue their own foreign policy agendas, the Paez decision has the potential to cause significant disruption in U.S. and world markets.

The next paragraph:

Although the decision in the Unocal case dealt with a pretrial motion to dismiss and is currently on appeal, we view it as a serious threat to international commerce. Moreover, the Unocal decision represents a dangerous and unconstitutional intrusion by the courts into the formulation and implementation of U.S. foreign policy—a prerogative that rests solely with the Congress and the Executive Office.

You can't say it any more clearly than that. You don't get involved in U.S. foreign policy on the court. This is a prerogative that rests only with the Congress and executive branch.

This man is intelligent, and no one is challenging that. He knows exactly what he is doing. He knows what the Constitution says. We will certainly give him that. He also knows how to implement his agenda as opposed to sticking with the Constitution. That is what we are talking about.

Now, this case is currently before the Supreme Court and we are hopeful, as Bruce Josten says, that the First Circuit Court decision invalidating the Massachusetts law will be upheld.

That is in another case involving the national chamber and another case that is referred to in the letter which will be part of the RECORD. So this is serious business.

I also think this hostility to religion is pretty serious. I want to get into this because this is very disturbing. Again, this is about a judge's views on issues; it is not about the judge personally. I think we see an open hostility to religion.

Mr. President, I want to preface what I am going to say just by saying this: Just to the left of the Chair's left hand is a Bible. In every court, they say we swear to uphold, to tell the truth, the whole truth, nothing but the truth. That Bible is on display for everyone to see here in the Senate Chamber. We swear oaths all the time on Bibles as witnesses. The President of the United States swears on a Bible and takes an oath to uphold the Constitution.

Now, in that framework, I want you to think about what I have just said and then listen to what Paez said. This was in the L.A. Times in 1989 when this case came up. It was a trial of five anti-abortion demonstrators accused of trespassing and conspiracy, and it flared into a dispute over whether the defendants can display their Bibles before prospective jurors. They had Bibles in the courtroom. It says:

In a rare flash of anger, Los Angeles Municipal Judge Richard A. Paez warned the defendants and their attorneys that he would instruct the court bailiff to confiscate the Bibles if they continued to openly consult or wave them during jury selection.

I want you to think about that. He is going to instruct the bailiff to haul people out—the defendants—if they are sitting there looking at their Bibles during jury selection.

Here is what he said:

''I don't want them [the bibles] in view of the jurors,'' Paez said sternly, raising his voice and motioning with his hand. ''Don't give me a hard time.''

Now, we could go a little bit further:

Paez, who has said he is determined to prevent the trial from being used as a platform to debate the moral and political issues surrounding abortion, ordered . . . the defendants to refrain from displaying their bibles prominently to the jury box. He had given similar instructions the day before.

But what happened was the defendants refused, challenging the judge to go ahead and hold them in contempt.

Further:

Co-defendant Michael McMonegle leaped to his feet, asking that the prosecutor be removed from the case.

''She is obviously an anti-Christian bigot,'' he said loudly. Tensions escalated until Paez recessed for lunch.

The showdown between the judge and defense attorney was averted, however, when [one of the lawyers] did not return for the afternoon session, saying he had to attend another trial in Federal Court.

A calmer Paez told the defendants that, while they may keep the Bible on the counsel table, they must not attempt to ''affirmatively communicate'' their religious beliefs to potential jurors who are being questioned.''

''I don't have a problem with the Bible. I don't care if you have it there (on the table),'' Paez said. ''My concern is I do not want any attempt to sway the jury. I don't want demonstrative gestures . . . . That is not proper.''

Paez said, on the other hand, that he would consider permitting the defendants, some of whom are representing themselves, to quote from the Bible during closing arguments or to carry the book to the witness stand when they testify.

I wonder whether Judge Paez put his hand on the Bible somewhere when he became a judge. What is the big deal? Are we going to destroy ourselves as a society because a group of defendants want to hold a Bible in their hands when they come into a courtroom? What kind of a judge is this? This is the kind of judge that Bill Clinton is putting on the courts. So when you hear about all this moral decadence and you hear about these problems and you hear about some being outraged by these decisions, why should you be surprised? Your Senators are putting them on the court. That is what is happening. Your Senators are approving these judges.

There is no mystery about this. It is a constitutional process. The President nominates and we approve or disapprove. So don't be surprised, and don't blame it on the President. We can stop him if we don't like them. He has a right to nominate anybody he wants to. We have a right under the Constitution—sometimes we forget that we do—to advise and consent. We are talking about extreme activism here. This is not the mainstream.

How many people in America listening to me now can honestly say they feel there is a threat to our whole constitutional process or to our court system because somebody carries a Bible into the room? Maybe we ought to take it out of here. That will probably be next. Somebody will stand up in here—who knows—and say I don't want to look at that Bible in here. That is what is happening in this country. You wonder why. Read about the Roman Empire and find out what happened to them. Find out where they went. Moral decadence. That is what happened to them. They went down the tubes. Is that what is in the future for America? I certainly hope not. If we keep doing this kind of stuff, it will happen. There are no surprises here. I don't understand why all these judges are doing this. There is nothing to understand. They are put on the bench. Hello, we put them there. The President nominates them and we approve them and on the bench they go. They make decisions not for 10 days, not for 10 years, but for life. You can't throw them off the bench for the decisions they make.

That is just one.

Finally, in the case of the Los Angeles Alliance for Survival of the City of L.A., Paez blocked a city ordinance designed to outlaw aggressive panhandling—Senator SESSIONS spoke about it—claiming that it was facially invalid under California's Constitution. The Supreme Court of California rejected Paez's decision and held that:

. . . a court should avoid a constitutional interpretation that so severely would constrain the legitimate exercise of government authority in an area where such regulation has long been acknowledged as appropriate.

He is an extreme, liberal activist who is not afraid to say ahead of the time in a matter that comes before his court how he is going to vote. He has done it on occasion after occasion.

Mr. LEAHY. Mr. President, will the Senator yield for a question on the Paez case which he cited?

Mr. SMITH of New Hampshire. Yes; the last one.

Mr. LEAHY. The so-called ''panhandling'' case. Will the Senator agree, however, that at the time Judge Paez made his decision, there was a Ninth Circuit decision on all fours, which he as a Federal district judge within that circuit was bound to follow, and he and all judges going for confirmation always say they will follow stare decisis, that they will follow the decision?

Is it not a fact that in that particular case he had a decision on all fours from his circuit which he had to follow? And is it not also a fact that the Ninth Circuit then, under a new ruling, submitted it to the California Supreme Court for their own ruling to the California Supreme Court? Because, obviously, you cannot appeal to the California Supreme Court, Judge Paez being a Federal court. But the Ninth Circuit then submitted it under a certification procedure—a new procedure—in California to the California

Supreme Court. And then a year or so later, they came down and said the Ninth Circuit's earlier ruling did not interpret California law correctly. They then changed theirs and thus changed the rule Judge Paez had to follow.

Is that not the fact?

Mr. SMITH of New Hampshire. Why was it overturned, reversed on appeal?

Mr. LEAHY. The point is, he has to follow what is in his circuit.

Mr. SMITH of New Hampshire. But it was reversed.

Mr. LEAHY. No. The circuit did. Judge Paez's decision, as I understand it, did not go to the Supreme Court because it couldn't go to the California Supreme Court. The circuit itself then changed their earlier decision, came back to the beginning, and had to follow the new decision, which he very much explained in his confirmation hearing. He said, among other things, that he lives in these neighborhoods; he has concerns himself.

But the point is, just as some Federal judge in my State would have to follow the Second Circuit's decisions, and a Federal judge in the State of New Hampshire would have to follow the First Circuit's decisions, he is caught kind of between a rock and a hard place.

What I am basically saying is, he should have followed his own stare decisis. Yet, if he didn't, then he is an activist judge. This man is damned if he does and damned if he doesn't.

Mr. SMITH of New Hampshire. I think the Senator is making my case that the Ninth Circuit is a rogue circuit which does not really follow the mainstream.

Mr. LEAHY. I notice that the Senator mentioned all the reversals. I think half of those reversals in the last year were decisions written by Reagan appointees and Bush appointees. I don't recall the Senator from New Hampshire or anyone on his side voting against those judges.

Mr. SMITH of New Hampshire. Mr. President, let me briefly discuss the other nominee, Marsha Berzon.

I think we have made a pretty overwhelming and compelling case about the Ninth Circuit itself being out of touch in having almost 90 percent of its cases overturned, as the chart in the back shows. And we are adding two more judges to that court, if they are approved, who are basically going to also, obviously, have cases overturned if they follow along the lines we are talking about.

When I think of all the judges who are qualified, whatever their political philosophy, if they are qualified to be a circuit court judge, why do we pick a judge who opposes having somebody carry a Bible into the courtroom? Because he is afraid somehow that is going to ruin the whole judicial process and somehow threaten the Constitution or the liberties of the United States of America? It doesn't make sense. It really, in my view, says a lot about the nominee.

We have approved many Clinton nominees who have come through this Senate. I voted for a lot of them myself. Some of them went through even without a challenge. But I think when you start talking about people who are this extreme, this is a mistake. I believe it is a mistake we will regret.

I commend my colleague, Senator SESSIONS, for what he has done with the most recent information he brought forth regarding the Maria Hsia case and the John Huang case.

I am going to bring something up that may set a few people off. But I am being told, as I stand here now, that there is a possibility the Vice President of the United States may be called, or has been called, to come to the chair during the vote on the Sessions motion or perhaps on the vote on Paez.

I want you to think for a second about the implications of that. He could be the tie breaker. He could be, in theory, the tie breaker.

Here you have the Vice President of the United States who was a close personal friend of Maria Hsia who shook down Buddhist nuns for money, was prosecuted for it, and convicted. And the judge whom Bill Clinton is trying to put on the court was involved in at least one case—not that one, but one case involving Maria Hsia, which gave her a break, if you will, a lenient sentence, and then in the other case, John Huang, $1.5 million from the Chinese Communist Government into the coffers of this administration, of which Vice President GORE is a part, and he goes in before Judge Paez, supposedly randomly selected, and gives the guy a plea bargain for a $7,500 contribution in the mayoral race in L.A., as Senator SESSIONS has pointed out.

Now the Vice President of the United States is going to sit in the Chair and break a tie for that judge? How far will this administration go to cover up and to be blatant and in your face on what they have done?

If he sits in this Chair today and votes on this nomination, if it should come to a tie, that is an outrage. It is outrageous, and it is an in-your-face outrage that I think the American people are not going to tolerate.

As Senator SESSIONS has so ably pointed out, I don't know whether it was random or not—there were 34 judges who could have gotten those 2 cases, and he got both of them. That is point No. 1.

Point No. 2: If it were random, then perhaps he should have said: You know, Bill Clinton nominated me, and I am before the Senate for a circuit court nomination. Both of these cases involve scandals in the President's administration. I will take a walk on these. Assign them to somebody else. But he didn't do it. He gave lenient punishment after he took them. And we are going to tolerate that by allowing Judge Paez to come in? It is just outrageous. It is just outrageous. Yet it is probably going to happen here on the floor.

I yield the floor.

Mr. THURMOND. Mr. President, I rise to express my opposition to the nominations of Richard Paez and Marsha Berzon for the Ninth Circuit Court of Appeals.

The Ninth Circuit is clearly out of the mainstream of law in this country today. It is clearly the most activist circuit in the Nation. The circuit has been reversed by the Supreme Court in almost 90 percent of the cases that have been considered in the past 6 years. In fact, in the current session of the Supreme Court, the Ninth Circuit's record is zero of seven. These nominees will not correct this problem.

Judge Paez is a self-described liberal. He has made inappropriate comments regarding ballot initiatives that were pending in California at the time he discussed them. I also have questions regarding his sentencing of John Huang. Further, he has made various questionable rulings that call into question whether he understands the limited role of a judge in our system of government. For example, he ruled that a Los Angeles ordinance that prohibited aggressive panhandling was unconstitutional. He prevented the enforcement of a reasonable ordinance enacted by the legislative branch because he said it violated free speech rights. The California Supreme Court later ruled contrary to Judge Paez after the question was submitted to them. This shows a lack of deference to the legislative branch. Also, he made a questionable ruling holding an American corporation liable for human rights violations committed by a foreign government, which prompted the U.S. Chamber of Commerce to oppose his nomination.

I also cannot support the nomination of Marsha Berzon. She has spent much of her career as an attorney for the labor movement, and she has been involved in liberal legal organizations. She served for years on the board of directors of the Northern California, ACLU, during which it filed questionable briefs in various cases.

If these nominees are confirmed, I hope they turn out to be sound, mainstream judges and not judicial activists from the left. I hope they will improve the dismal reversal rate of the ninth circuit.

However, we must evaluate judges based on the record before us. I am not convinced that these nominees are a sound addition to the ninth circuit, especially when it is already leaning far to the left. Therefore, I must opposed these nominees.

Mr. KYL. Mr. President, I rise to discuss the nominations of Richard Paez and Marsha Berzon to the Ninth Circuit Court of Appeals. I intend to vote against Judge Paez and for Marsha Berzon. Because these nominations have received a great deal of attention, I would like to briefly explain the reasons for my votes.

I want to begin by briefly discussing the ninth circuit. As a Senator from

Arizona (the state which generates more appeals than any other ninth circuit state except California), as a member of the Judiciary Committee, and as someone who practiced law in the ninth circuit for nearly 20 years, I have a keen interest in matters affecting the ninth circuit.

Richard Paez and Marsha Berzon are, of course, nominees to the ninth circuit. I agree with many of my colleagues that nominees to the ninth circuit should be given special scrutiny because of the problems with the circuit.

The ninth circuit has received a great deal of criticism—so much, in fact, that Congress passed bipartisan legislation to require a blue-ribbon commission to study the circuit. See Public Law No. 105–119, section 305(a)(1)(B) and (a)(6). Before both the House and Senate Judiciary Committees, I have testified in detail as to my concerns with the circuit, so I will not go into detail here. I would like to just mention one statistic that speaks volumes: In the past 6 years, the Supreme Court has reversed (often unanimously) the ninth circuit in 86 percent (85 of 99) of the cases it has reviewed. The average reversal rate for courts other than the ninth circuit is about 57 percent. As Justice Scalia commented in a September 9, 1998, letter to Justice White, the chair of the Commission on Structural Alternatives, the Ninth Circuit's ''reversal rate has appreciably—sometimes drastically—exceeded the national average.''

This is but one small piece in a mountain of evidence that indicates that the ninth circuit is out of the mainstream of American jurisprudence. See, for example, letters to the Commission on Structural Alternatives by Justice Scalia (August 21, 1998), Justice Kennedy (August 17, 1998), and Justice O'Connor (June 23, 1998); Commission on Structural Alternatives, Final Report, December 18, 1998; Review of the Report by the Commission on Structural Alternatives regarding the Ninth Circuit and S. 253, the Ninth Circuit Reorganization Act, hearing before the House Committee on the Judiciary, 106th Congress, 1st Session (July 16, 1999) (statements of ninth circuit Judges Pamela Ann Rymer (member of commission) and Diarmund F. O'Scannlain). It seems clear that the ninth circuit has problems. Even those who oppose dividing or splitting the circuit concede this point. Thus, in my opinion, nominees to this circuit—which is effectively the court of last resort for more than 52 million people—should be given special scrutiny.

The Constitution imposes an important role upon the Senate. In exercising its advice and consent power, the Senate must be vigilant in ensuring that, at a minimum, nominees are of top legal caliber, possess good judgment, have the proper judicial temperament, are of unquestioned integrity and impartiality, and would not abuse the great power of their office—an office they will hold for life.

In this regard, I would like to reiterate the comments that I made before this body 3 years ago, on March 12, 1997.

> Some have attributed the Ninth Circuit reversal rate to the unwieldy size of the bench. Others point to a history of judicial activism, sometimes in pursuit of political results. I suspect there is more than one reason for the problem. Whatever the case, the Senate will need to be especially sensitive to this problem when it provides its advice and consent on nominations to fill court vacancies. The nominees will need to demonstrate exceptional ability and objectivity. The Senate will obviously have an easier time evaluating candidates who have a record on a lower court bench. Such records are often good indications of whether a judge is—or is likely to be—a judicial activist, and whether he or she is frequently reversed. Nominees who do not have a judicial background or who have a more political background may be more difficult to evaluate. . . . [T]he Senate has as much responsibility as the President for those who end up being confirmed. We need to take that responsibility seriously—among other things, to begin the process of reducing the reversal rate of our largest circuit.

I remain quite concerned about the ninth circuit. In the October 1999 term, the U.S. Supreme Court has so far reviewed seven ninth circuit cases and in all seven cases the ninth circuit has been reversed—four times unanimously, twice by a 7–2 margin, and once by a 5–4 vote. If the ninth circuit continues to remain out of step, it will be very hard to continue to give ninth circuit nominees the benefit of the doubt. The risk is too great. The ninth circuit covers nine states and two territories. To have so many subject to a circuit that so often errs should concern us all.

Within this context, the general rule that a President should be given deference in making nominations to the federal judiciary is less relevant to today's nominations.

While Judge Paez is academically qualified, I have reservations about him for a variety of reasons. First, he made what many consider to be inappropriate comments while he was a federal district court judge. In an April 6, 1995 speech at Boalt Hall School of Law in Berkeley, California, Judge Paez said the following:

> The Latino community has, for some time now, faced heightened discrimination and hostility, which came to a head with the passage of proposition 187. The proposed anti-civil rights initiative [Proposition 209] will inflame the issues all over again, without contributing to any serious discussion of our differences and similarities or ways to ensure equal opportunity for all.

Judge Paez was, as I noted above, a sitting federal district court judge when he made this remark, and litigation was pending in Judge Paez' own court, the Central District of California, regarding the constitutionality of Proposition 187. The court had granted a temporary restraining order and had before it a request for a preliminary injunction, which the district court did not rule on until November 1995, 7 months after Judge Paez' speech. As Senator SPENCE ABRAHAM pointed out in a detailed statement before the Senate, Judge Paez' remark seems inconsistent with Canon 4(A)(1) of the Model Code of Judicial Conduct which governs judges' extra-judicial activities. Under that canon, ''a judge shall conduct all of the judge's extra-judicial activities so that they do not cast reasonable doubt on the judge's capacity to act impartially as a judge.'' In discussing Judge Paez' comments in an October 29, 1999, editorial, the Washington Post stated that ''[f]or a sitting judge to disparage ballot initiatives that were likely subjects to litigation was inappropriate.'' And, indeed, the judge appears to have, at least privately, acknowledged this error.

Judge Paez made another troubling comment. On March 26, 1982, in the Los Angeles Daily Journal, he is quoted as making the following statement.

> I appreciate * * * the need of the courts to act when they must, when the issue has been generated as a result of the failure of the political process to resolve a certain political question * * * There's no choice but for the courts to resolve the question that perhaps ideally and preferably should be resolved through the legislative process.

At the time of this statement, Paez was a municipal court judge. In the same article, he commented that ''you could characterize my background as liberal.''

Judge Paez' supporters have made comments that raise concerns. For example, in an August 13, 1993 Los Angeles Times article, Romana Ripstein, the executive director of the American Civil Liberties Union of Southern California, made the following statement in discussing Paez's nomination to the federal district court: ''It's been a while since we've had these kinds of appointments to the federal court. I think it's a welcome change after all the pro-law enforcement people we've seen appointed to the state and federal courts.'' If this is an accurate portrayal of his predilections, Ms. Ripstein's characterization is troubling. Similarly, in a November 17, 1995, Los Angeles Daily Journal article, trial attorney Steven Yagman commented that ''Judge Paez embodies the ideal of the '60's. The Judge is an intelligent, moral person who got power and uses it to do good.'' Judges are not supposed to use power to do good (especially since that is a subjective term). Judges are supposed to apply the law. That's why we say we are a nation of laws.

Judge Paez also has been criticized for giving—without explaining how he arrived at the sentence—what many consider to be a light sentence to former Representative Jay Kim following Kim's guilty plea for having accepted more than $250,000 in illegal campaign contributions, the largest acknowledge receipt of illegal contributions in congressional history. In the March 10, 1998, Los Angeles Times, Assistant U.S. Attorney Stephen Mansfield said, ''The sentence . . . must not

be a 'slap on the wrist.' It must not approximate a penalty for 'jaywalking'.'' The Los Angeles Times also reported that ''[o]utside the federal courthouse, prosecutors made it clear that they were disappointed but not stunned by Paez' sentence.'' On March 12, 1998, Roll Call wrote, ''All the evidence—and the fact that Kim received a lighter sentence than his former campaign treasurer—makes Judge Paez' sentence a mere slap on the wrist and makes us think that the Senate Judiciary Committee ought to question whether Paez isn't too soft on criminals to be an appellate judge.''

None of these factors would by itself necessarily disqualify a nominee, but taken as a whole they are troubling and lead me to conclude that, on balance, Judge Paez is apt to be an activist rather than a neutral arbiter. As a result, I reluctantly conclude that I cannot support his nomination.

I have concerns about Marsha Berzon. Almost her entire legal experience has been in one narrow field—labor law. According to her Senate Judiciary questionnaire, ''more than 95 percent'' of her work has been civil. Additionally, she stated that ''I have not personally examined or cross-examined a witness in any trial'' and that ''I have not tried any cases myself, jury or non-jury.''

Concerns have been expressed by the National Right to Work Committee and the Chamber of Commerce because of her narrow labor-oriented background. While I share these concerns, I am unaware of credible evidence suggesting that she fails to possess the requisite capability or temperament to serve on the bench. As a result, although I have serious concerns about her nomination, I will support it.

Mr. CRAIG. Mr. President, there are few duties of the Senate more important than the confirmation of nominees to positions on the federal bench.

It is my strong belief that the qualifications of the nominees must be weighed carefully and deliberately, no matter what level of the court system the nominee is supposed to join.

My decision on a judicial nominee's fitness is based on my evaluation of three criteria: character, competence and judicial philosophy—that is, how the nominee views the duty of the court and its scope of authority. This is the original role of the judiciary: neither rubber-stamping legislative decisions, nor overreaching to act as substitute legislators. I have heard from citizens complaining about the harm done by social activists of the bench—harm that may only be reversed by an extraordinary action on the part of the legislative branch, if at all.

It is exactly this aspect of the nomination before us that concerns me. I have reviewed the background materials on Judge Paez, and I cannot ignore the nominee's penchant for imposing his own political vision on the case before him.

Judge Paez has shown, on more than one occasion, his activist judicial philosophy. He was quoted in the Los Angeles Daily Journal as saying: ''I appreciate the need of the courts to act when they must, when the issue has been generated as a result of the failure of the political process to resolve a certain political question. . . . There is no choice but for the courts to resolve the question that perhaps ideally and preferably should be resolved through the legislative process.''

That is as clear a statement of judicial activism as I have ever heard.

On another occasion, Judge Paez demonstrated that his politics were more important than the appearance of judicial impartially and independence. In a 1995 speech he attacked California Proposition 187 (to end assistance to illegal immigrants) as anti-Latino ''discrimination and hostility'' and Proposition 209 (to end racial and gender preferences in California) as anti-civil rights. What strikes me is that, at the time, both propositions were subject of pending litigation. Clearly the Judicial Code of Conduct prohibits a judge from such comments.

Even if these were the only incidents of this kind, they would weigh heavily with me. But Judge Paez' record contains a number of other troubling episodes. In the Los Angeles Alliance for Survival case, Judge Paez ruled that a Los Angeles city ordinance—prohibiting aggressive panhandling at specified public places and passed in response to the death of a young man who refused to give a panhandler 25 cents—was unconstitutional under California's constitution. He affirmed that this law constituted ''content-based discrimination'' because it applied only to people soliciting money and consequently granted an injunction to prevent it from being enforced. However, apart from Los Angeles where the ordinance has yet to be enforced, the same law has been ''peacefully'' upheld in other parts of California by other federal judges.

The position expressed by Judge Paez was well out of the mainstream. This became even clearer last week, when the Supreme Court of California, asked by the Ninth Circuit Court of Appeals to rule on the merits of Paez' holding, held that the Los Angeles ordinance was constitutional and valid.

I have also been troubled about the implications and consequences of the Unocal decision issued by Judge Paez in 1997, in which he ruled that American companies can be held liable for human rights abuses committed by the foreign governments or overseas companies owned by the foreign governments with which they do business. This decision leaves open a wide range of issues and has the potential to cause significant consequences in the U.S. and world markets, not to mention U.S. foreign policy.

It is not surprising that the U.S. Chamber of Commerce has expressed its opposition to the nomination of Judge Paez to the U.S. Court of Appeals for the Ninth Circuit, in view of the decision's potential impact on international commerce. At a minimum, Judge Paez pushed the limits of prior law in this ruling—but this decision takes on a great deal more significance in light of his prior statements and other judgments. This is a judge who is ready, willing, and able to act on an opportunity to open new frontiers in the law.

I share the concerns that many of my colleagues have raised about the structure of the ninth circuit itself. It covers 38 percent of the area of the Nation and serves more than 50 million people, 20 million more than any other circuit. It has 28 authorized judgeships, 11 more than any other circuit. I am one of the majority of Senators representing that circuit who believe it should be split.

The ninth circuit remains, as the New York Times labeled it, ''the country's most liberal appeals court'' and a circuit out of the mainstream of American jurisprudence.

Over the past six years, the Supreme Court has reversed nearly 90 percent of the ninth circuit cases it has reviewed: in 1997–98, the reversal rate was 96 percent (27 out of 28 decisions) and 35 percent of the decisions reviewed by the Supreme Court were from the ninth circuit.

It has been suggested that the ninth circuit has difficulty developing and maintaining coherent and consistent law because, as the size of the unit increases, the opportunities the court's judges have to sit together and to develop a close, continual, collaborative decision making decrease. Of course, this would increase the risk of intracircuit conflicts since judges are unable to monitor each other's decisions and very seldom have the chance to work together.

In any event, my constituents and other citizens in the ninth circuit would hardly be well served by adding yet another liberal judicial activist to the current mix. Whether or not Congress ultimately addresses the circuit's problems by agreeing to the split I am advocating, this Senate should not exacerbate the problems with this ill-advised nomination.

I know the administration must take the best case possible for its nominees, but they cannot expect this Senator to ignore ''the other part of the story.'' Judge Paez' record reflects an eagerness to use his authority to accomplish social change and a disrespect for principles of judicial decision making. In sum, I strongly believe it would be a mistake to advance Judge Paez to the ninth circuit, and I will vote against his confirmation.

Mr. GORTON. Mr. President, the nomination of U.S. District Court Judge Richard Paez to the Ninth Circuit Court is, to put it mildly, controversial. His nomination has now been before the Senate for almost 4 years, a period of time close to a dubious record. He deserves a vote, and at least serious consideration of an affirmative vote, for that reason alone.

The President nominates, and by and with the advice and consent of the Senate, appoints judges to the Federal courts. That constitutional system allows Senators as much latitude to approve or disapprove judicial nominations on the basis of the nominee's judicial and political philosophies as it does to the President in making those nominations. In my view, however, that senatorial prerogative does not extend to rejecting Presidential nominees solely on the ground that a Senator would have chosen someone else. If a nominee clearly falls within a fairly broad philosophical mainstream and is otherwise competent, he or she should probably be confirmed.

In my view, Judge Paez falls within that broad mainstream. I have considered carefully the objections of colleagues whose views I greatly respect. But I have also considered the views of Republicans and conservatives from California and who know Judge Paez best—including Congressman ROGAN. Their views persuade me to vote to confirm Judge Paez to the Ninth Circuit.

The nomination of Marsha Berzon to the Ninth Circuit, however, seems to me to create too great a risk that we are confirming someone for a lifetime appointment to the most influential circuit court in the country, who falls on the far side of the philosophical divide I described in my remarks on Judge Paez. Ms. Berzon has a relatively narrow scope of private practice in a highly ideological field, and has been active and ideological in the expression of her political views. Ms. Berzon also has no judicial experience, and so has no record by which to determine whether her ideological activism will be curtailed once she is on the bench. It certainly is possible that it would be. It is also possible that it will not. Given the concerns of many, including my colleagues on the Judiciary Committee who voted against her confirmation, that the Ninth Circuit already is ideologically unbalanced, I simply am not willing to take this risk. I see no clear reason to consent, in constitutional terms, to her nomination.

Mr. BIDEN. Mr. President, I rise in support of Richard Paez' nomination to the United States Court of Appeals for the Ninth Circuit. And I must say, this vote is long, long overdue. I have heard a lot of talk here on the floor along the lines of hey—this is politics as usual. ''Oh when Senator BIDEN was chairman of the Judiciary Committee, we held nominees up all the time.''

Let me say this: forget my tenure as chairman of the Judiciary Committee. As far as I know, no judicial nominee in the history of this nation has waited as long as Judge Paez has for a vote. Four years is not even within the ballpark of a reasonable delay.

Judge Paez is a well-respected, experienced jurist. We already confirmed his nomination to the federal district court bench. He has served with distinction for 6 years on the federal district court and for 13 years before that as a municipal court judge in Los Angeles. The American Bar Association has given Judge Paez its highest rating, pronouncing him ''well qualified.'' Judge Paez enjoys broad bipartisan support in his own community, including from law enforcement officials.

Judge Paez is an honorable man, a man of integrity, and a man who has devoted his entire career to service—first, to service to the poor as a committed poverty lawyer, and then to service to the public at large as a state and then federal judge. His record does the President and his supporters proud.

From what I can tell, listening to the debate on the floor, the opposition to Judge Paez boils down to a few main points. First, to some off-hand remarks that he made about the California initiatives that maybe were ill-advised, but I believe may have been misconstrued—but we have already heard this discussed at length on the floor. I think it is a real shame to judge a man's distinguished 19-year record on the bench on the basis of any single remark.

More importantly, though, opponents cite concerns about the allegedly out-of-whack ninth circuit, which detractors like to call a ''rogue'' court. Aside from the fact that several circuits are reversed as or more often than the ninth circuit, I say this: If you have a problem with the ninth circuit, let's consider whether we should change the ninth circuit. I'm not saying whether we should or that we shouldn't, but there are several proposals out there to restructure the court. Let's debate them.

Why should we punish the millions of people who live in the ninth circuit by depriving them of the judges they need to mete out timely and fair justice? There are six vacancies on the ninth circuit—that is more than 20 percent of the 28 positions authorized for the court. And even more judges are needed to handle that court's heavy case load. All of these vacancies, by the way, are characterized by the Judicial Conference as judicial emergencies.

Let's not take out our differences on the ninth circuit on the people who live there and more importantly for today, let's not take out our differences on this nominee or—for that matter, on Marsha Berzon, another outstanding nominee who we are also voting on today.

The Los Angeles Daily Journal did an in-depth study of the criticisms leveled against Judge Paez and found that they were unfounded. What they concluded was this:

> The portrait that emerged is of a thoughtful, unbiased and even-tempered judge, propelled into the political spotlight, only to be trapped in a seemingly never-ending and bitterly polarized nominations process.

Let us end that nominations process for Judge Paez here and now, and let it end with a vote of support.

Mr. REED. Mr. President, I thank Chairman HATCH and Senator LEAHY for all of the hard work they've put into, and continue to put into, the judicial nomination process.

I also recognize Senator LOTT for making a commitment to bring the Paez and Berzon nominations to the Floor for a vote by March 15, over the protests of certain members of his caucus.

First, a process comment. One of the most important duties of the United States Senate, as envisioned by our founding fathers, is the confirmation of Presidential appointments. Article II, Section 2, of the Constitution states that the President shall nominate and ''appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States'' with the ''Advice and Consent of the Senate.'' This is one of our enumerated duties in the Constitution, and to my mind, we have egregiously failed to uphold this duty in the case of Judge Richard Paez.

More often than not, nominations move through the Senate the way they're supposed to. However, in this case, the system has broken down. As a result, considerable public attention is being paid to this nomination, especially among members of the Latino community, because the Senate is not doing its job. This is troubling. In regards to nominations, the public rightly expects us to move judiciously and expeditiously and without regard to politics.

No nominee for judicial office should have to wait four years to have his appointment confirmed. Allowing Judge Richard Paez and his family to wait four years for this body to perform its constitutional duty is inexcusable.

Judge Paez has opened up his life and resume for our examination, so that we can make a very important decision about his qualifications for a very important job, lifetime tenure on the United States Ninth Circuit Court of Appeals. This is appropriate. Judge Paez should be subject to serious scrutiny by this body.

But no citizen of this country should have to wait three Congresses for this body to act. Just as he has presented his qualifications to us to the best of his ability, we need to make a decision about these qualifications to the best of our ability in a timely fashion.

In the private sector, how many of us would subject ourselves to the process that Judge Paez has subjected himself in order to be on the Board of Directors or the CEO of one of America's top companies. Most of us would choose not to go through that process at all.

And that is exactly my point, we should not make this process so painful that America's best and brightest attorneys are unwilling to subject themselves or their families to what has become an increasingly unpleasant and distressing process. We should be doing everything that we can to encourage people like Judge Paez to aspire to be members of our judicial branch. This,

despite lower pay and greater responsibility than most lawyers have in private practice.

As the Chief Judge of the Ninth Circuit Court of Appeals wrote in a March 2, 2000 letter to Senators HATCH and LEAHY, the Ninth Circuit Court has had a 300% increase in workload with no increase in active judges.

Unfortunately, the Paez and Berson nominations are indicative of a greater systemic breakdown that should be disturbing to both Republicans and Democrats. Even Justice Rehnquist has felt it necessary to comment on the problems being caused by greater federal court workloads, and too few judges.

Second, it's clear that the President has nominated lawyers of extraordinary ability when it comes to Judge Richard Paez and Ms. Marsha Berzon. Both have received the American Bar Associations's highest rating (''well-qualified'') and we are fortunate that these individuals have been willing to go through such a grueling federal judicial nomination process thus far.

I ask my colleagues today take their constitutional duty seriously and vote for these nominees on the basis of their objective qualifications, and not on the basis of petty politics. This process is much too important to the citizens of this great democracy to do otherwise.

Mr. MURKOWSKI. Mr. President, I see the Senator from California. I see the majority leader noticeably present on the floor. I am curious to know about the procedure. Are we going to continue?

Mr. SMITH of New Hampshire. Yes. There is a unanimous consent for the majority leader to speak now and, after he finishes, we go back to the debate.

Mr. MURKOWSKI. I wonder, after the majority leader speaks and the Senator from California speaks, if I could be recognized, in that order.

Might I ask the senior Senator from California how long she will speak?

Mrs. FEINSTEIN. I thank the Senator from Alaska. I will yield myself 10 minutes from our manager's time.

Mr. MURKOWSKI. And the leader, of course, will go on for whatever time is necessary. I ask unanimous consent for that time allotment.

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

The majority leader is recognized.

Mr. LOTT. Mr. President, what we do today with a vote on these nominations is important. It does matter. I am sure both of these two individuals, Richard Paez and Marsha Berzon, are fine people and are well intentioned in the positions they take, but we are going to vote on them being confirmed to the Ninth Circuit Court of Appeals for life. That is serious.

Yes, the President has a right to make nominations to the Federal bench of his choice. However, we have a role in that process. We should, and we do, take it very seriously. We should not give a man or a woman life tenure if there is some problem with his or her background, whether academically or ethically, or if there is a problem with a series of decisions or positions they have taken.

I certainly don't take this lightly. I would have preferred if these individuals had never been nominated, never been reported out of the Judiciary Committee, and that the situation would not have arisen in which there is this vote on the floor. But after a lot of consultation back and forth with my colleagues, a reasonable case could be made they should at least have a vote on their confirmation one way or the other.

As majority leader, I must make decisions as to the time and manner in which matters are considered. Sometimes my colleagues think it is the right way and the right time; sometimes that is not the case. Once I make a commitment for a vote, I am going to keep that commitment the best I can, keep my word, and go forward.

I have colleagues on my side of the aisle who don't like going forward with this vote. At this time, I think it is appropriate that we have a vote. I urge my colleagues to vote against these two nominees. However, it is time we have the vote, and we will do so today.

Let me discuss why I feel so strongly that these two nominees should not be confirmed. First, it is about the Ninth Circuit Court of Appeals, which is clearly a circuit court of appeals that is out of sync with the mainstream and has been repeatedly reversed by the Supreme Court.

In recent days, I have seen references to the Ninth Circuit as containing ''California, Arizona, and a handful of other states.'' My state is in the Fifth Circuit Court of Appeals, but I would take umbrage if my circuit was referred to as ''the circuit that has Texas and other States.'' But there are only three States in our circuit, the Fifth Circuit.

The Ninth Circuit clearly has a problem. It is too large, it is too unwieldy, and it is not functioning effectively. It is not serving the people of the circuit well, and we must remember that it is not just the ''circuit of California, Arizona, and other States.'' How would someone like to be in the circuit that is referred to that way if one lives in Utah, Nevada, Montana, Idaho, Washington, Oregon, Alaska, Guam, and Hawaii?

We need to do something about this. We have known we needed to do something about it for years, but we haven't done it. Millions of people who live in the States of the Ninth Circuit must submit their disputes to a court that has consistently flouted the statutes and the Constitution of the United States.

It covers 50 million people. Nearly 40 percent of the area of this country is in this one circuit. In the past 6 years, the Ninth Circuit has been reversed by the Supreme Court in 85 out of 99 cases considered, roughly a 90-percent reversal rate. In most classes, that would be rated as an abysmal failure. There is something not right here.

It was bad before the President Clinton appointees were added, and it has gotten worse. In the 1996–1997 term, the Ninth Circuit was reversed 27 out of 28 times, including 17 unanimous reversals. There is something wrong with this circuit.

Let me give some specific examples of the kind of decisions they are entering:

In Washington v. Glucksberg, the Ninth Circuit found a constitutional right to die, a decision reversed unanimously by the Supreme Court;

In Calderon v. Thompson, 1997, the Ninth Circuit blocked an execution based on a procedural device the Supreme Court called a ''grave abuse of discretion'';

In Mazurek v. Armstrong, 1996, the Ninth Circuit enjoined a Montana law allowing only doctors to perform abortions, only to be reversed once again by the Supreme Court.

I have a long list of decisions from the Ninth Circuit, and I ask unanimous consent I be able to have these lists and other material printed at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. LOTT. There is a problem with this circuit. It is a circuit that has serious problems with its rulings. It is an extremely liberal circuit, and it will get worse with these two nominees. That is one of the reasons I have been hesitant to bring up the nominees.

Now, let me go to the next point. I hope it won't happen, but I suspect there is going to be somebody in this Chamber, or certainly in the media, who will suggest that the consideration of these nominees has something to do with their race or gender.

These charges are totally false. We don't have a place where we check race or gender when we consider these nominees. It is irrelevant. We had a nominee last year who was defeated in the Senate that turned out to be African American. I am confident at least half the Senators didn't even know that. We didn't talk about that.

In this case, the fact that Judge Paez is Hispanic is not a consideration at all. We need more minorities and women on the courts. Let me make this point so everybody will be aware of it now: Last year, 18 of the 34 judicial nominees confirmed by the Senate, or 53 percent, were women or minorities. By contrast, only 51 percent of President Clinton's nominees were women or minorities. However, I am not going to charge him with some sort of discrimination based on race or gender.

I will have printed for the RECORD a list of some of the statistics showing this Senate is more than willing and desirous of confirming women and minorities of all backgrounds to the courts. Over the past several years, we have confirmed a high percentage from minority groups or women, including a unanimous or near-unanimous confirmation of an Hispanic nominee to

the Third Circuit Court of Appeals earlier his week.

While some have expressed concern at the delay in bringing up the nominations we are considering today, it is important to keep in mind that each of these nominees was opposed by almost half of the Members of the Judiciary Committee. This is the committee charged with reviewing the background and qualifications of nominees. Any time so many Members of the Judiciary Committee express this level of concern, this body should proceed with caution.

The charges that race has somehow played a part in the Senate's consideration of these or other nominees is more than false. It demeans the Senate and those making the charges. If the charges are made in a cynical attempt to gain some political advantage, that is even worse. No real or perceived political advantage is worth debasing your own integrity by falsely impugning that of others.

Let me go to the specifics of Judge Paez. Some say: How long must he wait? What will happen? He is on the Federal district court now, so it is not as if he is waiting for employment.

He has a long record and philosophy that is very liberal. That is not disqualifying anymore than we should disqualify somebody because they are conservative. He has a record also of highly questionable rulings and political statements while sitting on the bench. When he was being considered as a judge, for instance, he was quoted as saying:

> The courts must tackle political questions that ''perhaps ideally and preferably should be resolved through the legislative process''.

That is the point. He believes the courts should be willing to do what is our job, not theirs. That is a fundamental problem.

When he was being nominated to the Federal district bench, no less an arbiter of liberalism than the American Civil Liberties Union considered him a ''welcome change after all the pro law enforcement people we have seen appointed.''

I think the American people want pro law enforcement people appointed to the bench regardless of their background or any other consideration.

There have been some astounding cases: Judge Paez struck down a Los Angeles antipanhandling ordinance enacted after a panhandler killed a young man over a quarter; he ruled companies doing business overseas can be held liable for human rights abuses committed by foreign governments.

Excuse me? How in the world could he extrapolate anything in the laws of this country or the Constitution that would allow him to make such a decision?

Now we have the situation with John Huang. I do not know what happened there, but it seems to me there is a conflict of interest. The American people need to understand. He somehow or other was selected to be the judge in the John Huang case, and he agreed to a very light plea-bargained sentence at a time, I believe, when his confirmation was still pending, involving a matter where the President of the United States was clearly implicated. There is something not right about that. It does not pass the smell test.

Am I willing now to charge some illegality, or some totally unethical act? No. But we should have done more on this, on that point, before we came to this vote.

Last, but not least, when you are on the bench—I have kidded my friends who are Federal judges about how they ascend to someplace in the sky, never to be heard from again: Retirement to the Federal bench. They laugh. I laugh. But in a way, that is the way it is and that is as it should be. Because when you go on the bench, your political involvement, your personal preferences, should remain private. You should assume the bench and keep your mouth shut until you rule appropriately.

When you have a judge speak out, as Judge Paez did in 1995, for example, and attack two California ballot initiatives while they were still in litigation or potentially the subject of litigation, that is a big problem. The Judicial Code of Conduct prohibits judges, as it should, from comments that ''cast reasonable doubt on his capacity to decide impartially, any issue that may come before him,'' that is a fundamental point.

You cannot, as a Federal judge, make political statements on initiatives on the ballot that bring into question your impartiality in these cases in any way. It is highly inappropriate.

With regard to the nomination of Ms. Berzon, she does not have a record of judicial decisions, having served as a prominent labor lawyer for many years. Clearly, however, her positions are very questionable in terms of how she would rule when she got on the Ninth Circuit Court of Appeals. I think it would be a mistake.

I am particulary troubled by some of the extreme pro-labor positions she has advocated—positions that have been summarily rejected by the Supreme Court.

Some of the questionable positions she has advocated include arguing that new employees, or more junior employees that worked during a strike, must be layed off in favor of more senior employees when the strike is over. She also argued unsuccessfully that unions should be able to prevent members from resigning during a strike.

Finally, her statements on the use of union funds for political activities—or other activities not directly related to union negotiations and bargaining—raise serious questions about her willingness to live within the letter and spirit of the Beck decision.

It is no wonder that the proponents of these nominations ignore the record of the Ninth Circuit and the judicial approach of these nominees. We are told instead of their strong qualifications and personal attributes. I have no doubt that Judge Paez and Ms. Berzon are fine lawyers and are technically competent. My concern is with their judicial philosophies and their likely activism on the court.

Let me go back to my beginning point. This is very serious. We are going to be voting on putting these two individuals on the Ninth Circuit for life. I think the record is clear that they would be activists on the bench.

Judicial activism is a fundamental challenge to our system of government, and it represents a danger that requires constant vigilance. In our tradition and under our laws, we give power not to a specific group of trained experts, but rest our faith in the ability of all Americans, whatever their backgrounds, to participate in their government. Judicial activism robs the people of their role, and undermines the basis of our democracy.

Nowhere is this problem of judicial activism greater than in the Ninth Circuit. And nowhere is it more incumbent upon us as Senators to take seriously our responsibility to restore a proper respect for our system of representative government.

I believe these nominees should not be confirmed. Number 1, because there is a problem with this circuit; No. 2, because, in the case of Judge Paez, of the rulings he has been involved in, many of them of a highly questionable nature; No. 3, in his case, for remarks he has made in the political arena while sitting as a judge on issues that could come before him.

While her public record is not as extensive, the same questions exist for Ms. Berzon, particulary when you look at her positions with regard to the type of issues that may well be coming before the Ninth Circuit, and eventually, before the Supreme Court. There is great doubt about the basis for her confirmation.

While I have kept my word and we will vote on these judges today, I will vote against them both.

EXHIBIT 1

NINTH CIRCUIT REVERSALS BY THE SUPREME COURT

For the period from 1994 through 2000, 85 of the 99 Ninth Circuit cases considered by the Supreme Court were overturned:

1999–2000 7 of 7—100%.

U.S. v. Locke (3/6/00—unanimous)—improper to allow state regulation over oil tankers when area was federally preempted.

Rice v. Cayetano (2/23/00)—improper to uphold Hawaii constitutional provision allowing only certain race to vote.

Roe v. Flores—Warden (2/23/00)—remanded ineffective counsel case.

U.S. v. Martinez-Salazar (1/19/00—unanimous)—improper to throw out conviction when juror was stricken with preemptory challenge after refusal to excuse the juror for cause.

Smith v. Robbins (1/19/00)—improper to strike down California law concerning indigent appeals.

Guiterrez v. Ada (1/19/00—unanimous)—improper statutory interpretation of Guam election law.

Los Angeles Police Department v. United Reporting Pub. Corp. (1/7/99)improper to

strike down California law on arrestee information.

1998–1999 13 of 18—72%.
1997–1998 14 of 17—82%.
1996–1997 27 of 28—96%.
1995–1996 10–12—83%.
1994–1995 14 of 17—82%.

RECORD ON CONFIRMING MINORITY AND FEMALE JUDICIAL NOMINEES

President Clinton has touted his record of appointing qualified minority and female nominees to the bench. Since all of these judges received Senate confirmation, the Senate's record must, by definition, mirror the President's. In fact, in 1999, 53% of the nominees confirmed were women and/or minorities, compared to only 51% of Clinton's nominees.

This Congress, over half (21) of the total number (42) of nominees reported out of the Senate Judiciary Committee were either a minority, a female, or both. Similarly, over half (18) of the total number (34) of nominees confirmed were either a minority, a female, or both.[1] Half of the 34 nominations pending in committee are white males. (Statistics as of 2/29/00)

According to the Judiciary Committee, during the first session of the 106th Congress, on average minorities were reported out of committee faster (108 days) than white male candidates (123 days). Similarly, on average minorities were confirmed faster (122 days) than white males (143 days).

Senator Hatch in an Op-Ed to the Washington Post cited a Task Force on Federal Judicial Selection study reporting that the pace of actual confirmations was the same for minorities and non-minorities in 1997–98.

In the Democratic-controlled 102nd Congress, the Senate took 18% longer to confirm minority and female district court nominees than white males. In comparison, the Republican-controlled Senates in 97th, 98th, and 99th Congresses moved female nominees faster than males.

Mr. LEAHY. Mr. President, first, I do thank the distinguished majority leader for keeping the commitment he made to me, to Senator DASCHLE, to the two Senators from California, and others last year to bring these nominations to a vote. I appreciate that. I wish, of course, he would vote for the two nominees, but that is his right.

We keep talking about these reversal rates, the Ninth Circuit being reversed the most. Of course, that is not the case. I will put in the RECORD later on a letter from Chief Judge Hug, who shows a number of circuits that have been reversed far more than the Ninth Circuit.

I will also point out, as I did earlier, about half of the most recent reversals have been on decisions written by appointees of President Reagan and appointees of President Bush. So I would not be blaming President Clinton for this.

We have heard a great deal about the so-called panhandling decision. The judge had no choice in that matter. He had a case on all fours from his own circuit. As a district judge, he had to follow that decision. Whether he liked it or not, that is what he had to follow. Subsequently, when his own circuit reversed its position on it, then he would have to follow the new position.

Last, I am disturbed to have it suggested that the judge could not tell litigants in a courtroom that they could not wave anything in the face of jurors, whether it is a Bible or a newspaper. I yield to nobody in this body in my defense of the first amendment. I have certainly received more first amendment awards than anybody serving here. I would say also if they were to wave a newspaper and a headline in the face of jurors, a judge could say: No, you can't do that.

That is not freedom of the press. That is not freedom of religion. No judge anywhere is going to allow litigants to wave anything in the face of jurors to influence them, nor to act outside of the regular rules of court, or when you can refer to an item in evidence or not, when you can refer to it in argument.

I just point that out. We continuously attack this man for doing the things he is supposed to do.

I yield to the distinguished Senator from California who seeks 10 minutes, I understand. I yield 10 minutes.

Mrs. FEINSTEIN. Mr. President, I want to take a few minutes as a 7-year member of the Judiciary Committee, to set the record straight on some of the comments that have been made with respect to the Ninth Circuit Court of Appeals. I have heard that circuit called a rogue circuit, out of control, out of sync with the rest of the Nation. All of this is based on statistics for 1 year, 1996–1997, when the Supreme Court reversed that circuit 27 out of 28 times.

The question is, Even in that year, did that place it as the most reversed circuit? The answer is no because even in that year they fell in the middle of the pack. When the Ninth Circuit's reversal rate was 95 percent, it was still less than five other circuits: The Fifth, the Second, the Seventh, D.C., and Federal Circuits all had a 100-percent reversal rate.

You can seek out the Ninth Circuit because it has 9,000 cases on appeal as opposed to a circuit with 1,000 or 1,500 cases. But the record is the record, even in that year, that much maligned year that is the basis of all of these comments.

Let's look at some of the other years. In the 1998–1999 Supreme Court session, the Supreme Court reviewed 18 cases of the Ninth Circuit; 4 were affirmed, 11 were reversed, and 3 had mixed rulings. So only 11 out of 18 cases were outrightly reversed. That is a 61-percent reversal rate.

Is that the worst? No. This is less than the reversal rates for the Third Circuit, 67 percent; the Fifth Circuit, which was reversed 80 percent of the time; and the Seventh Circuit, 80 percent of the time; the Eleventh Circuit, 88 percent; and the Federal Circuit, 75 percent.

In terms of reversals, the Ninth Circuit is not at the bottom of the pack, it is in the middle of the pack.

I think I know why there were newspaper articles. The Ninth Circuit has been made a target by many conservatives who either want to see it split or, in some way, destroyed. That has become very clear to me as a member of the Judiciary Committee as I have watched proposal after proposal surface.

Am I always pleased with the Ninth Circuit? Absolutely not. Do I like all the decisions? Of course not. But the point is, the Ninth Circuit is well within the parameters, and in virtually every year that one can look at reversals, one will see the Ninth Circuit is approximately in the middle of the pack.

The argument is also made that Clinton appointees are making decisions that are being reversed. I have looked at the Ninth Circuit judges who were reversed over the last 3 years by the Supreme Court. Once again I correct the record. On only eight occasions in the last three full Supreme Court terms have Clinton appointees on the Ninth Circuit joined in decisions later reversed by the Supreme Court. At the end of the 1998–1999 term, Clinton appointees were 20 percent of the judges on the Ninth Circuit.

If one wants to compare, compare Clinton appointees with Reagan appointees. Reagan appointees on the Ninth Circuit have been overturned in 30 instances from the 1996–1997 Supreme Court term through the 1998–1999 term. Currently, there are the same number of Reagan appointees on the Ninth Circuit as Clinton appointees.

I have wondered, as I have watched this debate emerge for the last 7 years, why there is this persistent effort to demean, to break up, in some way to destroy this court. I have a hard time fathoming why.

Mr. President, I ask unanimous consent to print in the RECORD a letter from the Chief Judge of the Ninth Circuit Court of Appeals.

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

UNITED STATES COURTS
FOR THE NINTH CIRCUIT,
Reno, NV, March 1, 2000.

Hon. ORRIN HATCH,
U.S. Senator, Dirksen Senate Office Building, Washington, DC.

Hon. PATRICK LEAHY,
U.S. Senator, Russell Senate Office Building, Washington, DC.

DEAR SENATORS HATCH AND LEAHY: I write on behalf of the Ninth Circuit Court of Appeals to emphasize the importance of filling the judicial vacancies on this court.

During the four years that I have been Chief Judge of the Ninth Circuit, we have had up to ten vacancies on the court of appeals. We now have six vacancies, two have been vacant since 1996, two since 1997, one since 1998, and one since 1999. It has been very difficult to operate a court of appeals with up to one-third of our active judges missing. As you know, I have worked with the White House and the Senate in an attempt to fill these vacancies in a timely manner, and I am continuing to do so.

[1] These figures include non-controversial nominees such as Charles Wilson (Eleventh Circuit), Ann Claire Williams (Seventh Circuit), Adalberto Jose Jordan (S.D. Fla.), Carlos Murguia (D. Kan), William Haynes, Jr. (M.D. Tenn.), Victor Marrero (S.D.N.Y.), and George Daniels (S.D.N.Y.), all of whom were confirmed within 7 months of their nomination.

As Chief Judge, I have implored our active judges and our senior judges, on an emergency basis, to carry a larger caseload during this interim while the vacancies are being filled, in order to do our best to avoid building up a backlog of cases with the consequent delay for the litigants.

Our judges have been most responsive in hearing considerably more cases than would ordinarily be assigned. I am very grateful, but I cannot expect the judges to do this, on an emergency basis, for the indefinite future.

In addition, we have called upon the district judges within our circuit to serve on panels, as well as visiting judges from other circuits. However, this is not the ideal way to perform the services of a court of appeals. The appeals from the Ninth Circuit should be heard by the judges of the Ninth Circuit Court of Appeals.

Despite all these efforts, we do have a backlog of cases, which principally affect civil cases, some of which have had to wait a year or more to be heard. My major concern is that we have had a significant increase in filings this past year, which considerably exceed the number of cases we are able to terminate even with this enhanced effort. In the year ending December 31, 1999, the number of appeals filed was 9,444, and the number of appeals terminated was 8,407. This is a difference of over 1,000 cases.

If our six vacancies were filled and those judges were on our court, it would mean we could decide an additional 800 cases on the merits. If they are not filled, I can anticipate considerable delay for the litigants of this circuit.

Our court is very pleased that the leadership of the Senate has committed to hold a floor vote this month on nominees Judge Richard Paez and Marsha Berzon. We have every hope that they will be confirmed. We would ask, however, that the other nominees, Barry P. Goode, James F. Duffy, Jr., Richard C. Tallman, and Johnnie B. Rawlinson receive hearings before the Judiciary Committee in the near future. It is vital to our Ninth Circuit Court of Appeals.

By the way of emphasizing the need brought about by our increasing caseload and the importance of filling these vacancies, I might note a little historical perspective. In 1980, shortly after I came on the court of appeals, we had 23 active judges with a caseload of 3,000 appeals. Today, with 6 of our 28 judgeships vacant, we have 22 active judges to hear over 9,000 appeals. You can see the importance of proceeding promptly with the confirmation process.

I might make one other observation—I have noted that the reversal rate of the Supreme Court in one unusual year, 1996–97, has assumed some importance in the hearings. Even in that year, when the Ninth Circuit's reversal rate was 95%, it was less than five other circuits—the Fifth, Second, Seventh, D.C., and Federal Circuits—all with a 100% reversal rate. In the 1997–98 term, the Ninth Circuit's reversal rate was 76%, equivalent to that of the First Circuit's 75%, and less than the Sixth and Eleventh Circuits' 100% reversal rate. In the 1998–99 term, the Ninth Circuit's reversal rate was 78%, equivalent to that of the Second and Federal Circuits' 75%, and less than the Fifth Circuit's 80%, the Seventh Circuit's 80%, and the Eleventh Circuit's 88% reversal rates.

However, the important point to emphasize, in my opinion, is that the reversal rate has little to do with the effectiveness of any circuit court of appeals. For example, the 13, 14, or 20 cases reversed in a term were out of 4,500 cases decided on the merits in the Ninth Circuit. The reversal rate in any circuit should also have little to do with the nomination or confirmation of judges to fill vacancies on a court.

Our judges on the Ninth Circuit Court of Appeals will certainly appreciate any efforts on your parts to afford the judicial nominees a hearing in the near future and a prompt vote on the floor of the Senate.

Yours sincerely,

PROCTER HUG, Jr.,
Chief Judge.

Mrs. FEINSTEIN. Mr. President, I will quickly read the paragraph to which the ranking member alluded. I believe it is worthwhile for everybody to hear this. Judge Hug said:

I might make one other observation—I have noted that the reversal rate of the Supreme Court in one unusual year, 1996–97, has assumed some importance in the hearings.

These are the hearings on confirmation.

Even in that year, when the Ninth Circuit's reversal rate was 95 percent, it was less than five other circuits—the Fifth, Second, Seventh and Federal Circuits—all with a 100 percent reversal rate. In the 1997–98 term, the Ninth Circuit's reversal rate was 76 percent, equivalent to that of the First Circuit's 75 percent and less than the Sixth and Eleventh Circuits' 100 percent reversal rate. In the 1998–99 term, the Ninth Circuit's reversal rate was 78 percent, equivalent to the Second and Federal Circuits' 75 percent and less than the Fifth Circuit's 80 percent, the Seventh Circuit's 80 percent, and the Eleventh Circuit's 88 percent reversal rates.

Once again, the Chief Judge of the Ninth Circuit attests that the Ninth Circuit's reversal rate is substantially in the middle of the pack of all the circuits. I hope the record stands corrected.

I want to speak about the two judges before us and indicate my strong support for the appointment of both Judge Paez and Mrs. Berzon.

Judge Paez has been before this body for 4 years. He has had two hearings and has been reported out of committee twice. Marsha Berzon has been before this body for 2 years, and she has had two hearings and been reported out of committee once.

I have sat as ranking member on one of her hearings. It was equal in the quality and numbers of questions to any Supreme Court hearing on which I have sat, and I have sat on two of them. She was asked detailed questions on the law, questions about her performance, questions about her background, and, I say to this body, she measured up every step of the way. She is a brilliant appellate lawyer, and she has represented both business clients as well as trade union clients.

Judge Paez has 19 years of experience as a judge and 6 years as a Federal court judge. I will speak about his record on criminal appeals.

According to the Westlaw database, 32 of his criminal judgments have been appealed; 28 of these were affirmed. The Circuit Court dismissed two appeals for lack of jurisdiction, remanded one for further proceedings, and one judgment was affirmed in part or reversed in part. That is an 87-percent affirmance rate. That is pretty good.

Judge Paez has not been reversed on a criminal sentence. Of his 28 criminal affirmances, they include 6 cases where a sentence he imposed was upheld by the appellate court; 4 involved his decision to enhance the defendant's defense level within the guidelines, actually giving the offender a tougher sentence, and 2 involved Judge Paez's refusal to grant a downward departure.

Judge Paez was also named Federal criminal judge of the year by the Century City Bar Association.

As I have looked at this case and listened to members in the Judiciary Committee, a lot of the objection seems to come down to one speech he made at the University of California Boalt Hall where he criticized a proposition on the ballot which was a very incendiary ballot measure in California. It was Proposition 209, and that may have been somewhat intemperate.

My point is, one comment does not outweigh 19 years of good judicial service, 6 of them on the Federal court. I believe strongly that both these nominees deserve confirmation today.

I thank the Chair.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I want to talk a bit about the matter before us, the judicial nominations of Paez and Berzon.

I have listened to the debate today, and it is fair to say, to a large degree, the Ninth Circuit Court has made itself the target. The suggestion was made the Ninth Circuit is in the middle of the pack with regard to reversals. Thirty-three percent of the reversals over the last 3 years have come out of the Ninth Circuit Court. I have talked to judges in that court. They are so frustrated by the caseload and their inability to follow the cases in the court that they privately and publicly suggest something be done.

We have been at this for a long time. We have been discussing it, we have been arguing, we have been debating how we split it up. Naturally, California is a little reluctant to see it split up, for lots of reasons which I do not think are necessary to go into.

The reality is this body has an obligation of timely justice, and timely justice is not being done in the Ninth Circuit for a couple of reasons. It serves the largest population of all the circuits. The judges can't handle all the cases. Legal reasoning has been abandoned in favor of extremist views. The Ninth Circuit has invited this upon itself.

The point I make is, we have an obligation on our watch to do something about this problem. We have to do it. It is inevitable.

This week I introduced legislation to split the Ninth Circuit. These two nominees are perfect examples of why my bill should be passed immediately by this body. Senator HATCH and other are co-sponsoring this bill.

The Ninth Circuit is already plagued with a very activist group on the judiciary who bring their causes to the bench with them.

But let's look at the number of cases that have been reversed by the Supreme Court. This chart shows the number of cases reversed by the U.S. Supreme Court between 1997 and 1999. The statement has been made that the Ninth Circuit court is somewhere in the middle. It is more than the middle. The Ninth Circuit has almost a quarter of all the court reversals in all of our circuit courts. Next is followed by the Eighth Circuit and then the Fifth Circuit. It is not a factual statement to suggest that the reversals in the Ninth Circuit are somewhere in the middle.

We have another chart I will describe to you as the Ninth Circuit Court of Appeals, a court that is out of control. From 1994 to the year 2000, the number of decisions reversed, 86 percent; decisions upheld, 14 percent.

If this followed a pattern in the other circuit courts, I would not be up here arguing; but it is far too high. It suggests it is out of control. The reality is that 86 percent of the decisions were reversed in that period, from 1994 to the year 2000; and 14 percent of the decisions were upheld by the Supreme Court. These are people who were denied justice—at great cost.

Let's look at the reason why it is so obvious that we have to do something about it. It is the caseload. Look at the growth of the caseload. From 1991 through the year 2000, it has gone from 7,500 to 9,500. It continues to increase. What they will tell you is it is increasing beyond a manageable level. We all know something about managers and management. Some of us are better managers than others; some are worse than others. But you have some real problems when the judges cannot follow the decisions that are coming out of the court. They will be the first ones to acknowledge that.

Let me show you a chart referencing the population in relation to the other circuit courts because that is very important. The circuit courts are depicted on this chart—the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, currently the Ninth, the Tenth, and Eleventh. I want to move this chart up a little bit. I am not sure the Presiding Officer can see it. This is the story. It is cold, hard facts.

Here is the Ninth Circuit shown on the chart. It is almost off the chart. The Ninth Circuit will increase 26 percent by the year 2010. It is at 50 million now. That is the problem. We have to split it. The question is, who is going to accept the responsibility? Are we going to put it off? The longer we put it off, the less timely justice prevails.

We owe this to the residents of the States affected. They ought to have something to say about it. We are saying we want it changed. We do not hear that from California. But the other States say they want a change; they want an equitable change.

What have we done? We have reached out and tried to get opinions of people who know something about the problem. Everybody is an expert; and everybody can get an expert. But the Supreme Court agrees that reform is needed. How much higher do you have to go?

Here is what they say:

> The disproportionate segment of this Court's discretionary docket that is consistently devoted to reviewing Ninth Circuit judgments, and reversing them by lop-sided margins, suggests that this error-reduction function is not being performed effectively.

That means justice is not being done. That is Justice Scalia.

> With respect to the Ninth Circuit in particular, in my view the circuit is simply too large.

Isn't that what it shows? That is Supreme Court Justice Sandra Day O'Connor.

> In my opinion the arguments in favor of dividing the Circuit into either two or three smaller circuits overwhelmingly outweigh the single serious objection to such a change.

These are the Supreme Court Justices who have to make these reversals.

I have another chart. You can read, at your leisure, what retired Supreme Court Chief Justice William Burger said.

> I strongly believe that the 9th Circuit is far too cumbersome and it should be divided.

Supreme Court Justice Anthony M. Kennedy:

> I have increasing doubts and increasing reservations about the wisdom of retaining the Ninth Circuit in its historic size, and with its historic jurisdiction. We have very dedicated judges on that circuit, very scholarly judges . . . But I think institutionally, and from the collegial standpoint, that it is too large to have the discipline and control that's necessary for an effective circuit.

We have a hard enough time controlling discipline here, and there are only 100 of us—plus 100 egos. But I will not go into that.

> We (the Ninth Circuit) cannot grow without limit . . . As the number of opinions increases. . . .

That is the Honorable Diarmuid O'Scannlain, a Ninth Circuit judge, I might add.

Our former colleague, Senator Mark O. Hatfield:

> The increased likelihood of intracircuit conflicts is an important justification for splitting the Court.

There you have it, one of our own.

In my opinion, this matter before us is further evidence of the necessity of splitting the court. The circuit is already plagued with activists on the judiciary who bring their causes to the bench with them. I do not think that is appropriate. One simply has to look at the rate of reversals to find the proof. I have gone into that. Now is the time for Congress to stop this unwieldy circuit. I hope we will because our inaction is only going to weaken an already detached and out of control circuit.

Most shocking is that the nominees do little to deflect accusations that they share an activist judicial philosophy. Justice Paez, in his own words, stated that he ''appreciate[s] . . . the need of the courts to act when they must, when the issue has been generated as a result of the failure of the political process to resolve a certain political question. . . .''

He then continues:

> There's no choice but for the courts to resolve the question that perhaps ideally and preferably should be resolved through the legislative process.

I think that statement deserves a great deal of thought and consideration because he is implying that if we don't take care of it through the political process, this judge is going to simply take action into his own hands. I am not ready for that. That, to me, is a flag.

One does not have to be a legal scholar to see that this is a blatant infringement upon the Constitution, the Constitution we rely upon to protect ourselves from improper Government actions. Article I, as I know the Chair is familiar, clearly states that ''[a]ll legislative powers herein granted shall be vested in a Congress of the United States.'' Should this body abdicate its role and confirm nominees who openly defy the Constitution? I hope we will all answer with a resounding ''no.''

Unfortunately, Judge Paez's background goes far beyond activist judicial decisions. I think we should all pause and reflect upon a nomination for which the director of the ACLU in Southern California states:

> It's been a while since we had these kinds of appointments to the federal court. I think it's a welcome change after all the pro-law enforcement people we have seen appointed to the state and federal courts.

That sends another message to me. I am not sure this judge is going to have the balance necessary to protect our law enforcement people. They need a lot of protection. They are hit by the press. They are hit by mistakes. They are hit by the exposure they have out there, protecting our property and protecting us. We owe more to the men and women who risk their lives each and every day to maintain law and order. We owe more to Americans who see crime around every corner. There is a lot of it, and a lot of them see it.

Time and time again, Judge Paez has demonstrated a lack of proper judicial temperament. We should be able to agree that judges should be impartial and not speak out on matters that may appear before their court. I think we do agree on that. Yet Paez, during the California Proposition 209 ballot initiative debate which would have ended racial quotas and discrimination by the State government, labeled the proposal ''anti-civil rights'' and said it would ''inflame the issue all over again without contributing to any serious discussion.''

I am realist enough to recognize that people in California and their elected representation have a better understanding of this than I do. It sounds a little strange and uncomfortable to me.

A judge is expected to remain impartial. Certainly, they should not comment upon efforts by the citizens of California, in their wisdom, to pass a

legal and constitutional ballot initiative. Judicial Cannon 4(A)(1) alone requires that a judge do nothing ''to cast reasonable doubt on the judge's capacity to act impartially as a judge.'' This is not a person who should be deciding cases that affect 50 million people in our circuit court.

Here, again, is the chart that shows the proof of why this court is out of control.

I also find it ironic that supporters of Marsha Berzon are the very people who claim to be advocates of campaign finance ''reform.'' It is interesting because there are some political overtones there. There probably are going to be some more. While quick to target political speech by national parties, they seem to have turned a blind eye to true injustice in our campaign finance system. I am referring to the forced speech that large and radical unions placed upon their willing members. Many of the union members acknowledge that privately; they are a little hesitant to do it publicly.

The majority has worked hard to open the workforce to all Americans and to remove automatic payroll contributions to unions for political ads of which members disapprove. Shouldn't those members have a right? I think so.

Now the Clinton administration has sent us a judicial nominee who has been labeled by the National Right to Work Committee as the ''worst'' Clinton appointee in terms of labor issues. I wonder how objective that person is.

While representing the Nation's most powerful unions, Ms. Berzon stated that mandatory union dues ''implicates first amendment values only to a very limited degree.'' I wonder how limited that is. Thankfully, the Supreme Court struck down this logic in Communication Workers of America v. Beck.

Look at the Ninth Circuit's already startling reversal rate by the Supreme Court. In 1997, it was 95 percent. One can imagine an even more detached judiciary with the addition of Ms. Berzon. This period this chart shows is for the years 1994 through 2000: 86 percent of the decisions reversed, only 14 upheld. That is a reflection on the court, and it is a reflection on us for not doing something about it.

Mr. Paez is no stranger to the reform debate. During a time when we expect firm and fair enforcement of our Nation's financing laws, Judge Paez gave one individual an unusually light sentence after he admitted to accepting more than $250,000 in illegal campaign contributions. This is the largest acknowledged receipt of illegal contributions in congressional history, except for POGO maybe. We have 300-some-odd thousand in reward money out there that we have to investigate. There are going to be some heads rolling once that is made public and the public and this body understands how that system of whistleblowers works. What was the sentence? The sentence was 1 year on probation and 200 hours of community service. This is for $250,000 illegal campaign contributions. This is the real problem in campaign financing.

I could go on for a long time. I see the Senator from Maryland waiting to be recognized. I could continue listing the seemingly countless reasons why these two nominees should be rejected by this Senate. But, I find that unnecessary. There really is only one reason. Because the people of the Ninth Circuit deserve better. They deserve better.

They deserve a justice system that reflects the temperament of the society. They deserve a judiciary that creates dependable case law by following judicial precedent. They deserve a judiciary that provides swift yet fair justice.

Most importantly, they deserve a judiciary that follows the Constitution and the rule of law and objectivity. For these reasons, I urge my colleagues to reject the two nominations before us prior to the vote this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business, ensuring that it doesn't take time from either side on this debate. This has been cleared with the leadership on the other side.

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

(The remarks of Ms. MIKULSKI pertaining to the introduction of S. 2229 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. SMITH of New Hampshire. I thank my colleague from Alaska for his comments in support of the opposition to these two nominees.

I yield myself 5 minutes to summarize.

We have a circuit court, the Ninth Circuit, widely considered by most objective observers a renegade circuit that is out of the mainstream of American jurisprudence, a circuit court that has had decisions overturned by the Supreme Court nearly 90 percent of the time in the past 6 years. That is a very high percentage of the number of cases they have. It is the largest circuit in the country. It includes the 7–7 overturn rate in 1999–2000 and 27–28 reversal rate in 1996–1997. In fact, 17 of the decisions in 1996–1997 out of the 27 were overturned unanimously, which means both the liberal and the conservative Justices on the Supreme Court agree that these decisions were so outrageous, they had to be overturned.

It is a court that routinely issues activist opinions, opinions that conflict with the basic American constitutional and legal principles. We have had a great debate on some of the outrageous decisions that have come down.

As I have said, these two new nominees will, if approved, add to that court in a way that is going to continue to have cases overturned. These two judges, Ms. Berzon as well as Mr. Paez, have both indicated by their own track records they will be making similar decisions. I think this is most disturbing.

In the case of Marsha Berzon, we are talking about a potential judicial activist on labor issues. As I said before, it doesn't matter what the issues are, what one believes in personally. The job as a judge is to interpret the Constitution in a way that does not put personal views on the court but, rather, enforces the Constitution.

Ms. Berzon has described her practice: From the outset of my law practice, an important client has been the AFL–CIO. Since 1975, I have devoted a substantial part of my practice to aiding labor organizations affiliated with the AFL–CIO at the Supreme Court and other appellate litigation.

There is nothing wrong with that on the surface. She certainly has a right to represent anyone she chooses to represent if she is asked to do it in a court of law.

The question is, Why talk about that when she knows that cases involving labor could come before her? Imagine what would happen on this floor. We have heard a lot of people outraged by what we have done, getting a good, thorough debate on the two nominees.

Imagine if we had a nominee before the Senate, the outcry from the other side of the aisle if we had a guy or gal come before the Senate, a nominee of any President—say of President Bush in the future—and this person said, ''I have since 1975 devoted a substantial part of my practice to fighting gun control and have been affiliated with the National Rifle Association and gun owners of America in many cases before the courts of America.''

Imagine what we would hear on the other side. They have a right to air that if they wish. I think it would be justified if a person were to say he was going to promote the interests of any particular group or industry.

It is not new to raise the debate on issues about a particular nominee. I get tired of hearing talk that we are wrong to raise these issues because these judges happen to be liberals.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, it is not a question of liberal or conservative. As I recall, when the Democrats were in control of the Senate during 6 years overlapping the Reagan and Bush Presidencies, we voted to confirm about 99 percent of the nominations of President Reagan and President Bush.

Justice Scalia is considered one of the most conservative Members of the Supreme Court. As I recall, he got a unanimous vote from the Republicans and Democrats in the Senate Judiciary Committee. I believe he had a unanimous vote on the floor of the Senate.

Let's not use this shibboleth. We have also had a number of judicial nominees who said they were members of the National Rifle Association and a number who have said they have defended conservative organizations. I

never remember a single one having difficulty being confirmed. Let's not use that.

If we want to assume for the sake of argument that the Ninth Circuit is dominated by liberal activist judges, these critics urge the Senate to reject the confirmation of new judges. They are not letting two basically moderate judges come, thereby adding to the mix. It does not make a great deal of sense to me that they want to keep the court exactly the way it is.

I ask unanimous consent to have printed in the RECORD a letter from Judge Procter Hug that points out there are a number of circuits that have far higher reversal rates than the Ninth Circuit.

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

UNITED STATES COURTS
FOR THE NINTH CIRCUIT,
Reno, NV, March 2, 2000.

Hon. ORRIN HATCH,
Chairman, Senate Judiciary Committee, Russell Senate Office Building, Washington, DC.

Hon. PATRICK LEAHY,
Ranking Member, Senate Judiciary Committee, Russell Senate Office Building, Washington, DC.

DEAR SENATORS HATCH AND LEAHY: I write on behalf of the Ninth Circuit Court of Appeals to emphasize the importance of filling the judicial vacancies on this court.

During the four years that I have been Chief Judge of the Ninth Circuit, we have had up to ten vacancies on the court of appeals. We now have six vacancies, two have been vacant since 1996, two since 1997, one since 1998, and one since 1999. It has been very difficult to operate a court of appeals with up to one-third of our active judges missing. As you know, I have worked with the White House and the Senate in an attempt to fill these vacancies in a timely manner, and I am continuing to do so.

As Chief Judge, I have implored our active judges and our senior judges, on an emergency basis, to carry a larger caseload during this interim while the vacancies are being filled, in order to do our best to avoid building up a backlog of cases with the consequent delay for the litigants.

Our judges have been most responsive in hearing considerably more cases than would ordinarily be assigned. I am very grateful, but I cannot expect the judges to do this, on an emergency basis, for the indefinite future.

In addition, we have called upon the district judges within our circuit to serve on panels, as well as visiting judges from other circuits. However, this is not the ideal way to perform the services of a court of appeals. The appeals from the Ninth Circuit should be heard by the judges of the Ninth Circuit Court of Appeals.

Despite all of these efforts, we do have a backlog of cases, which principally affect civil cases, some of which have had to wait a year or more to be heard. My major concern is that we have had a significant increase in filings this past year, which considerably exceed the number of cases we are able to terminate even with this enhanced effort. In the year ending December 31, 1999, the number of appeals filed was 9,444, and the number of appeals terminated was 8,047. This is a difference of over 1,000 cases.

If our six vacancies were filled and those judges were on our court, it would mean we could decide an additional 800 cases on the merits. If they are not filled, I can anticipate considerable delay for the litigants of this circuit.

Our court is very pleased that the leadership of the Senate has committed to hold a floor vote this month on nominees Judge Richard Paez and Marsha Berzon. We have every hope that they will be confirmed. We would ask, however, that the other nominees, Barry P. Goode, James F. Duffy, Jr., Richard C. Tallman, and Johnnie B. Rawlinson receive hearings before the Judiciary Committee in the near future. It is vital to our Ninth Circuit Court of Appeals.

By the way of emphasizing the need brought about by our increasing caseload and the importance of filling these vacancies, I might note a little historical perspective. In 1980, shortly after I came on the court of appeals, we had 23 active judges with a caseload of 3,000 appeals. Today, with 6 of our 28 judgeships vacant, we have 22 active judges to hear over 9,000 appeals. You can see the importance of proceeding promptly with the confirmation process.

I might make one other observation—I have noted that the reversal rate of the Supreme Court in one unusual year, 1996–97, has assumed some importance in the hearings. Even in that year, when the Ninth Circuit's reversal rate was 95%, it was less than five other circuits—the Fifth, Second, Seventh, D.C., and Federal Circuits—all with a 100% reversal rate. In the 1997–98 term, the Ninth Circuit's reversal rate was 76%, equivalent to that of the First Circuit's 75%, and less than the Sixth and Eleventh Circuits' 100% reversal rate. In the 1998–99 term, the Ninth Circuit's reversal rate was 78%, equivalent to that of the Second and Federal Circuits' 75%, and less than the Fifth Circuit's 80%, the Seventh Circuit's 80%, and the Eleventh Circuit's 88% reversal rates.

However, the important point to emphasize, in my opinion, is that the reversal rate has little to do with the effectiveness of any circuit court of appeals. For example, the 13, 14, or 20 cases reversed in a term were out of 4,500 cases decided on the merits in the Ninth Circuit. The reversal rate in any circuit should also have little to do with the nomination or confirmation of judges to fill vacancies on a court.

Our judges on the Ninth Circuit Court of Appeals will certainly appreciate any efforts on your parts to afford the judicial nominees a hearing in the near future and a prompt vote on the floor of the Senate.

Yours sincerely,

PROCTER HUG, Jr.,
Chief Judge.

REVERSAL RATE 1996–97 TERM

Revised 7/07/97

	Total cases	Number reversed	Percent reversed for circuits
Total	80	57	76
Org.	1	0	0
1st	1	1	100
2d	6	6	100
3d	3	2	67
4th	2	1	50
5th	5	4	80
6th	3	2	67
7th	3	3	100
8th	8	5	63
9th	21	20	95
10th	2	1	50
11th	6	1	17
D.C. Clr	1	1	100
Federal	1	1	100
Arm. Forces	1	0	0
Dist. Cts	8	4	50
State Cts	8	5	63

REVERSAL RATE 1997–98 TERM

(Signed opinions issued amended 7/02/1998)

Circuits	Total cases	Number reversed	Supreme Court reversal rate (percent)	Reversal average for all circuits (percent)
Total	91	54	59	55
1st	4	3	75	
2d	3	1	33	
3d	4	1	25	
4th	2	1	50	
5th	12	6	50	
6th	3	3	100	
7th	7	4	57	
8th	13	8	62	
9th	17	13	76	
10th	1	0	0	
11th	2	2	100	
D.C. Cir	9	4	44	
Federal	2	1	50	
Arm. Forces	1	1	100	
Dist. Cts	2	1	50	
State Cts	8	5	63	
Org	1	0	0	

Reversal Rate Average = total circuit reversal rates divided by number of circuits.

REVERSAL RATE 1998–99 TERM

(Signed & per curiam opinions issued as of June 23, 1999)

	Total cases	Number affirmed	Number reversed	Reversal rate (percent)
Total	81	24	57	70
1st	0	0	0	0
2d	4	1	3	75
3d	6	2	4	67
4th	4	2	2	50
5th	5	1	4	80
6th	4	2	2	50
7th	5	1	4	80
8th	3	2	1	33
9th	18	4	14	78
10th	4	3	1	25
11th	8	1	7	88
D.C. Cir	2	1	1	50
Federal	4	1	3	75
Arm. Forces	1	0	1	100
Dist. Cts.	3	1	2	67
State	10	2	8	80
Org	0	0	0	0

Mr. LEAHY. Mr. President, four out of seven recent reversals were decisions written by either a Reagan or Bush appointee from the Ninth Circuit. Somehow it wasn't brought out on the other side.

As far as showing fairness, even for Clarence Thomas, who had a tie vote, with Republicans and Democrats voting against him in the Senate Judiciary Committee, the Democrats, being in charge of the Senate, still allowed him to come forward for a vote even though normally that would have killed it.

The circuits should not all be the same. Different circuits have different attitudes. They come from different parts of the country. If they were to be all the same, we might as well just have one big circuit for the whole country. The Second Circuit is different from the Third Circuit. The Third is different from the Fifth, and so on.

I remind my friends on the other side, if we are going to have a litmus test for a circuit, let us understand what this means when applied to the Fourth Circuit. That is the most conservative and activist in the country. Ironically enough, we forget the fact the very conservative circuit can be a very activist circuit. Nobody would deny it is one of the most activist circuits in the country, rewriting legislation willy-nilly.

If the argument is accepted from the other side, then no nominee other than one with a more liberal judicial philosophy should be confirmed in the foreseeable future to the Fourth Circuit. I am not trying to make that argument. But if you follow their argument, that is the case.

Mr. President, I thank the Majority Leader for bringing this matter to a vote. After two years, it is time to vote on the nomination of Marsha Berzon. She is one of the most qualified nominees I have seen in 25 years, and Senator HATCH has agreed with that assessment publically. He voted for her in the Judiciary Committee.

Marsha Berzon is an outstanding nominee. Her legal skills are outstanding, her practice and productivity have been extraordinary. Lawyers against whom she has litigated regard her as highly qualified for the bench. She was first nominated in January 1998, some 26 months ago. By all accounts, she is an exceptional lawyer with extensive appellate experience, including a number of cases heard by the Supreme Court. She has the strong support of both California Senators and a well-qualified rating from the American Bar Association.

She was initially nominated in January 1998. She participated in an extensive two-part confirmation hearing before the Committee back on July 30, 1998. Thereafter she received a number of sets of written questions from a number of Senators and responded in August, two years ago. A second round of written questions was sent and she responded by the middle of September, two years ago. Despite the efforts of Senator FEINSTEIN, Senator KENNEDY, Senator SPECTER and myself to have her considered by the Committee, she was not included on an agenda and not voted on during all of 1998. Her nomination was returned to the President without action by the Committee or the Senate in October 1998.

The President renominated Ms. Berzon in January 1999. She participated in her second confirmation hearing in June, was sent additional sets of written questions, responded and got and answered another round. I do not know why those questions were not asked in 1998.

Finally, on July 1, 1999, almost eight months ago, the Committee considered the nomination and agreed to report it to the Senate favorably. After more than two years the Senate will, at long last, vote on the nomination. Senators who find some reason to oppose this exceptionally qualified woman lawyer can vote against her if they choose, but she will finally be accorded an up or down vote. That is what I have been asking for and that is what fairness demands.

Senator HATCH was right two years ago when he called for an end to the political game that has infected the confirmation process. These are real people whose lives are affected. Marsha Berzon has been held hostage for 26 months, not knowing what to make of her private practice or when the Senate will deem it appropriate finally to vote on her nomination.

Last fall I received a Resolution from the National Association of Women Judges. The NAWJ urged expeditious action on nominations to federal judicial vacancies. The President of the Women Judges, Judge Mary Schroeder, is right when she cautions that ''few first-rate potential nominees will be willing to endure such a tortured process'' and the country will pay a high price for driving away outstanding candidates to fill these important positions. The Resolution notes the scores of continuing vacancies with highly qualified women and men nominees and the nonpartisan study of delays in the confirmation process, and even more extensive delays for women nominees, found by the Task Force on Judicial Selection formed by Citizens for Independent Courts. The Resolution notes that such delay ''is costly and unfair to litigants and the individual nominees and their families whose lives and career are on hold for the duration of the protracted process.'' In conclusion, the National Association of Women Judges ''urges the Senate of the United States to bring the pending nominations for the federal judiciary to an expeditious vote so that those who have been nominated can get on with their lives and these vacancies can be filled.'' We received that Resolution in October 1999 and I included it in the RECORD at that time—October 1999.

There are judicial emergencies vacancies all over the country. The Fifth Circuit Court of Appeals has had to declare that entire Circuit in an emergency. Its workload has gone up 65 percent in the last 9 years; but they are being forced to operate with almost one-quarter of their bench vacant despite highly qualified nominees having been sent to the Senate by the President.

Continuing dilatory practices demeans the Senate, itself. I have great respect for this institution and its traditions. Still, I must say that the use of secret holds for extended periods that doom a nomination from ever being considered by the United States Senate is wrong and unfair and beneath us. After four years with respect to Judge Paez and two years with respect to Marsha Berzon, it is time for the Senate to vote up-or-down on these nominations. I, again, ask the Senate to be fair to these judicial nominees and all nominees. For the last few years the Senate has allowed one or two or three secret holds to stop judicial nominations from even getting a vote. That is wrong.

The Washington Post noted last year:

> [T]he Constitution does not make the Senate's role in the confirmation process optional, and the Senate ends up abdicating responsibility when the majority leader denies nominees a timely vote. All the nominees awaiting floor votes * * * should receive them immediately.

The Florida Sun-Sentinel has written:

> The ''Big Stall'' in the U.S. Senate continues, as senators work slower and slower each year in confirming badly needed federal judges. * * * This worsening process is inexcusable, bordering on malfeasance in office, especially given the urgent need to fill vacancies on a badly undermanned federal bench. * * * The stalling, in many cases, is nothing more than a partisan political dirty trick.

Nominees deserve to be treated with dignity and dispatch—not delayed for two or three or four years.

Acting to fill judicial vacancies is a constitutional duty that the Senate—and all of its members—are obligated to fulfill. In its unprecedented slowdown in the handling of nominees since the 104th Congress, the Senate is shirking its duty. That is wrong and should end.

Today the New York Times included an editorial entitled ''Ending a Judicial Blockade'' in which it notes: ''The quality of justice suffers when the Senate misconstrues its constitutional role to advise and consent as a license to wage ideological warfare and procrastinate in hopes that a new president might submit other nominees.''

In 1992, a Democratic majority in the Senate acted to confirm 66 judicial nominations for a Republican President in his last year in office. With the confirmations of Judge Paez and Marsha Berzon to the Ninth Circuit today, this Senate will have confirmed only seven judicial nominations so far this year. I look forward, at long last, to the confirmation of Marsha Berzon and ask other Senators to join with me to work to confirm many, many more qualified nominees to the federal vacancies around the country in the weeks ahead this year.

Mr. President, I yield the floor.

Mr. SMITH of New Hampshire. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, several comments have been made today, I think correctly so. I do not think the information was out. But it is interesting we now have a capital sentencing case, Arreguin v. Prunty, in which Judge Paez was reversed, as of yesterday. Several people had said no criminal case of his had been reversed. Those statements were correct. That has changed now since March 9. So here we have this judge being reversed, this judge we are now talking about putting on the circuit court.

In this case, the defendant was an accomplice to robbery and murder and he actively encouraged the murder of an innocent civilian.

Under California law, an accomplice can only be sentenced to life without parole or death if he was a ''major participant'' in the capital crime.

In Arreguin, an impartial jury unanimously convicted the defendant as an accomplice to robbery and murder.

The State trial judge instructed the jury on what a ''major participant'' was. The jury sentenced the defendant to life without parole.

The California appellate courts recognized that the State trial judge made a technical error in giving the ''major participant'' instruction, but held that the record clearly showed that the defendant was in fact a ''major participant'' in the robbery-murder and affirmed the sentence under the harmless error rule.

On habeas review, however, Judge Paez held that the Constitution somehow created a liberty interest in receiving a perfect jury instruction—even if he was clearly a major participant in the robbery-murder.

This is a classic example of the continued liberal activist interpretation of the Constitution by Judge Paez.

Yestreday, March 8, 2000, a unanimous panel of the Ninth Circuit reversed Judge Paez and reinstated the sentence of the defendant to life without parole.

The Ninth Circuit agreed with and quoted the California appellate court, stating:

> . . . under any reasonable interpretation of the evidence, [Arreguin] was a major participant and the error was harmless beyond a reasonable doubt.

The [California] court further stated:

> Standing within arms's reach of an armed accomplice exhorting, ''Shoot 'im, shoot 'im'' about the victim, immediately after another accomplice forcibly broke the truck window, warrants no other reasonable conclusion than that appellant was a major participant. Appellant's testimony that he did not participate at all was necessarily rejected by the jury in its verdict. This harmless error analysis is sufficient. . . . Therefore, we reverse the grant of the writ.

Once again, this shows a continuing liberal, activist interpretation of the Constitution that even the Ninth Circuit could not agree with. Judge Paez will not move the Ninth Circuit into the mainstream, he will make the problem. Accordingly, I will vote against this nominee.

Judge Paez will not move the Ninth Circuit into the mainstream; he is going to make it the problem.

That is one of the major reasons why I am not going to vote for Judge Paez, and in my view, respectfully, I do not think others should either.

I also want to mention the Senate has received over 10,000 signatures on petitions opposing the Berzon nomination because of her extreme position on labor matters. Here are the 10,000 signatures. That is a lot of signatures. That is a lot of time people take to oppose a judge, and not even a Supreme Court Justice but an appellate court judge or circuit court judge.

There is a lot of opposition out there. Also, I might add, there is a lot of knowledge about these nominees.

They should be rejected.

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

Mr. SMITH of New Hampshire. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SMITH of New Hampshire. 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. SMITH of New Hampshire. I ask unanimous consent time be charged equally to both sides, in the quorum.

Mr. LEAHY. Reserving the right to object, and I shall not, I think it is probably a moot point right now. I see the distinguished Democratic leader on the floor going to seek recognition.

Mr. SMITH of New Hampshire. I just wanted to protect the time I had. I yield the floor.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I will use my leader time so as not to take time of either side.

I want to add my voice especially to those of the distinguished senior Senator from Vermont and the Senator from California, who have spoken so eloquently on this matter for what seems to be several days. I want to make three points.

I think the most disconcerting aspect of this debate, for those who may be watching, is the concern that I would have, having heard many of our colleagues express their virtual desire to influence the Ninth Circuit and the decisions made there. Our Founding Fathers did an extraordinary job of creating the checks and balances in our constitutional system. As I travel around the world and talk to leaders from other parts of the world, who have not enjoyed that delicate balance between the judiciary, the executive, and legislative branches, the lament I hear all around the world is: We don't have an independent judiciary. We have a politicized judiciary. Because it is politicized, we don't have the rule of law. Because we don't have the rule of law, we don't have the predictability in law that creates the extraordinary stability that you have in your country.

These leaders tell me: We want the rule of law, and we recognize that if we are ever going to acquire it, what we have to do is to depoliticize our judiciary, and we have to ensure that we do what you have done—respect its independence.

There is a huge difference between voting against somebody's philosophy or experience or qualifications based upon past judgments in a particular trial—and Senators have every right to do so on the basis of whatever qualifications they may choose. All of those criteria, it seems to me, are fair game. But if we are saying we ought to vote against someone, or for someone, because we want to influence the direction of a certain circuit, I think we get precariously close to creating the kind of politicization of the judiciary that, to me, is frightening. We need to be very, very careful. For 200 years, we have been able to maintain that independence and discipline it takes to ensure the rule of law will always prevail.

I hope as we cast our votes, people will cast them based upon whether they think Judge Paez and Marsha Berzon are capable—whether they have the right qualifications. And, frankly, if they want to throw in philosophy, so be it. But let us not say this ought to be some judgment on the Ninth Circuit. Let us not say that somehow we want to send a message to the Ninth Circuit or any circuit, for that matter. That is not our role. That is not our responsibility. In the Constitution, the Founding Fathers had no design, no possible thought that we as Senators ought to be influencing in any way decisions made by the court, an independent and coequal branch of government.

That is my first point.

My second point is that I believe there is a time and a place for us to consider any nominee and, once having done so, we need to get on with it. I cannot imagine that anybody could justify, anybody could rationalize, anybody could explain why, in the name of public service, we would put anyone through the misery and the extraordinary anguish that these two nominees have had to face for years. Why would anyone ever offer themselves for public service if they knew what they had to go through was what these two people have had to experience and endure?

I do not know who is going to be President next. I do not know who is going to be in the majority in the next Congress. But let's just assume that the roles are reversed and we, the Democrats, are in the majority and we have a Republican President—which I do not think is going to happen. If that happens, do we really want to wait 4 years to take up a Republican nominee? Do we want to pay back our colleagues for having made these people wait as long as they have? I know that I have heard from people over the last several months: that we should do to them what they have done to us.

But, I do not want to hear about that in this body. There is going to be no payback. We are not going to do to Republican nominees, whenever that happens, what they have done to Democratic nominees. Why? Because it is not right.

Will we differ? Absolutely. Will we have votes and vote against nominees on the basis of whatever we choose? Absolutely. But are we going to make them wait for years and years to get their fair opportunity to be voted on and considered? Absolutely not. That is not right. I do not care who is in charge. I do not care which President is making the nomination. That is not right.

I hope somehow the nominations that are still pending will not be subjected to the same extraordinary, unfair process to which these nominees were subjected. We have 34 nominees pending. There is no reason why every single one of them cannot be confirmed or at least considered in the next few months.

The last point I will make is one I have made a couple of times before, but it bears repeating. This has been a very difficult process for a lot of people, and there are a lot of people who deserve some credit. I have already cited the extraordinary contribution of the senior Senator from Vermont, our ranking Judiciary Committee member. I have already noted the efforts made by the California delegation, especially Senator BOXER. Senator HATCH is here. I note his cooperation and the effort he has made in getting us to this point.

I thank the majority leader. He and I have talked about this on several occasions, and it is never easy when you have dissent within your own caucus to make decisions. He made a commitment last year, and he held to that commitment this year. He said we would have these votes, up or down, on the confirmation of these two judicial nominees before the 15th of March, and we are going to do that. I publicly thank him and commend him for holding to that commitment. It is not easy. He has done a difficult thing, but he has done it.

I hope today we can celebrate not only the confirmation of two judges, but renewed comity between our parties when it comes to all nominees—regardless of party, regardless of administration, and regardless of who controls the Senate. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent, since we need a little more time and I need to make some remarks on this, that the remaining time be 3 minutes for the distinguished Senator from New Hampshire, Mr. SMITH; 3 minutes for the distinguished Senator from Vermont, Mr. LEAHY; and 8 minutes for myself.

Mr. LEAHY. Reserving the right to object, and I shall not object, as I understand, normally I would have had 14 minutes. This will accommodate the distinguished Senator from Utah and the distinguished Senator from New Hampshire. Do I understand that following that time, we then will have the vote? Is that part of the Senator's request?

Mr. HATCH. That is part of my unanimous consent request.

Mr. LEAHY. I have no objection.

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

Mr. HATCH. Mr. President, perhaps I can start first.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I was listening in the past hour to the eloquent statement of Senator MURKOWSKI explaining why the Ninth Circuit ought to be split. His statement comes 2 days after Senator MURKOWSKI and I introduced legislation that would split that circuit into two more manageable circuits.

It strikes me that this subject is precisely the one that this body ought to be debating today as the real solution to the stated concerns about the Ninth Circuit.

As I explained recently on the Senate floor, the massive size of the circuit's boundaries has confronted the circuit's judges with a real difficulty in maintaining the coherence of its circuit law.

I will not let my concerns regarding the Ninth Circuit—many of which appear to me to be structural in dimension—affect my judgment on the confirmation of Judge Paez, who is an innocent party with regard to that circuit's dubious record. Doing so would force him into the role of Atlas in carrying problems not of his own making.

Mr. President, I rise today to speak on the nomination of federal district Judge Richard Paez to the Ninth Circuit Court of Appeals.

I have to say, I have served a number of years in the Senate, and I have never seen a ''motion to postpone indefinitely'' that was brought to delay the consideration of a judicial nomination post-cloture.

Indeed, I must confess to being somewhat baffled that, after a filibuster is cut off by cloture, the Senate could still delay a final vote on a nomination. A parliamentary ruling to this effect means that, after today, our cloture rule is further weakened.

But on occasion, like Justice Holmes' statement about the law, the life of the Senate is not logic but experience. And I have no interest in quibbling further with this ruling.

As I turn to the merits of the situation before us, I want to begin by commending the efforts of my colleague from Alabama for his legal acumen and tenacity in presenting his case why a further postponement in considering Judge Paez's nomination would be warranted. I am proud to have worked with Senator SESSIONS on legislation involving civil asset forfeiture, and involving youth violence, and a whole raft of other issues, as well. Senator SESSIONS' prosecutorial talents have not left him, and my respect for him as a principled advocate has never been greater than today.

The same goes for Senator SMITH.

Still, I must take exception to the point that he has so forcefully advocated. I must explain why the time has finally come for an up-or-down vote to be cast on Judge Paez's nomination.

Senator SESSIONS' request for a postponement is grounded in Judge Paez's handling of the Government's case against John Huang.

Let us begin with the determinative fact: Though Mr. Huang may have been involved in illegalities in connection with the Clinton-Gore reelection campaign of 1996, he was not charged with a single such count.

The Assistant United States Attorney who was asked why no such charges were brought responded by saying that: ''we investigated all the allegations and felt that the charges in this case fully addressed his culpability.''

Ultimately, Mr. Huang pleaded guilty to a single felony charge of conspiring to violate Federal election law. In that plea, he admitted to laundering a $2,500 contribution to an unsuccessful contestant in Los Angeles' 1993 mayoral campaign, and $5,000 to an entity called the California Victory Fund '94, the funds of which were shared by a Democrat candidate, the Democratic Party, and two Democrat committees.

Prosecutors—in exchange for Mr. Huang's guilty plea to this single charge—recommended that Mr. Huang receive no jail time, but instead be ordered to pay a $10,000 fine and provide 500 hours of community service.

Judge Paez accepted the prosecutor's recommendation, which was consistent, by the way, with the report of the probation office.

So with this factual premise, I would like to address Senator SESSIONS' argument that Mr. Huang's sentence—which he concedes was the one recommended by the prosecution—was insufficiently harsh.

From that premise, there are only a few possibilities:

First, that Judge Paez should have ignored the Federal prosecutors and handed down a stiffer penalty than the one they recommended. But let's consider this. From a man like Senator SESSIONS who believes—as I do—in judicial restraint, it is anomalous to suggest that judges should depart from the adversarial system and impose their own view of an appropriate punishment.

A second alternative is that the prosecution should have recommended a stronger punishment, and that Judge Paez ought to have accepted it. That may indeed be correct. I am on record as expressing similar concern about the level of punishment sought. I am very upset about what the prosecutors did in this matter.

But the problem with this hypothesis is that it is just that —a hypothesis. The prosecution did not recommend a stronger sentence. And we should not castigate Judge Paez for the acts of another—in this case, the prosecution—by holding him accountable for the prosecution's failure to make a stronger case against John Huang.

In any event, neither of these scenarios is one in which Judge Paez can fairly be faulted for not acting more aggressively.

Of course, there is nothing to suggest any sort of impropriety pursuant to which Judge Paez acted in sync with prosecutors to ensure a lenient handling of a case so sensitive to the Clinton administration. Nor is there any evidence at all to suggest that a departure was made in this case from the automated, random case-assignment system utilized in the Federal court for the Central District of California.

Yes, I believe some inside and outside this administration have engaged in fraud upon fraud against the laws, ethical norms, and the people of this country.

But I cannot accept, in the absence of any supporting evidence, that two

branches of Government engaged in a conspiracy to alleviate a defendant of responsibility for violations of Federal law.

This speculative theory should not become the basis for any further delay by the United States Senate. There is no reasonable basis—let alone any hint of evidence—to suggest that further delay would amount to anything other than further delay.

Of course, I can understand and appreciate fully why it is that some of my colleagues remain so dubious about the results of the Huang prosecution. It is because that prosecution was born out of an egregious conflict of interest with the President's own prosecutors—subject always to his own oversight and control—being asked to investigate a matter that, if ultimately prosecuted in an appropriately zealous fashion, could have led to enormous embarrassment to the President.

The result is that the prosecution's decision not to prosecute any of the wrongdoing alleged in connection with the President's reelection campaign can be objectively viewed as a cover-up, and as favoritism to the President. No less a person than Senator SESSIONS, among many others in this body, retain such doubts. And if they have doubts, it is to be expected that the American people have doubts, thereby undermining the public's faith in the rule of law in this country.

This is precisely why I called so insistently upon our Attorney General to appoint an independent prosecutor to investigate all alleged illegalities involving our Federal campaign laws in connection with the 1996 Clinton-Gore campaign.

The Judiciary Committee, under my direction, was the first to formally request the appointment of an independent counsel to investigate alleged illegalities in connection with the President's 1996 reelection campaign. And the Judiciary Committee has formed a formal task force, led by Senator SPECTER, to inquire into the Department of Justice's handling of this and other campaign finance investigations.

But for purposes of our vote today, the determinative point is that our concerns about the manner in which our Federal campaign finance laws have been flouted do not at all implicate Judge Paez.

So we must now proceed to put this matter to a vote, and end the lengthy delay in this matter by choosing—on the basis of the abundant evidence known to us at this time—whether it shall be yea or nay on Judge Paez' nomination. No further information or delay is needed to cast an intelligent and knowing vote on this nomination.

Mr. President, I thank my colleagues for allowing me to make this statement.

The PRESIDING OFFICER. Who yields time?

The Senator from Vermont.

Mr. LEAHY. Mr. President, I know we are about to finish this debate. I do want to compliment the two Senators from California for bringing before us two fine judicial nominees: Judge Paez and, I hope soon to be, Judge Marsha Berzon.

I compliment the distinguished Democratic leader for what he said on the floor—a true leadership statement. I compliment my friend from Utah, Senator HATCH, who says we should go forward and defeat this motion to, in effect, kill, by parliamentary maneuver, one of these nominations.

I agree with what the Senator from South Dakota, our distinguished Democratic leader, said, that we should not get ourselves in a position where there is payback. Whoever the next President might be, if it is a Republican President do we start doing the same things to him the Republicans have done to President Clinton? That should not be done in judicial nominations. We should protect the integrity and the independence of our Federal courts.

I have served here for 25 years. I love and revere this body. The day I leave the Senate, I will know that I have left the finest time of my life, the best and most productive time of my life, the time that I pass on to my children and my grandchildren, by being 1 of 100 men and women whom I respect and have looked forward to working with every day. But that is because I think of this body as being the conscience of the Nation.

If we now use a parliamentary procedure, something totally unprecedented on a Federal judgeship following a cloture motion, then we shame the Senate. We should not.

Judged by any traditional standards of qualifications, competence, temperament, or experience, both Marsha Berzon and Judge Paez should be confirmed. They will be good judges. They will probably be even great judges. Their commitment to law and justice will serve the people of their circuit and our country.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). Who yields time?

Mr. SMITH of New Hampshire. Mr. President, I yield 1½ minutes to the distinguished Senator from Alabama.

Mr. SESSIONS. Mr. President, I would like to sum up briefly and say there is new evidence that Judge Paez, a sitting district judge, while being nominated to the Ninth Circuit, under nomination by the President of the United States, found on his docket—rightly or wrongly, out of 34 judges—the John Huang case, and he accepts a plea bargain that did not require Huang to plead at all to the $1.6 million in illegal campaign money he raised for the Democratic National Committee, for the Clinton-Gore campaign.

He pled guilty only to a small contribution in the city of Los Angeles. He was given immunity for that amount.

When the guidelines were calculated based on the evidence the judge had at that time, he should have added two additional levels for having a substantial part of the scheme being outside the United States, two to four additional levels for being an organizer or a manager, and two additional levels for violating a position of trust as the vice president of a bank. Those are levels that should have been added by the judge. He failed to do so. In so doing, he was able to find a level of eight, the highest possible level in which he could give this individual zero time in jail, straight probation, and immunity on the most serious charge. I believe it is wrong, and we need to have a hearing on it to find out how it happened.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I don't apologize for exercising my rights under the Senate rules and the Constitution to advise and consent and speak against any judge, as did the other side on William Rehnquist, twice, and four or five other judges in the last 25 or 30 years, to name a few.

In response to what Senator SESSIONS said, his motion is very important in regards to Judge Paez. I ask my colleagues to consider one question: What if it was not random that Paez got the John Huang case? What if? Well, if you want to put the guy on the court and find out later, that is up to you.

Finally, this is an activist court. This is a court that has been overturned 209 percent of the time. We are putting two judges on it, one who says that a member of a union can't resign in a strike no matter what the reason, and, finally, Paez, who is opposed by the U.S. Chamber and who believes that a defendant cannot carry a Bible into a courtroom, much as that Bible sits here on the desk of the Presiding Officer right now. Those are the kinds of people we are putting on the bench.

I strongly urge that both of these nominees be rejected and that Senator SESSIONS' motion be supported.

I yield the floor.

The PRESIDING OFFICER. All time has expired.

The question is, Will the Senate advise and consent to the nomination of Marsha L. Berzon, of California, to be United States Circuit Judge for the Ninth Circuit?

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state the point of order.

Mr. SESSIONS. I understand the Vice President is in the Chamber. Under the Senate rules, a person who has a personal conflict of interest in a vote is not allowed to vote. I make a parliamentary inquiry——

Mr. LEAHY. Regular order.

Mr. SESSIONS. As to whether or not the Vice President should be required to recuse himself under these circumstances on the vote.

The PRESIDING OFFICER. The right of the Vice President is in the Constitution. The question is on confirmation of the nominations.

Mr. SESSIONS. Mr. President, may the Vice President exercise his discretion and recuse himself?

Mr. LEAHY. Mr. President, regular order.

The PRESIDING OFFICER. Debate is not in order. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from Colorado (Mr. CAMPBELL) are necessarily absent.

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

The result was announced—yeas 64, nays 34, as follows:

[Rollcall Vote No. 38 Ex.]

YEAS—64

Akaka	Fitzgerald	Mikulski
Baucus	Frist	Moynihan
Bayh	Graham	Murray
Bennett	Harkin	Reed
Biden	Hatch	Reid
Bingaman	Hollings	Robb
Boxer	Inouye	Rockefeller
Breaux	Jeffords	Roth
Bryan	Johnson	Santorum
Burns	Kennedy	Sarbanes
Byrd	Kerrey	Schumer
Chafee, L.	Kerry	Smith (OR)
Cleland	Kohl	Snowe
Collins	Kyl	Specter
Conrad	Landrieu	Stevens
Daschle	Lautenberg	Thompson
Dodd	Leahy	Torricelli
Dorgan	Levin	Warner
Durbin	Lieberman	Wellstone
Edwards	Lincoln	Wyden
Feingold	Lugar	
Feinstein	Mack	

NAYS—34

Abraham	Enzi	McConnell
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bond	Grams	Roberts
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Cochran	Hagel	Smith (NH)
Coverdell	Helms	Thomas
Craig	Hutchinson	Thurmond
Crapo	Hutchison	Voinovich
DeWine	Inhofe	
Domenici	Lott	

NOT VOTING—2

Campbell	McCain

The nomination was confirmed.

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

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. FITZGERALD). The question is on agreeing to the motion to indefinitely postpone. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from Colorado (Mr. CAMPBELL) are necessarily absent.

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

The result was announced—yeas 31, nays 67, as follows:

[Rollcall Vote No. 39 Ex.]

YEAS—31

Allard	Frist	Murkowski
Ashcroft	Gramm	Nickles
Bond	Grams	Santorum
Brownback	Grassley	Sessions
Burns	Gregg	Shelby
Cochran	Helms	Smith (NH)
Coverdell	Hutchinson	Thomas
Craig	Inhofe	Thurmond
Crapo	Kyl	Warner
DeWine	Lott	
Fitzgerald	McConnell	

NAYS—67

Abraham	Feingold	Mack
Akaka	Feinstein	Mikulski
Baucus	Gorton	Moynihan
Bayh	Graham	Murray
Bennett	Hagel	Reed
Biden	Harkin	Reid
Bingaman	Hatch	Robb
Boxer	Hollings	Roberts
Breaux	Hutchison	Rockefeller
Bryan	Inouye	Roth
Bunning	Jeffords	Sarbanes
Byrd	Johnson	Schumer
Chafee, L.	Kennedy	Smith (OR)
Cleland	Kerrey	Snowe
Collins	Kerry	Specter
Conrad	Kohl	Stevens
Daschle	Landrieu	Thompson
Dodd	Lautenberg	Torricelli
Domenici	Leahy	Voinovich
Dorgan	Levin	Wellstone
Durbin	Lieberman	Wyden
Edwards	Lincoln	
Enzi	Lugar	

NOT VOTING—2

Campbell	McCain

The motion was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. SESSIONS. Mr. President, I ask for the yeas and nays on the Paez nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Richard A. Paez, of California, to be United States Circuit Judge for the Ninth Circuit? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado (Mr. CAMPBELL) and the Senator from Arizona (Mr. MCCAIN) are necessarily absent.

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

The result was announced, yeas 59, nays 39, as follows:

[Rollcall Vote No. 40 Ex.]

YEAS—59

Akaka	Dodd	Kennedy
Baucus	Domenici	Kerrey
Bayh	Dorgan	Kerry
Bennett	Durbin	Kohl
Biden	Edwards	Landrieu
Bingaman	Feingold	Lautenberg
Boxer	Feinstein	Leahy
Breaux	Gorton	Levin
Bryan	Graham	Lieberman
Byrd	Harkin	Lincoln
Chafee, L.	Hatch	Lugar
Cleland	Hollings	Mack
Collins	Inouye	Mikulski
Conrad	Jeffords	Moynihan
Daschle	Johnson	Murray
Reed	Sarbanes	Stevens
Reid	Schumer	Torricelli
Robb	Smith (OR)	Wellstone
Rockefeller	Snowe	Wyden
Roth	Specter	

NAYS—39

Abraham	Fitzgerald	McConnell
Allard	Frist	Murkowski
Ashcroft	Gramm	Nickles
Bond	Grams	Roberts
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Cochran	Helms	Smith (NH)
Coverdell	Hutchinson	Thomas
Craig	Hutchison	Thompson
Crapo	Inhofe	Thurmond
DeWine	Kyl	Voinovich
Enzi	Lott	Warner

NOT VOTING—2

Campbell	McCain

The nomination was confirmed.

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

Mr. BYRD. 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 Vermont.

Mr. LEAHY. Mr. President, I am glad the Senate has done the right thing. Maybe we should say in this Lenten season that Judge Paez has now moved out of purgatory into the reward he justly deserves. The Senate has done the right thing today but did the wrong thing for 4 years in holding this good jurist hostage. Marsha Berzon, another nominee who I predict will be a stellar judge, was held far too long.

I thank my colleagues who voted to right this injustice and voted for both of them. I thank those who worked hard to bring this on to the floor for a vote.

Also, just a footnote, the Senate did the right thing in its second vote in rejecting the cockamamy idea of having a motion to suspend indefinitely a judicial nominee following a cloture vote. That may sound like inside baseball, but that would have been a terrible precedent. I applaud the distinguished Democratic leader for speaking out so strongly against that motion, and I compliment the chairman of our Senate Judiciary Committee, Senator HATCH, for sticking with these nominees, both of whom passed our committee.

We have done the right thing. We have righted a wrong of 4 years. I think now the Senate should go on, set aside partisanship, and let us look at those nominees who are still pending.

I yield the floor.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

The Senator from West Virginia.

ENDING THE DELAY ON JUVENILE JUSTICE LEGISLATION

Mr. BYRD. Mr. President, is it any wonder why the approval ratings of the Congress go up every time we go into

recess? The American people are watching us, and they are wondering if we are really paying attention to the issues important to them. I fear that we are not paying enough attention, certainly.

Next month, the nation will observe the 1-year anniversary of the tragic shooting at Columbine High School in Colorado, in which fifteen people, including the two student gunmen, were killed. But this tragedy is not unique.

In May 1992, a 20-year-old killed four people and wounded ten others in an armed siege at his former high school in California.

In January 1993, a 17-year-old walked into his teacher's seventh-period English class in Kentucky, and shot her in the head. He then shot the janitor in the abdomen.

In February 1996, a 14-year-old student took an assault rifle to his school in Washington state and opened fire on his algebra class, killing two classmates and a teacher.

One year later, in February 1997, a 16-year-old student opened fire with a shotgun at a school in Alaska, killing a classmate and the school principal and wounding two other students.

In October 1997, a 16-year-old student, after shooting his mother, went to school with a gun and shot nine students, killing two of them.

In December 1997, a student opened fire on a student prayer circle at a Kentucky school, killing three students and wounding five others.

In March 1998, a pair of boys took rifles to school and turned them on classmates and teachers when they exited the building in response to a false fire alarm at their Arkansas school. Four girls and a teacher were killed, and 11 people were wounded.

In April 1998, at a Pennsylvania school, a 14-year-old-boy fatally shot a teacher and wounded two students at an eighth-grade dance.

The following month, in May 1998, a high school senior shot and killed another student in the school parking lot in Tennessee, and then turned the gun on himself.

Two days later, a freshman student in Oregon opened fire with a semi-automatic rifle in a high school cafeteria, killing two students and wounding 22 others. The teen's parents were later found shot to death in their home. This freshman student did not heed the admonition of the Scriptures which says: Honor thy father and thy mother. He prceeded to kill his father and his mother.

Then, a month after last year's massacre at Columbine High School, in May 1999, a 15-year-old gunman—I suppose you could call a 15-year-old a gunman—opened fire on fellow students in Georgia, injuring six students, including one critically.

Most recently, last week in Flint, Michigan, a six-year-old boy took a gun to school and killed a six-year-old girl in front of their shocked classmates. Six-year-olds killing six-year-olds—what have we come to? And yet, the Congress fails to act. Are we blind? Are we numb to these killings? Even in the city in which we work, the tragedies are mounting. In the District of Columbia, since the school year began in September, 18 juveniles have been killed. Of those, police say that half of them started as arguments at school and ended in death in nearby neighborhood streets.

Isn't this enough? Can't this Congress hear the cry of the American students, and their parents, to step up to the plate and at least debate ways to help break this cycle of violence? I know that Congress cannot solve this problem on its own, just as an individual school board or PTA cannot resolve this crisis acting as a single institution. But we, the elected leaders of this nation who are very quick to point to problems in other nations, are not even talking about ways to end this horrific record of children killing children.

Day after day, we criticize one nation for human rights violations or another nation for failing to meet the needs of its people. But who are we to look across the waters and criticize others if we remain silent, if we remain numb, if we remain mute, dumb about our own problems?

I am told that the current gridlock on this issue is because of partisanship. I hear that the reason the conference committee on the juvenile justice bill has only met once—last August—is that Members are at opposite ends of the spectrum on the gun-related provisions in the legislation.

This legislation does not take any dramatic steps toward weapons. It simply would put in place some commonsense provisions to balance public safety and private gun owners' rights. Requiring trigger locks would not jeopardize anyone's second amendment rights, but it might prevent children from using the guns at school—where the parents are at fault for letting those weapons lie around where they are within the reach, within the sight, of children. And improving background checks is not a monumental change either. These checks would only serve to prevent those people who should not have access to weapons from getting them. I hope responsible parents and gun owners will be able to support these commonsense provisions.

So I do not understand why this has to be a partisan issue in the U.S. Capitol Building or in the adjacent Senate and House Office Buildings when it is not a partisan issue in the rest of the country.

I note that earlier the Republican Governor of Colorado signed into law a new background check initiative that is even more rigorous than the one overseen by the Federal Bureau of Investigation. Governor Owens said this effort is a balance between ''the public's need to try to keep firearms out of the hands of criminals with the private right to purchase a firearm.'' Let me read what the Governor said again: ''* * * the public's need to try to keep firearms out of the hands of criminals with the private right to purchase a firearm.'' It is a balance between the two. He was talking about a balance between the two.

If there can be bipartisan legislation in Colorado, why can't there be bipartisan legislation here in Congress? Even in this Chamber, Senators were able to put partisanship aside when we passed the juvenile justice bill last May. The legislation was approved overwhelmingly, by a vote of 73–25. Yet the conference committee still cannot reach an agreement.

Is that the problem? The conference committee between the two Houses cannot reach an agreement. The time for delay is over. Our Nation is yearning for leadership. I express my hope, as one Senator, to the conferees to move ahead on the juvenile justice bill. Craft a commonsense bill that would help to break this cycle of youth violence. Show the Nation that the Congress can see what is happening outside the Capitol Building and that we are capable of working in partnership with all Americans to bring some modicum of calm to our classrooms.

Mr. President, I yield the floor.

Mr. SCHUMER addressed the Chair.

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

Mr. SCHUMER. I ask to speak for 10 minutes as in morning business.

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

COMPLIMENTING SENATOR BYRD

Mr. SCHUMER. Mr. President, I compliment my colleague from West Virginia for his, as usual, eloquent, intelligent, and thoughtful words. I always consider myself lucky when I happen to be on the floor when the Senator from West Virginia speaks. He is a great leader and a great role model for some of us newer Members.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New York. I pride myself on being surrounded by very fine men and women who chose to give their time and tolerance and service to the Senate—the only Senate of its kind that has ever been created. Among those Senators is the distinguished junior Senator from New York. He has not been in this body long. He was in the House for a considerable time, so he comes here with a wealth of experience. He is one of the most articulate Members of this body, and I am extremely grateful for the kinds of things he says so many times about me.

I think it was Mark Twain who said he could live for 2 weeks on a good compliment. The distinguished Senator from New York has equipped me to keep on going for at least another 6 months. I thank him.

Mr. SCHUMER. Mr. President, I will try harder, because if it is only 6 months, I have failed in my duty. I will

try to keep it going for years and years. Again, I appreciate those words coming from a man I greatly admire, the Senator from West Virginia.

OIL SUPPLY AND THE PRICE CRISIS

Mr. SCHUMER. Mr. President, I rise today to once again address an issue I have been talking about since last September, that of global oil supply and prices. Back in September, I was talking about the possibility of an impending oil crisis due to OPEC's manipulation of global supply. As we moved into the fall, I joined with the distinguished Senator from Maine, Ms. COLLINS, and we started talking about the likelihood of a crisis. Well, now it is a certainty.

As we all know, that crisis struck early this winter as home heating oil prices in the Northeast pierced the $2-a-gallon level —something unheard of in the past. What began as a heating oil supply and price shock in the Northeast this winter is now rolling as thunder across our entire Nation. It is affecting the farmers throughout America in the cost of diesel fuel for their planting season. It is affecting truckers who are having a very difficult time making a living because they are so dependent on the cost of diesel fuel. It has affected airlines with the $20 surcharge. It has affected blue chip stocks. Yesterday, an analysis read that one of the predominant reasons Procter & Gamble stock had sunk so was the high price of oil.

Yet, unfortunately, things could—and are likely to—get worse if nothing is done. It is likely to get worse with the price of gasoline. Gasoline, in my judgment—and I have been saying this for several months—could hit $2 per gallon this summer and maybe more if nothing is done. Perhaps worst of all, this oil shock could very well throw sand in the gears of our high-flying economy as the Federal Reserve, worried about inflation, raises interest rates and the wonderful growth we have experienced now for a record number of months could be thrown into doubt or even jeopardy.

The numbers present a very dim outlook for us. Oil inventories are at a 20-year low. Global supply is 2 million barrels below daily demand. Coming off home heating oil prices that set records and defied gravity, we are heading straight into a gasoline supply and price debacle this summer.

We have now reached the point where rising oil prices are no longer a nuisance but, rather, a crisis for our economy. Two days ago, Procter & Gamble, as mentioned, lost $34 billion in market value—nearly one-third of the entire worth of a company that spent decades and decades building up its value; boom, down one-third. It was because of profit worries due in large part to oil prices.

In fact, analysts are attributing the 15-percent drop in the Dow since the beginning of the year directly to oil prices and the inflationary effects. I understand the Nasdaq index continues to go up, but you can't have the industrial and traditional part of the economy without it affecting the tech parts of the economy, soon enough, unfortunately. If all of this doesn't wake us up to an economic crisis, I don't know what will.

Gas prices are now about $1.50 a gallon. They have set another record. That is the national average. Of course, in certain parts of the country, particularly on the West Coast, they are considerably higher, but $1.50 is about the average in my State—a little higher in downstate areas, and a little lower in some of the upstate areas, although some, such as Binghamton and Utica, have pierced $1.50 as well. But this summer by Memorial Day, as the summer driving season is upon us, if no further oil is released, we will likely hit $2 per gallon, self-service regular, average in the country.

This will do dramatic damage not only to people's pocketbooks and wallets but to our economy. New York—both upstate and downstate—depends on tourism. In the summer season people are more likely to drive. They are less likely to curtail their vacation.

Of course, the continued problems in agriculture, in transportation, and in manufacturing will get worse if oil prices continue to rise. They rose about 44 cents today on the market, and not as high as the $34 a barrel they were 4 days ago, but that is scant relief. Given the laws of supply and demand, it is quite likely they will exceed the $34 rather shortly.

We are going to hear about this from our constituents. The upcoming impending gasoline crisis will be a major issue in the campaigns this summer and fall, if nothing is done.

I don't blame our constituents for asking us to do something because we have not acted resolutely with OPEC. We have not used the one ace in the hole that we hold in our hand to compel OPEC to increase production—our well-stocked, 570-million-barrel Strategic Petroleum Reserve. OPEC, by the way, cut back on supply, my friends, 5 percent last year, and their revenues have increased 59 percent. That is how tight the oil market is.

For the last several weeks, Secretary Richardson, doing his best, has met with various OPEC and OPEC-aligned ministers to try to get them to increase production by their March 27 meeting. It seems very plausible and likely that Secretary Richardson's efforts have helped move some members of OPEC, and it is likely production will increase somewhat. But there is also too good a chance, unfortunately, that ''somewhat'' will not be enough. There is too good a chance that while OPEC will increase production, the amount they decide to increase production won't avoid the impending crisis in gasoline prices and oil prices this summer.

The chart to my left shows the various OPEC scenarios. If we don't see at least a 2-million-barrel increase in production right away, and see that 2-million-barrel increase continue into the third quarter, the prices we have now—much too high already—will look like the good old days.

This chart is conservative. Here is what it shows. If there is no change in OPEC output, if they keep oil production as they have it—they have talked a good game, but they haven't done anything—the price will go way above $40 a barrel to $41.

Let's say they do what most people think is likely, that they will try some palliative measure with a 1-million-barrel increase in the second quarter. Then the price still goes up from what it is now to about $35 or $36 a barrel.

Let's say they pledge to increase oil by 1 million barrels a day in quarters 2 and 3. It still goes up from what it is today. And even if they pledge the 1-million-barrel increase permanently, the price goes up but not on as great a slope. The worst thing about this chart is that with 1 million barrels a day, even permanently, the price of oil continues to go up, which means the prices today will be lower than in the future.

Today, the New York Times reported the stock market rebounded yesterday due in large part to a dip in oil prices stemming from rumors that the Saudi Arabian and Iranian Governments agreed in principle to increase supply at the March 27 meeting.

Look how dependent we have become on oil speculation from OPEC ministers. When these ministers mumble about supply increases, our economy signals relief. When they mention maintaining the quotas, or not increasing supply enough, economic indicators begin heading south.

What this means to me is simple. It means OPEC has won. Its 18-month cutback in supply has succeeded in giving it significant leverage over the U.S. and world economies. Even if OPEC chooses to increase supply on March 27, which they in likelihood will do, the hard truth is that global inventories are so low that even a moderate increase will still allow the cartel to manipulate supply and increase prices at a moment's notice. They have us, quite simply, by the neck.

We cannot allow our economy to become beholding to the decisions of OPEC ministers—plain and simple. My suggestion to the administration is this: We need to use the SPR as leverage. And we should make a promise to OPEC. We can make it privately or we can make it publicly. But we should tell them in no uncertain terms that unless they decide to increase production by 2 million barrels a day by March 27, we will use our reserve to make up the difference. Whether we make that promise publicly or privately, as I mentioned, is immaterial so long as they understand the consequences of squeezing supplies to the point of hurting our economy. And a comprehensive SPR-swaps policy, which means selling now and promising

to buy back later, makes good sense because the price will be lower later and we can replenish the reserve. That needs to be put in place now.

Some have argued that we shouldn't use the reserve except for national emergencies. When oil is at $34 a barrel, when gas prices are headed towards $2 per gallon, when major companies in America lose dramatic parts of their value because of the price of oil, and when the economic expansion that has made this country smile from one coast to the other for so many years is in jeopardy, to me that is an emergency. If for some reason some in the administration have doubt about whether they have the legal ability to sell the reserve—I believe they do—we can easily in this body pass legislation that Senator COLLINS and I have sponsored which makes it clear that they do.

No one is looking to go back to $10-per-barrel oil. But oil trading over $30 per barrel is clearly going to affect our economic growth and severely impact the global economy.

We have a perfect tool to reduce the inordinate power of OPEC and protect our economy. That tool is the Strategic Petroleum Reserve. It is high time we used it.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GORTON). The clerk will call the roll.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE

Mr. FITZGERALD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Con. Res. 94, the adjournment resolution, which is at the desk.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Con. Res. 94), providing for conditional adjournment or recess of the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FITZGERALD. Mr. President, I ask unanimous consent the resolution be agreed to, and the motion to reconsider be laid upon the table.

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

The concurrent resolution (S. Con. Res. 94) was agreed to, as follows:

S. CON. RES. 94

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, March 9, 2000, or Friday, March 10, 2000, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, March 20, 2000, or until such time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate, after consultation with the Minority Leader of the Senate, shall notify the Members of the Senate to reassemble whenever, in their opinion, the public interest shall warrant it.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. FITZGERALD. I thank the Chair.

(The remarks of Mr. FITZGERALD, Mr. DURBIN, Mr. GRASSLEY, and Mr. BAYH, pertaining to the introduction of S. 2233 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Ohio is recognized.

MANDATES AND THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Mr. VOINOVICH. Mr. President, in 1975, Congress passed the Individuals with Disabilities Education Act (IDEA), which was designed to ensure that all students with disabilities would receive the educational services they needed in order to attend ''mainstream'' schools. This legislation has been effective in increasing access to quality education for disabled students all across the nation.

In my state of Ohio, the Individuals with Disabilities Education Act has meant so much to thousands and thousands of young men and women over the last 25 years. It has opened up whole new worlds and shown them that their disabilities cannot bind the limitless possibilities that are provided by the gift of education.

IDEA has helped students like John Hook, from Elgin High School in Marion, Ohio. IDEA has given John's school the resources to hire a special education teacher who is able to help John with his reading and writing.

Before IDEA, students with learning disabilities like John might have dropped out, but now, many are thriving. And because of the help he's received and his hard work, John is on his school's honor roll and is ''on track'' for college.

IDEA has also been a tremendous help to Todd Carson, an 18 year old student from Highland High School in Highland Local School District outside Medina, Ohio. Todd has Cerebral Palsy and is confined to a wheelchair. Todd is unable to write and he cannot use a keyboard to communicate.

Through IDEA, Highland District was able to purchase a speech recognition program called ''Dragon Dictate'' which can be used to control a word processor. This has been like a ray of sunshine for Todd. Now, Todd has the ability to take class notes and write papers. Dragon Dictate also lets him use the Internet and send e-mail. This program has been a big difference for Todd, allowing him to read, write and participate in class.

I am pleased with what we've been able to do with IDEA in Ohio. Before its passage, there were close to 25,000 children who were institutionalized in Ohio because of conditions like Cerebral Palsy and autism. Now, according to the Ohio Coalition for the Education of Children with Disabilities, there are no kids institutionalized in Ohio. IDEA is a big factor in this success because instead of being hidden-away and forgotten about, these kids are in school—learning and thriving—preparing to add their contributions to society.

However, even with all the success of IDEA, the thousands and thousands it has benefitted, there is a startling reality to this program that no longer can be ignored: IDEA is crushing our schools financially.

Many of our state and local governments have found that the costs of serving handicapped students are typically 20% to 50% higher than the average amount spent per pupil. This, in itself, is not the problem; state and local governments understand that students with disabilities require different, and many times, expensive needs.

Congress, too, understood the expense involved when it passed IDEA, promising that the federal government would pay up to 40% of the costs associated with the program.

Congress said, we think IDEA is so needed as a national priority, that we will pay up to 40% of the costs.

The problem rests in the fact that the federal government has not provided nearly as much funding as they told state and local leaders they would provide, and which our children need. Indeed, in fiscal year 2000, the federal government only provides enough funds to cover 12.6% of the educational costs for each handicapped child, not the 40% it promised.

As in past years, our State and local governments will be forced to pay the leftover costs. That is what is going to happen. They are going to have to pay that leftover cost.

Because the Federal Government has not lived up to its expectations, IDEA amounts to a huge unfunded mandate. When I was Governor of Ohio, I fought hard for passage of the Unfunded Mandates Reform Act so that circumstances such as this could be avoided.

I was one of only a handful of State and local leaders who lobbied Congress to pass legislation that would provide relief to our State and local governments. I felt so strongly about this that in 1995 I asked Senator Dole to make unfunded mandate relief legislation S. 1. I was privileged to be in the Rose Garden 5 years ago this month when the President signed S. 1 into

law. I will never forget the President saying how opposed he was to unfunded mandates since he had been a Governor for a number of years and had seen the effects of such unfunded mandates.

Unfortunately, the President has done nothing—nothing—to address one of the most costly unfunded mandates; that is, the Individuals with Disabilities Education Act.

The President's fiscal year 2000 budget contains $40.1 billion in discretionary education funding. That is more than a 37-percent increase over the fiscal year 2000 discretionary education total, including advanced funding, and nearly double the $21.1 billion in discretionary education spending allocated by the Federal Government in 1991—just 10 years ago.

Think about that for a moment. The President is looking to increase federal education discretionary spending so that it will have grown by almost 100% in ten years. And that's at a time when inflation will have grown only 20.7% during the same ten years. That's incredible!

What's even more incredible is what we're doing to our states and localities. Of the discretionary total for fiscal year 2000, we allocated $4.9 billion for IDEA. If we had funded IDEA at the 40% level that Congress had promised in 1975, we would have allocated $15.7 billion in fiscal year 2000. In essence, we have passed along a $10.8 billion mandate on our state and local governments.

Think about it—a $10.8 billion mandate.

For anyone who thinks about it, they are asking, What does that mean? That is more than we spent on the entire budget for the Department of the Interior. Think of it.

When our Nation's Governors were in Washington recently for the annual Governors' Association winter meeting, one of their more prominent issues—I would say the most prominent issue they brought up with Congress and the President—was the need to fully fund IDEA.

The Governors made it patently clear that if the Federal Government paid their 40-percent share of IDEA, it would free up $10.8 billion across America and would allow them to better respond to the education needs in their respective States.

They also pointed out that many of them were building schools, hiring teachers, and doing most of the things Washington wants to do with that $10.8 billion that should have gone to the States to fund IDEA.

With the help of the Ohio School Boards Association and the Buckeye Association of School Administrators, I am contacting superintendents of education, leaders from urban, suburban, and rural districts in every part of Ohio—I have a letter going out to all of them—asking them about their experience with the fiscal impact of IDEA and their advice on what would be the best way the Federal Government could be a better partner.

The main question I have asked Ohio's educators is: What will help you more—fully funding the Federal commitment to IDEA, or funding at the Federal level programs that, by their very nature, are the responsibility of our State and local governments, such as hiring new teachers, building new schools, and a host of other programs that may or may not be needed in school districts across America?

I am going to be reporting back later this spring with the results of that survey. In the meantime, I believe it is incumbent on the Senate, as it considers the reauthorization of the Elementary and Secondary Education Act, to find money to fully fund IDEA. This body for sure should not support expensive new Federal education programs until IDEA is fully funded.

Thank you, Mr. President.

I ask unanimous consent that a copy of my letter to Ohio's education leaders be printed in the RECORD.

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

FEBRUARY 28, 2000.

DEAR OHIO EDUCATION LEADER: I am writing to ask for your input concerning the Individuals with Disabilities Education Act (IDEA). As you know, IDEA was passed in 1975 to ensure that handicapped students receive the educational services that they need to attend mainstream schools. This legislation has been successful in increasing access to quality education for Ohio's disabled students and for young people throughout the nation. However, many educators have contacted me about the funding of IDEA and the ability of school officials to discipline students under the Act.

Act the Senate prepares to debate the reauthorization of the Elementary and Secondary Education Act, many educational issues, including IDEA, will be examined. As such, I am interested in your experience. Is the funding your school district receives from the federal government inadequate to help you meet your obligations under the Act? As you may know, the federal government has not lived up to its promise to provide up to 40 percent of the costs of special education under the Act nationally. Are the costs to your district of complying with disability legislation affecting your ability to pay for your other programs and responsibilities? Secondly, I have heard from educators about the difficulty they have maintaining discipline in classrooms while complying with the requirements of IDEA. Has this been a challenge for your schools?

As we work to improve our laws, any insights you have into the impact of federal regulations concerning the education of disabled students on school in Ohio or input into improving IDEA would be appreciated.

Finally, in light of the President Clinton's continued emphasis on federal involvement in education, traditionally a state and local responsibility, I am interested in your thoughts on whether your district would benefit more from the President's new education proposals or if you would be better off if Congress met its obligations under IDEA—freeing money for you to fund your own priorities.

Thank you for your valuable input. I strongly believe that working together we can make a difference for Ohio's young people.

Sincerely,

GEORGE V. VOINOVICH,
U.S. Senator.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Washington.

EDUCATION

Mr. GORTON. Mr. President, during the course of the last 2 weeks, the health committee has been dealing with the vitally important subject of education and has been engaged over a period of many hours in the writing of a bill extending the Elementary and Secondary Education Act of the United States. That writing process, in my view, has been highly constructive. It has also been ignored by the press of the United States and, therefore, by most of the people of the United States. It does not deserve that fate.

Education is a vitally important subject, and the Federal role in education, a role that has increased markedly over the course of the last several decades, is at a crossroads in the course of that debate—a debate which I hope next month will proceed to the floor of the Senate.

This is truly a defining moment in our history in Congress. We have an opportunity to greatly improve and change the direction of Federal Government funding for schools all across the United States of America. We get this opportunity only once every 4 to 6 years, when the reauthorization of the Elementary and Secondary Education Act comes before us.

I am convinced we will do that job best by listening to our constituents who have an immediate concern with education—an immediate concern because they are the parents of our public school students, an immediate concern because they are teachers in our schools, and an immediate concern because they are principals or elected school board members in those schools; in other words, people whose lives revolve around the education of the next generation of American young people.

I am going to try to do my part during the course of the recess over the next 10 days by once again spending a considerable amount of my time visiting schools in the State of Washington in Bellingham, Mount Vernon, Spokane, and Colfax, carrying on a tradition I have used increasingly over the course of the last 3 or 4 or 5 years.

What I found during those visits is that each school is different from every other school. They are united only in the concern of the people who work in those schools for the future of our children. Some of those schools need more teachers. Some need teachers who are better paid to compete with outside opportunities. Some need more classroom space. Some need better teaching for the teachers. Others need more computers. But different as those needs are, present Federal policy says here is what you must do with the money we provide you in literally dozens and perhaps hundreds of different narrow categorical functions, each of which requires a bureaucracy in Washington,

DC, to look over applications and to run audits, and each of which requires a corresponding bureaucracy in our States and in our local school districts to ask for the money and to account for how it is spent.

I have proposed, and a majority of the members of the health committee are now proposing, to add to this Federal formula a bill that I call Straight A's to inject what I consider to be some common sense in the way in which we help our schools in Washington, DC.

Straight A's will give to States all across the United States an opportunity to change from a process of accountability to a performance accountability. Instead of spending their time filling out forms to show that they have spent their money exactly as Congress has dictated, a State which elects to come under Straight A's will be able to take one to two dozen of these narrow categorical aid programs, combine them into one, and get rid of all the forms and most of this process accountability on the basis of one's promise. That promise is: Let us do what we think best for our kids, and we will do a better job. Our kids will do better. We will have standardized tests in our States and we will prove they are doing better, because we are allowed to make more of our own decisions or you can cancel the whole thing and take it back. It is as simple as that.

It is the provision of trust in people who are putting their lives and their years into the education of our kids, the people who know our kids' names, rather than a group in the Department of Education in Washington, DC, or in this body which so often seems to feel it can and should act as one nationwide school board.

I have heard a lot from the defenders of the status quo over the course of the last 3 years. One of the first who criticized my earlier proposal said: My gosh, if we let them do that, they will spend all the money on swimming pools. Another said it might be football helmets.

All of them had one common thought: We don't dare let our educators and our school board members make up their minds; They would make mistakes; We know more than they do; We know more than the people in your hometown, Mr. President, in Kansas, or my people in the State of Washington, or the constituents of the Senator from the State of Virginia. Somehow we know the cure for 17,000 school districts across the United States.

The biggest of the present Federal programs is title I, originally passed 35 years ago to narrow the gap between underprivileged children and privileged children. The gap has not narrowed in that 35 years. Is it not time we give some of our States and some of our school districts the opportunity to say they think they can do it better? We think those right on the ground in our schools can do it better than taking direction from the Senate, the House, the White House, and the Department of Education in Washington, DC.

That is the opportunity we 100 Members of the Senate are going to be given very soon, I am convinced, by the action of a committee under the leadership of the distinguished Senator from Vermont, Mr. JEFFORDS, and other dedicated members of that committee. I am disappointed the work they have been doing for the past couple of weeks has not gotten wider publicity and attention than it has received. I am now convinced that committee is going to present the most profound reform, the most hopeful new direction in the field of Federal education policy than we have received in a generation.

All 100 Members are going to have an opportunity to make those changes ourselves. I look forward to that opportunity. I congratulate the committee for the work it has already done.

The PRESIDING OFFICER. The distinguished Senator from Virginia is recognized.

KOSOVO AMENDMENT TO THE FY2000 SUPPLEMENTAL APPROPRIATIONS

Mr. WARNER. Mr. President, I thank the distinguished Presiding Officer.

I ask unanimous consent to have an amendment appended at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. WARNER. Mr. President, the Presiding Officer is familiar with the matter I bring to the attention of the Senate, and I thank him for his advice and willingness to participate in the undertaking to prepare the amendment which I will now address.

I rise today to advise the Senate of a proposed amendment on Kosovo, a form of which I and other cosponsors intend to offer when the Senate considers the fiscal year 2000 Supplemental Appropriations Act. An experienced group of colleagues have worked together, and we will continue to work together on this legislation. I thank Senators STEVENS, INOUYE, ROBERTS, and SNOWE for joining me as cosponsors in this effort.

I inform the Senate about this amendment now so that other colleagues, officials in the administration, and, indeed, our allies and other nations and organizations will have sufficient time to study and provide constructive comment on this legislation prior to the Senate's consideration of the supplemental later this month.

This is a vital issue, as our Presiding Officer knows full well. It is critical to the men and women of our Armed Forces that the U.S. Congress face up to this issue. It is equally critical to the brave troops of other nations serving in Kosovo. It is critical to the future of NATO, and it is critical to future peacekeeping missions.

There are an ever-increasing number of problems in the world today. It is a far more complex and dangerous place than it was a decade ago or a decade before that. Indeed, as I look back on the cold-war era, there was a certain amount of certainty within which we were able to structure our forces, lay down a strategy, and perform our missions. Today, it is greatly different. The challenges posed to our national leaders, and particularly the men and women of the Armed Forces, have little precedent. Likewise, the diversity of the threats have now proliferated throughout the world. They are less and less nation sponsored, state sponsored; oftentimes, they are just small groups. There are conflicts in ever-increasing numbers, prompted by cultural, ethnic, and religious differences.

As I publicly stated regarding this amendment, my intention in offering this legislation is to ensure that our European allies have stepped up to meet their share in providing the necessary resources and personnel for the civil implementation in Kosovo, the efforts to which we have all pledged as a group of nations to fulfill. Once the military mission was completed, then we committed among ourselves to take the next step to ensure the peace that was given as a consequence of the sacrifices and the professionalism of the men and women who promulgated that combat action for 78 days.

During that period of combat, the United States bore the major share of the military burden for the air war, flying almost 70 percent of the total strike and support forces at a cost of over $4 billion to the American taxpayer. Many, many aviators and others took high personal risks. We were joined in that combat operation by another seven or eight nations that indeed did fly, willingly and courageously. However, it was the United States only—how well our colleagues know—that had the high-performance aircraft, the guided missiles, that support the transport aircraft. NATO did not have it. Those elements of our military, whether they were in or out of NATO, were brought together to promulgate this successful military operation.

In return, the Europeans then promised to pay the major share of the burdens to secure the peace. So far, they have committed and pledged billions of dollars for this goal. I acknowledge that. They have come in diverse amounts at diverse periods of time, but the problem is not enough money has been put up thus far in a timely fashion to make their way to the Kosovo problems, and then begin to solve those problems.

Why the delay? The troops and the public are entitled to know. As a result, our troops and other troops are having to make up for the shortfalls of failing to provide the police force—something we all agreed upon long before the first shot was fired. The troops today, therefore, are having to make up for those shortfalls by performing basic police functions, such as running

towns and villages, acting mayors, settling all types of disputes, and guarding individual houses and historic sites. The distinguished Presiding Officer visited this region just a month or so ago, as did I, and witnessed this.

The troops are functioning in areas for which they were not specifically trained. However, there is an extraordinary learning curve for men and women in the Armed Forces of the United States of America and, indeed, other nations. The Presiding Officer and I know; we were privileged to wear uniforms ourselves at one time. We know how well these young men and women can adapt to challenges.

They were not specifically trained, but they are doing the job, and they were doing it very well, but at a great personal risk, I say to the Presiding Officer, at a great personal risk. We have seen in the past few weeks, in Mitrovica and other areas, outbursts, we have seen woundings, we have seen deaths.

That was not a situation we anticipated would take place if there had been a timely sequencing of the military actions and the placing of a civilian police force, infrastructure adjustments, and all the other things needed to bring together Kosovo as an operating society.

Our troops engaged in a high-risk mission, along with others. Their courage, their professional work, as I said, was witnessed by the Presiding Officer and myself, on my trip, and by many others in the Senate. I credit the large number of Senators for taking the time to go over and visit with our troops to see for themselves the complexity of the situation and the risks that are being taken.

As I said, our troops accept that risk. Indeed, the American people thus far have accepted that risk. But it is now incumbent upon the Congress of the United States to begin to exercise its authority and to show some leadership, hopefully in partnership with the administration. We need to show leadership to make certain, regarding the commitment made by our allies and other organizations—whether it be the United Nations, the E.U., the OSCE, or many others who are working in governmental organizations—that we are pulling on the oars together. I am proud to say our country, as best I can determine, has met in a timely fashion its obligations. But the purpose of this amendment is to draw the attention of our allies to the fact the record does not show that they are likewise fulfilling their commitments in a timely way.

We braved those 78 days of combat. Along with other nations that participated we laid the foundation for peace in Kosovo. What we cannot and must not allow to happen is for the risk to our troops to endlessly drift on because of the failure of our allies to live up to their share of the commitments. This is the bottom line of this amendment.

The amendment is simple and straightforward. Half of the funding included in the supplemental for the U.S. military operations in Kosovo—over $1 billion; that is one-half; it is a total of $2 billion—would be provided up front, ready for prompt disbursal to stop the drawdown of the readiness accounts. This would pay for the expenses accrued by our military in Kosovo since the start of the current fiscal year, way back on October 1, 1999.

The remainder of the money, roughly another $1 billion, would be available only—and I underline ''only''—after the President of the United States certifies to the Congress that the European Commission, the member nations of the European Union, and the European member nations of NATO have provided a substantial percentage of the assistance and personnel which they themselves have committed to the various civil implementation efforts in Kosovo.

This is an important point that needs to be emphasized. In this legislation we are not seeking an arbitrary or unachievable standard. We are holding the Europeans accountable for the pledges and commitments which they have made. Recognizing that nations have different fiscal years and different procedures, we are not asking for full compliance within the context of this legislation. We expect eventually full compliance.

In the critical areas of humanitarian assistance, support for the Kosovo Consolidated Budget—the money needed by Dr. Kouchner, to whom I will refer later; he is the head of the U.N. mission—to run Kosovo and the police for the U.N. international police force, the Europeans must provide 75 percent of the money or personnel which they committed to provide before additional U.S. taxpayer dollars for military operations in Kosovo would be disbursed.

That is a formula I devised along with the others who worked with me on this, and the intention is to lay down the figures of who has done what, when they did it, and what is left to be done. Unless our President, through his leadership, and other world leaders, can bring this rough formula into play, then we have the triggering mechanism by which the President, if he desires not to certify, or cannot because the facts do not justify a certification. Then I will spell out what happens to the balance of that money.

As I mentioned, on the reconstruction side—I wish to repeat that; it is important—it is a more long-term endeavor. We are requiring the Europeans to provide a third of the money they pledged for the 1999 and 2000 period.

I will readily admit I do not know if a third of the reconstruction money is a good benchmark because that is the category of aid for which I am having the most problem getting accurate data. I cannot tell you the hours and hours involved in consultation, trips and travel to the U.N. and elsewhere, to the Departments of our Federal Government, indeed, consultations with the White House. I found everyone trying to be constructive.

We had a meeting at the White House with the Secretaries of State, Defense, the chairman of the Budget Office, the National Security Adviser. Trying to assemble the data is an awesome task. This amendment forces that task to be undertaken by that individual best qualified to do it, and that is the President of the United States, working in concert with these organizations and the other allies.

It is so difficult to get the data, but we have plowed ahead as best we could. We know, for example, that billions have been pledged at two international donor conferences for Kosovo reconstruction, but I have not been able to find within the administration, at the U.N. or at the E.U., anyone or any document or fact that could advise me and inform the Senate on how much of that money has actually been disbursed.

To put it in the vernacular, where are the canceled checks for what has come in already? It is as simple as that. The American people understand there has to be a record. That is part of the body of fact this Congress needs—and that is required by this legislation—as we decide whether or not to support a continuation of our military deployment, the U.S. troops which are part of the KFOR military structure.

Again, I compliment that KFOR structure. It is working. It is meeting unanticipated problems. It is doing the best it can. There have been some problems recently. Our committee has had General Clark in, just a week or so ago. We went over this, carefully provided oversight about every 3 months or less on this situation.

What happens, I ask, if our allies do not fulfill their commitments and the President is not able to make the certification required by this amendment? If the President cannot make the required certification by June 1, then the remaining $1 billion contained in the supplemental for military operations in Kosovo may be used only for the purpose of conducting a safe and orderly and phased withdrawal of U.S. military personnel from Kosovo.

There it is. That is the bottom line. It has to be said. Someone has to say it. And I said it. I am very pleased with the support I have gotten from a number of individuals to step up and take on this responsibility.

Further, no other funding previously appropriated for the Department of Defense may be used to continue the deployment of U.S. military personnel in Kosovo. We have to seal that up. It had to be said. I thought long and hard on the time and the moment I would come to this floor and state it. But I did it.

We are not setting a deadline for the withdrawal of our troops. It is up to the President and his military advisers to decide how best a safe, orderly, and phased withdrawal should be done. Under this legislation, the President would have to submit his plan for the withdrawal to the Congress by June 30. In my opinion, that withdrawal should not take more than 18 months.

The bottom line is it is not fair to our troops, to their families at home, to the other troops, to remain indefinitely in Kosovo with the political structure, be it our President, the Congress of the United States, the legislatures of the other nations and their leaders, not to take some strong, positive action now to ensure this peace.

We cannot ask those people in uniform and, indeed, many civilians who are associated in this effort—there are a lot of volunteer organizations there—we cannot ask them to take the ever-increasing share of this burden and the risks, personal risks, simply because the nations are not willing, in a timely way, to provide the funding or personnel they promised for civil implementation in Kosovo.

Some will criticize this legislation. That is all right. I am prepared to receive it. But what is a better solution than what we have devised? If there is a better one, please come forward and give it to us. I invite constructive criticism. I invite suggestions. Those who worked with me on this join me.

Some may claim it holds the U.S. military deployment in Kosovo hostage to the actions of our allies; that we are in effect letting others decide whether or not our troop presence in Kosovo will continue by their inaction. I address that allegation now and say, quite respectfully, that our President has already made that connection. The exit strategy for our troops in Kosovo—as it is for our troops in Bosnia—is directly linked to the actions of the U.N., the E.U., the OSCE and others in achieving their goals on the civil implementation side.

Our President said on October 15 in a letter to the Congress:

> The duration of the requirement for U.S. military presence (in Kosovo) will depend upon the course of events. . . . The military force will be progressively reduced based on an assessment of progress in civil implementation and the security situation.

This legislation uses the same link, the same tie to the actions of others already adopted in concept by this administration.

In Kosovo, the U.N., E.U., and OSCE are the groups charged with the civil implementation responsibilities. Up to this point, I must say quite plainly, these organizations are not doing the job they committed to do in a timely manner in Kosovo. The successful NATO-led military operation in Kosovo was undertaken—at personal risk to our troops and those of other nations, and with billions of dollars in costs to the American taxpayers and the taxpayers of other nations—with the understanding in America and, indeed, throughout Europe that the U.N. and other organizations would promptly move in behind and consolidate the military achievements. Now, as a result of little progress in that consolidation, U.S. troops and troops from over 30 nations, are required to perform almost all the tasks and are facing an indefinite deployment and indefinite risk in Kosovo.

Personal bravery, international bonds of commitment, and prudent NATO leadership won the war in Kosovo, but will the slow pace of follow-on actions result in the loss of the peace? That is what we are facing.

Recent events in Mitrovica show how fragile the peace is in Kosovo and how time and unfulfilled commitments play into the hands of those who oppose the peace, and there are several factions that oppose this peace.

During a hearing in the Senate Armed Services Committee on February 2 with NATO commander General Clark as the witness, I and other Members signaled our intention to take legislative action in connection with the upcoming Kosovo supplemental to be proposed by President Clinton. It has not as yet arrived in the Senate. It is to revitalize the near stagnant situation in Kosovo. That is the purpose of this amendment.

Congress has a coequal responsibility with the executive branch, and we now must exercise leadership, again I say, hopefully in partnership with the administration. This is not a political document. Many went in with the best of intentions, but it is time we recognize that no matter how sincere those intentions may have been, we are not collectively, as a group of nations, fulfilling our responsibilities.

We, a growing number of Senators, state:

> Other nations and organizations must follow through on their commitments if U.S. troops are to remain a part of the Kosovo military force.

The United States has far too many commitments around the world. Our military is stretched too thin as it is. We cannot have an open-ended, possibly decades-long military deployment in the Balkans.

We, together with other nations, went into Kosovo with the best of intentions—to stop the slaughter of tens of thousands of innocent people, to restore peace and stability to that region, and to help the people of Kosovo rebuild lives shattered by war and ethnic cleansing. But what has the situation achieved? What has this coalition really achieved? Clearly, the military has fulfilled its mission. To the extent possible, given the continued ethnic animosities—and how extraordinarily they persist—the military has stopped the large-scale fighting and created a relatively safe and secure environment, from a military perspective. However, unacceptable dangerous levels of criminal activity continue and put our troops and many others at risk. Therefore, we have little time left in which to address this problem. We have to figure out, given the precious little progress that has taken place to date, what we can do in the future. This is one idea by a very conscientious and thoughtful group of Senators.

We must recognize the U.N. bears its share of the responsibility. We only say that because the U.N. cannot share all the blame or accept all the blame for the slow pace of progress in Kosovo. But we are mindful of the fact that international organizations are dependent on timely contributions of money and personnel from member nations. In other words, the U.N. acts as a funneling of these funds as they are contributed pursuant to commitments by the various nations. These contributions have been severely lacking, severely delayed in the case of Kosovo.

When I was in Pristina in January, I had the opportunity to meet with Dr. Kouchner—an extraordinary man—the head of the UNMIK, the U.N. mission in Kosovo. He is a very dedicated and committed individual. He has given up much of his private life to go into that area to do the very best he can.

We conducted that meeting with General Reinhardt at the KFOR headquarters, the headquarters, I might add, which on that particular night did not even have running water and the electricity was flickering. It is just an example of the inability to deliver the very basic necessities.

I remember Dr. Kouchner said that night—he was bitterly cold—that there were people literally huddled in their homes without adequate food, heat, shelter, and the like, and it could have been alleviated, to some degree, had these nations stepped up and met their commitments.

As I said, I was impressed with the professionalism and dedication of the general and Dr. Kouchner.

Dr. Kouchner sounded a consistent and urgent theme. He desperately needed money if the U.N. was to achieve its goals in Kosovo. Dr. Kouchner has been going from capital to capital across Europe and, indeed, in this hemisphere—he visited here just a few days ago—urging nations to live up to the commitments they made, to send the money for his mission. General Reinhardt has been supporting Dr. Kouchner in his efforts, since the general understands the KFOR troops continue to bear the full burden if the U.N. mission does not succeed and the missions of all the organizations. According to General Reinhardt:

> The problem for Bernard Kouchner is that he doesn't get the money to pay for what he knows he needs and wants for Kosovo. . . . The international community—the same governments that decided to get us here—doesn't give him what . . . he needs, and it has a direct impact on my soldiers.

On Monday, March 6, Dr. Kouchner and General Reinhardt, as I said, were at the U.N. to report to the Security Council on the situation in Kosovo. Dr. Kouchner told the Security Council:

> If we hope to build democracy in Kosovo, we must do more than ensure the safety of its residents. We must allocate the necessary resources to accomplish the job.

I agree. Foreign donors must deliver immediately, as the United States has done, on their commitments and promises.

My greatest concern is with the international police. The U.N. has said it needs an international police force of

4,718. To date, only 2,359 police have arrived in Kosovo. It is interesting, just about half of what was projected. The United States has done its share. We have already deployed 481 police, and the remaining police pledged by the U.S.—for a total of 550—will arrive in Kosovo shortly. Others, particularly Europeans, have to do their share by providing the necessary police forces. Overall, nations have pledged over 4,400 police. They must now deliver on these pledges. Pledges do not help with the current violence. We need to put it in words that Americans understand: ''Cops on the beat.''

I commend my distinguished ranking member, Senator LEVIN, who has constantly hit that theme in open sessions over and over again. To a large measure, he joins me in the purport of this amendment. Hopefully, in the weeks to come, with his advice, and with others advice, we can, to the extent necessary—maybe not necessary—reconfigure some of the language of this amendment.

We had a meeting today with officials of our administration in the Armed Services hearing, again, to show the amendment and to urge them to come forward and give us such suggestions as they wish to make.

I spoke, by phone, with Secretary Cohen and National Security Adviser Berger. It is not as if we are out here operating on our own. We are trying to do our best. But remember, Congress has coequal responsibility and must exercise its best leadership.

NATO's soldiers must get out of the business of policing. That will not happen until enough police arrive. Our troops are not policemen. They were not specifically trained, as I said, to perform these tasks. It should not be a part of their continuing indefinite mission.

Since the air war began almost a year ago, the United States has spent over $5 billion for our military operations in Kosovo—$5 billion. It was for a good cause. But $5 billion is desperately needed by our military today for its modernization. The distinguished chairman of the Appropriations Committee, at lunch—and the Presiding Officer was there—recounted program after program in terms of the airlift, the aging C–5, the aging C–41, the need to up the buy of the C–17. That is where these needed dollars are required.

The annual price tag for the military commitment is over $2 billion in Kosovo. This is a heavy burden on the defense budget, but we are going to, hopefully, get it in the supplemental so that we do not take it, as we say, out of their operating accounts. That is the importance of this supplemental. Plus, it is a heavy burden on the American taxpayer.

In addition to these significant sums of money, I am concerned, again, about the safety and welfare of the men and women in uniform. I will come back to that on every single pace. Each day that I am privileged to be a member of the Armed Services Committee—and now as its chairman—I think and begin every day asking myself: What is my obligation to work with this committee to better the lot of the men and women of the Armed Forces and their families?

They are patrolling these towns and villages—as you and I are in this Chamber, and others—subjecting themselves to substantial personal risk while performing their duties. They are taking the risks. The American people take the risks.

I believe we have reached a point in time where it is the responsibility of the Congress to take action to ensure that others step up and fulfill their commitments—other nations and organizations—and that the U.S. military commitment to Kosovo not remain an endless commitment.

I place this draft in the Senate RECORD of today, rather than formally filing the amendment, to show our determination to put forth a constructive approach, not a ''cut and run''—there is never any intention to do that—but accountability for all trying to secure a lasting peace in Kosovo. That is the bottom line. I did not file it, so that, if necessary—if we get a good set of suggestions—we can change this document and improve it.

I believe the American people will continue to support the U.S. involvement in Kosovo. I know they will if they know that our President and their Congress are acting in partnership, in concert, to get this job done that is fair to all. They want to see our allies also step up and be accountable and to do their part.

I think—and I say this humbly—this proposal will help do just this. We invite the comments and suggestions of all.

I thank the Presiding Officer, and others, for joining me in this effort.

I yield the floor.

EXHIBIT NO. 1

AMENDMENT NO.—

(Purpose: To limit the use of funds for support of military operations in Kosovo)

At the appropriate place, insert:

SEC. ___. (a) Of the amounts appropriated in this Act under the heading ''OVERSEAS CONTINGENCY OPERATIONS TRANSFER FUND'' for military operations in Kosovo, not more than 50 percent may be obligated until the President certifies in writing to Congress that the European Commission, the member nations of the European Union, and the European member nations of the North Atlantic Treaty Organization have provided at least 33 percent of the amount of assistance committed by these organizations and nations for 1999 and 2000 for reconstruction in Kosovo, at least 75 percent of the amount of assistance committed by them for 1999 and 2000 for humanitarian assistance in Kosovo, at least 75 percent of the amount of assistance committed by them for 1999 and 2000 for the Kosovo Consolidated Budget, and at least 75 percent of the number of police, including special police, pledged by them for the United Nations international police force for Kosovo.

(b) The President shall submit to Congress, with any certification submitted by the President under subsection (a), a report containing detailed information on—

(1) the commitments and pledges made by each organization and nation referred to in subsection (a) for reconstruction assistance in Kosovo, humanitarian assistance in Kosovo, the Kosovo Consolidated Budget, and police (including special police) for the United Nations international police force for Kosovo;

(2) the amount of assistance that has been provided in each category, and the number of police that have been deployed to Kosovo, by each such organization or nation; and

(3) the full range of commitments and responsibilities that have been undertaken for Kosovo by the United Nations, the European Union, and the Organization for Security and Cooperation in Europe (OSCE), the progress made by those organizations in fulfilling those commitments and responsibilities, an assessment of the tasks that remain to be accomplished, and an anticipated schedule for completing those tasks.

(c) If the President does not submit to Congress a certification and report under subsections (a) and (b) on or before June 1, 2000, then, beginning on June 2, 2000, the 50 percent of the amounts appropriated in this Act under the heading ''OVERSEAS CONTINGENCY OPERATIONS TRANSFER FUND'' for military operations in Kosovo that remain unobligated (as required by subsection (a)) shall be available only for the purpose of conducting a safe, orderly, and phased withdrawal of United States military personnel from Kosovo, and no other amounts appropriated for the Department of Defense in this Act or any Act enacted before the date of the enactment of this Act may be obligated to continue the deployment of United States military personnel in Kosovo. In that case, the President shall submit to Congress, not later than June 30, 2000, a report on the plan for the withdrawal.

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

Mr. LAUTENBERG. Mr. President, I understand that we are in morning business and that Senators may be recognized for 5 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. LAUTENBERG. I ask unanimous consent that I be given up to 10 minutes to make my remarks in morning business.

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

THE NEED TO CLOSE THE GUN SHOW LOOPHOLE

Mr. LAUTENBERG. Mr. President, I want to discuss a subject that is not terribly different than the remarks made by the distinguished Senator from Virginia just now. He talks about our responsibilities, what we have to do to protect our citizens. He talked about it in a slightly different way than I am going to discuss it now.

But we are at a point in time, Mr. President, when there are 43 days on the calendar left until the 1-year anniversary of the shootings at Columbine High School in Colorado. On April 20, 2000, it will be 1 year since the country listened, in shock, to the news that two high school students, Eric Harris and

Dylan Klebold, had stormed into Columbine and systematically shot and killed 12 classmates and a teacher.

When we talk about 43 days to go, those are calendar days. If we talked about the number of days left for us to enact legislation, there are somewhere around 23 days left.

In addition to those 12 classmates and a teacher killed, 23 other students and teachers were wounded in the assault.

It pains me—and I am sure it is true for all Americans—when I think back to the picture of that carnage: Young people running in a high school, fearful that their lives may be taken away, many weeping with terror as they fled. Who could ever forget the picture of that young man hanging out of a window to try to protect himself?

But even in some ways more shocking is to see how quickly this Congress can dismiss those images. The American people must be wondering: What we have been doing since that tragic day almost a year ago? What have we done to reassure parents across the country that we are working to prevent it from happening again? We have shown no evidence of that. As a matter of fact, the evidence is quite to the contrary. The evidence says: Congress had a chance to do it, but we chose not to. We have not done anything, and it is a disgrace. I heard yesterday that there was a shooting. I have recounted several incidents in the past year when I have heard news of a shooting here and news of a shooting there. My first question is, Is it a school? Is it a schoolyard that has become another killing field? Yesterday's shooting was not in a schoolyard. But when that 6-year-old child was killed by another 6-year-old child, it was in a schoolyard. It was an adult's fault more than that child's fault—the 6-year-old didn't know any better—the man whose gun was lying casually around when this boy picked it up and took it to kill his classmate. We have not dealt with that. We have not dealt with the problem of adult responsibility, keeping guns out of the hands of children. There is no doubt in my mind that the responsibility should fall directly on the adult and have them pay, and pay dearly, for their role in the crime.

On Tuesday, the President tried to help. He met with leaders of the conference committee, where gun safety measures are stalled, to try to move this issue to the front burner. I salute his efforts. He understands the need for action. He recalls routinely the vote we took in this Chamber to pass my gun show loophole amendment. It did pass, 51–50, with the help of Vice President Gore, who voted to break the tie.

But nothing happened. The legislation passed the Senate. But the House passed a juvenile justice bill without gun safety measures. While the President tried to make positive progress, the NRA, the National Rifle Association—I name them clearly—and the gun lobby continued to obstruct every single effort to pass commonsense gun safety measures. They do it by spreading false information about what these measures are designed to do. They distort the record to achieve their goal: no gun safety laws. That is what they want.

They said my amendment was intended to shut down gun shows. It was a lie. It was an untruth. They also misquoted my remarks at a press conference. But when the video of my speech is reviewed, you see what I said. I said, ''Close the gun show loophole.'' These folks don't respect the truth.

My amendment would simply shut out criminals who use gun shows as convenience stores to buy the firearms they will use to rob and commit violent crimes, to kill people. That includes our police officers, law enforcement people.

The American people support criminal background checks on all gun sales at gun shows. It has to be hard for people across the country to understand that you have to get a permit, you have to get a bill of sale, to buy a car, in many cases, to buy an appliance. Why in the world would we not insist that people who are buying a gun identify themselves in some way?

The support for identification is overwhelming. We saw it in an ABC news poll. Ninety percent of the people said they want to close the gun show loophole, the loophole that says unlicensed dealers, private dealers, can go ahead and sell guns to anybody who has the money. No need to ask the question: What are you going to do with it? They ask if you are 18. If you say you are 18, that takes care of it; then they just sell them.

If you are a member of the Ten Most Wanted list, the most wanted criminals in the country, you can step up there and buy a gun. No one will ask you a question.

What about the gun owners the NRA claims to represent? In a poll that was conducted by the Center for Gun Policy and Research at Johns Hopkins University, two-thirds—66 percent—of gun owners said they favor background checks at gun show sales. Last year, the FBI issued a report which noted that between November 30, 1998, and June 15, 1999—less than a year, 6 months—the FBI failed to block about 1,700 gun sales to prohibited purchasers—in other words, people unfit, unable to meet basic standards—because it didn't have enough time to complete the background check. The FBI had to allow the gun sales to go through.

Those transactions were completed because the FBI didn't have enough time to complete the background check. So consequently, they had to issue gun retrieval notices and law enforcement had to try to track down the criminals who got the guns.

So we must not permit weakening of our criminal background check system. We should strengthen it, a system that has stopped more than 470,000 guns from being purchased in 6 years. Half a million people, almost, who wanted to buy guns, who were unfit to buy those guns—criminals, fugitives, other prohibited purchasers—tried to buy a gun and were stopped by Federal law from doing so. I think that is a good thing for people in our country to hear. It includes 33,000 spousal abusers who were denied a gun because of a domestic violence gun ban I wrote only 4 years ago.

The NRA makes another outrageous claim, that my gun show loophole closing bill won't make any difference; in other words, if there are guns out there bought by unknown people, that it doesn't matter. They say my legislation won't make it tougher for people to buy a gun to commit a crime. That is also nonsense.

But don't take my word for it. Look at what Robyn Anderson told the Colorado State Legislature recently. She is the woman who went with Eric Harris and Dylan Klebold to the Tanner gun show in Adams County, CO. She said:

> Eric Harris and Dylan Klebold had gone to the Tanner gun show on Saturday and they took me back with them on Sunday. . . . While we were walking around, Eric and Dylan kept asking sellers if they were private or licensed. They wanted to buy their guns from someone who was private—and not licensed—because there would be no paperwork or background check.

They needed Anderson's help because she was 18 and they were too young to buy guns. So Robyn Anderson bought 3 guns for them at the gun show, 2 shotguns and a rifle—3 guns that Harris and Klebold would use to murder 13 young people at Columbine High School.

Here is what she said. You read it and you will understand it, I hope. She said:

> It was too easy. I wish it had been more difficult. I wouldn't have helped them buy the guns if I had faced a background check.

How much clearer could it be? Closing the gun show loophole will make a difference. I plead with all of my colleagues in this Chamber—I don't understand how we can ignore the cries of our people—I plead with them: Follow your conscience. Let's do the right thing. Whom are we hurting if we say you have to identify yourself when you buy a weapon? We are not hurting anybody.

By not demanding it, we permit this kind of thing to take place, unidentified gun buyers. That ought to shock everybody in America. Let's do what the people of this country expect us to do. Ten months ago, the Senate passed my amendment to close the gun show loophole. Now that bill is being held hostage in a conference committee.

For those who are not aware of what it is, a conference committee is a committee of the House and a committee of the Senate. They join together—it is called a conference committee—to iron out differences in legislation they want to see passed in both Houses.

Nothing has happened. The committee has met only one time, last year. They have not debated the issues.

We are asking: Please, let that legislation go free. Don't let the gun lobby prevail over the families across this country who want to stop the gun violence.

Don't let the gun lobby rule what takes place in this Senate or in the House of Representatives. We have to do it now, before April 20, before the anniversary of that terrible day at Columbine High School. No one will forget it. No one who is alive and old enough to understand what took place will forget it. One year is time enough to act. April 20.

People across this country are asking: What has Congress done? What will they do? If one thinks they will be satisfied to hear that we have done nothing at all, I urge them to think again. And I urge people within the range of my voice to listen to what some are saying—that Congress will do nothing about it, even though children die across this country and adults die across this country. Over 33,000 a year die from gunshot wounds. We wound 134,000. In Vietnam, we lost 58,000 over the whole 10-year period that war was fought. But we lose 33,000 Americans a year—young, old, black, white, Christian, Jewish, it doesn't matter.

So I plead with my colleagues, give our people a safer country. They are entitled to that. If we have an enemy outside our borders, we are prepared to fight that enemy. We have service personnel and airplanes with the latest equipment. We try to provide our law enforcement people—the police departments, FBI, drug enforcement agents, and border patrol people—with the weapons to fight crime. But each year, 33,000 people die from gunshots in this country. We ought not to permit that. I plead with my colleagues to help our people. Let's try to move forward with gun safety legislation as quickly as we can when we return the week after next.

I yield the floor.

Mr. GRAMS. I ask unanimous consent to speak in morning business up to 10 minutes.

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

FEDERAL DAIRY POLICY

Mr. GRAMS. Recently, I came to the floor to address Federal dairy policy, specifically focusing on an erroneous but often repeated claim that dairy compacts are necessary today to guarantee a supply of fresh, locally produced milk to consumers. During that time, I dealt with how this is a myth similar to urban legends that are assumed to be true because they are repeated so often. Another dairy myth that you may hear a great deal is that dairy compacts preserve small dairy farms. Mr. President, this is simply not true, and this afternoon I want to point out the reasons why it is untrue.

The Northeast Dairy Compact sets a floor price that processors must pay for fluid milk in the region. Ostensibly, this is supposed to provide small farmers with the additional income necessary to help them survive during hard times. In its practical effect, it doesn't work that way at all. In fact, It has provided financial incentives for big dairy farms to get even bigger.

Consider the cases of Vermont and Pennsylvania. Vermont is in the Northeast Dairy Compact and Pennsylvania is not. Before the formation of the compact in 1997, Vermont had 2,100 dairy farms with an average herd size of 74 cows per farm. By 1998, the number of farms had fallen nearly 10 percent to 1900 dairy farms, but the average herd size had increased to 85 cows per farm. That is a 15-percent increase.

Meanwhile, during the same period of time in Pennsylvania—again, without the compact—the number of dairy farms fell 3 percent, from 11,300 to 10,900, but the average herd size increased only from 56 cows to 57 cows. Thus, in a compact State such as Vermont, the number of dairy farms fell significantly while the average herd size per farm increased significantly. And then compare that to the noncompact State of Pennsylvania during the same period. Their number of dairy farms dropped by a smaller number, and farm herd sizes increased by an even smaller percentage. So this does not appear in any way to be a compact to protect small dairy farms.

The extra income that the compact provides to large farms accelerates their domination of the industry by helping them get larger and stronger. Since the amount of compact premium a producer receives is based entirely on the volume of production, the small amount of additional income a small farmer receives is often inconsequential and does nothing to keep small farms from exiting the industry. In fact, during the first year of the compact, dairy farms in New England declined at a 25 percent faster rate than the average rate of decline during the previous 2-year period.

The assertion that dairy compacts do not protect small farmers is not just something that this Minnesota Senator claims but compact supporters themselves have acknowledged as much. In the latter part of 1998, the Massachusetts commissioner of agriculture declared that the compact, after 16 months, had not protected small dairy farms. The commissioner consequently proposed a new method for distributing the compact premium to class I milk, capping the amount of premium any one dairy farm could receive and redistributing the surplus. Farms of average size or smaller would have seen their incomes increase by as much as 80 percent. However, large farm dairy interests were predictably able to kill this proposal because the assistance to small dairy farmers would have come, of course, out of their pockets. So while compact supporters perpetuate a sentimental picture of compacts enabling small family farmers to continue to work the land, the bottom line is that compacts hasten the demise of the small farmer while enriching the bigger producers.

This claim that compacts save small dairy operations is often made in conjunction with the claim that compacts are being unfairly opposed by large-scale Midwest dairy farms that want to dominate the market. Well, this, too, is untrue because the average herd size for a Vermont dairy farm is 85 cows per herd, while the average herd size for a Minnesota dairy farm is only 57 head. Thus, Vermont dairy farms average in size almost 50 percent larger than Minnesota dairy farms.

Similarly, the South, which has also sought to have its own compact, also has larger farms than the Midwest. The average herd size of a Florida dairy farm is 246 head. That is almost four times larger than the upper-Midwest average. Incidentally, Minnesota producers would love to be getting the mailbox price that farmers in Florida and the Northeast are getting.

In November of last year, the mailbox price—which is the actual price farmers receive for their milk—in the upper-Midwest was $12.09 per hundredweight. In the Northeast, it was $15.02. And in Florida, due to the milk marketing order system, it was $18.72 per hundredweight. So in the Midwest it was $12; in the Northeast it was $15—that is $3 per hundredweight more—and again, in Florida, it was $18.72, or nearly $7 a hundredweight more, or 50 percent more for milk produced in Florida than in Minnesota. How are you going to compete against this type of unfairness in the compact system and in the milk marketing orders?

So the Northeast price is 24 percent higher than Minnesota's, and Florida's price is almost 55 percent higher. Again, Minnesota farmers would love to get those kinds of mailbox prices, but our Government program—and again, the larger farmers in these areas unfairly benefit from this program—ensures that they don't and that these other regions do.

While dairy compacts are again not saving small dairy farms in compact States, they are impacting the bottom line of small-scale producers in noncompact States; in other words, those dairy farmers outside the compact. Compacts are a zero-sum game that shifts producer markets and income from one region of the country to competing regions. They don't have small family farms, and they certainly don't deserve the continuing sanction and the support of the Congress.

Again, there are other dairy myths that must be exposed, and the truth must be told. I will be back on the floor soon to take another look at a misleading claim, try to dissect it a little bit, and put some fairness into what we often hear in the dairy debates.

If we look at this system and why it is unfair, again to look at the prices farmers receive for the milk they produce, why is it fair that if you are in the Midwest, you get $12.60 or $12.70

per hundredweight, but if you are in New England in the compact States, you get $15.20, and if you are a farmer in Florida, that somehow you can receive $18.72 per hundredweight? I don't know. We don't sell computers that way. We don't sell oranges that way. We don't sell automobiles that way. Why is it milk is different? Why is the Government picking winners and losers among those who are in the dairy industry?

If you are in the Midwest, the Government says, well, you are going to be a loser, and if you are in Florida or in the compact States, our Government programs say you are going to get more so you can be a winner. I don't think we should have this type of competition and unfair playing field with the Government picking dairy winners and losers.

I hope we bring some sanity into our dairy program. I will be back on the floor to take on another misleading claim we often hear in these dairy debates.

Thank you, Mr. President. I yield the floor.

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

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

U.S. ENERGY DEPENDENCE

Mr. MURKOWSKI. Mr. President, I think I understand more than many the anger many Americans feel when they see gasoline pump prices at $1.80 a gallon or higher. But I also think it is unfortunate that the Clinton-Gore administration has, for 8 years, kind of lulled Americans into believing that an unlimited supply of relatively cheap gasoline will be available from our so-called friends in OPEC.

As a consequence of that false sense of security, America's soccer moms, with the idea of running the kids here and there, have gone out and spent tens of millions of dollars on sport utility vehicles that barely get 15 miles a gallon. With today's gas prices, they find when they fill up one of those SUVs that it can put a big hole in a $100 bill. It will cost $70 or $80. It is almost certain that gasoline will hit $2 a gallon this summer because our refineries are not refining gasoline because they are still refining heating oil. Since they have not shut down for the conversion, we won't have on hand the reserves necessary to meet the requirements for the families in this country who are used to driving long distances in the summertime. It is going to happen. We are going to get $2-a-gallon gasoline.

Americans I don't think should blame OPEC when the fault lies clearly with the Clinton-Gore administration and their energy policy, which is really no policy. They have no policy on coal, they have no policy on oil, and they have no policy on hydro other than it is nonrenewable, and they have no policy on natural gas. They say that is the savior. But they won't open up public land for oil and gas exploration, particularly in the upper belt of the Rocky Mountains, my State of Alaska, and the OCS areas.

What they propose is to put the Secretary of Energy on an airplane and send him over to Saudi Arabia with his hand out begging the Saudis to produce more oil. They made that trip; they made that request. And the Saudis said: We have a meeting of OPEC March 27. He said: No, you don't understand. There is an emergency in the United States. We need you to produce more oil. They said: You don't understand, Mr. Secretary. Our meeting is March 27.

That is hardly an adequate response to a nation that went over there and fought a war so that Saddam Hussein could not take over Kuwait. That war was about oil.

We sought relief from the non-OPEC nations of Mexico and Venezuela. The Mexicans said: Well, isn't it rather ironic, when oil was $11, 12, and $13 a barrel and the Mexican economy was in the tank and in shambles, where were the Americans? Was the administration trying to help us out? We weren't there. So we got stiffed. We got poked in the eye.

Now we see oil fluctuating from $34 a barrel a couple of days ago. It dropped $3. It went up again today.

The point is, we are dependent on imports and we are increasing that dependence.

Since the very first day this administration took office in 1993, they declared war on domestic energy producers.

The first proposal they sent to the Congress—this is very important, because some of you do not have a memory of 1993. But the Clinton administration proposed to the Congress a new $70 billion tax on fossil fuel produced in this country. That was a tax they planned with inflation indexing so that it would go up every single year. On top of that, they tried to add $8 billion in new motor fuel taxes and $1 billion in taxes on barge fuel.

Do you remember that, Mr. President? This Senator from Alaska does. A lot of folks in the administration would like us to forget that. I hope we will not forget that.

The Democratically-controlled Congress delivered to President Clinton $42 billion in new motor vehicle taxes in the form of a 30-percent gas tax increase. The Democratically-controlled Congress delivered to President Clinton $42 billion in new motor fuel taxes in the form of a 30-percent gas tax increase, and not a single Republican voted for that gas tax hike. We were joined by six Democrats, which resulted in what? A 50–50 tie vote. But the $42 billion gas tax hike became reality for every single American because the Vice President, AL GORE, cast the tie-breaking vote in favor of this tax hike.

That is a fact, and the RECORD will so note.

It will be interesting to hear his explanation. We heard an explanation not so long ago that, if elected, he would cancel the OCS leases. Where does he propose to get energy from, the tooth fairy?

I believe today, when gasoline is selling for more than $2 a gallon in some parts of the country, we should suspend the 30-percent Clinton/Gore tax increase. That is the least we can do to help the American motorist. We can make sure the highway trust fund is reimbursed for any lost revenue so we can ensure that all highway construction that is authorized will be constructed and that we don't jeopardize that.

I believe it is appropriate for this payback to the trust fund because the Clinton/Gore gas tax was not used for highway construction. It was used for government spending until Republicans took over Congress and authorized the tax to be restored for highway construction.

That is a short-term fix, but I think a realistic and achievable one.

Mr. President, barely a month ago, when heating oil prices were at their peak, what did the President propose? another $2.5 billion tax increase on the oil industry. Let me assure everyone in this chamber that those proposals are dead on arrival, as they should be.

It is not just higher energy taxes that the President demands. What has he done on the supply side? In a word, nothing. This administration has done nothing to open federal lands for exploration and development of oil and gas.

We should develop the overthrust belt of the Rocky Mountains and some of the OCS areas. The administration refuses to budge on the most promising oil field in America, ANWR. It is simply off limits. And they demand moratoriums on offshore, and on and on.

There is the story. Petroleum demands go up, and crude production goes down. That is where we are. It is as simple at that.

Mr. President, some people say that the administration does not have an energy policy. I would disagree with that statement. The Clinton-Gore administration does have an energy policy. It's goal is simply to stop energy production in the United States and make this country completely dependent on foreign oil. When Bill Clinton took office, we imported 43 percent of our oil. Today, foreign oil accounts for 56 percent of domestic consumption.

This isn't going to come as a surprise to the Department of Energy. The Department of Energy says the U.S. will be 65 percent in the year 2020—somewhere between 2010, 2015, and 2020.

That seems to be the goal of this administration rather than trying to do something about it.

And the predictable result of this irrational policy: We send the Secretary of Energy with hat in hand begging OPEC to raise production. The Sheiks in the Middle East must be laughing all the way to the bank as they contemplate how this administration has turned America into a dependent of OPEC.

They must view with mild amusement the irrational pie-in-the sky policies that this administration has tried to sell to the American people. Would this administration support building more nuclear facilities to reduce our dependence on OPEC? NO!

Would they support building new non-polluting hydro-electric facilities to reduce our dependence on OPEC? No. In fact, in what must be one of the most naive proposals from this Administration, they have been proposing tearing down dams that have been providing power for decades. Tearing down dams at a time when we are 56 percent dependent on imported oil is simply unconscionable. How would we replace this lost source of power? Does the administration support building more coal fired power plants? No. So how do President Clinton and Vice President GORE propose that we generate energy to run our industry and fuel our transportation system? Year in and year out what we hear from this administration is one word: Renewables—solar, wind, and geothermal.

I know the Administration is always emphasizing renewable energy as the best option. They are all important, but they constitute less than 4 percent of U.S. energy production and for the foreseeable future are not going to make a dent in our energy production.

I hope someday renewables will play a bigger role. We have to face reality. In 25 years, if there are technological breakthroughs, they may play a more important role, but today they have almost no role.

Face it: Today there are no solar airplanes; there are no economically feasible solar automobiles; there are no wind-powered, solar-powered trains. it gets dark in Alaska in the winter. None of these concepts is on the drawing board. The fact that the administration does not want to face up to this is evident up to now and in the foreseeable future.

This administration hopes they can get out of town before the crisis hits, the calamity of the American public asking: What have you done? You sold our energy security to the Saudis and some of the other Third World nations.

For 8 years, this administration has been blind to the facts and lived in a renewable dream world. Today, the American consumer is paying the price for the failed energy policies of the Clinton-Gore administration.

Today's gas prices may wake us up and call the country to the recognition that we have to begin to address, with long-term solutions, our energy security issues. If we don't do that, we may look back on March 2000 as the good old days when gasoline was only $1.70 a gallon. As we propose taking off this 4.3 percent, I look forward to the administration's response as to how the Vice President broke that tie. He and the administration are responsible for the tax costing the American consumer $43 billion.

PARDON ATTORNEY REFORM AND INTEGRITY ACT

Mr. ABRAHAM. Mr. President, a few weeks ago Senator HATCH, Senator NICKLES, and I, along with other Senators, introduced S. 2042, the Pardon Attorney Reform and Integrity Act. The Judiciary Committee has now reported this legislation to the floor. I wanted to say just a few words about why I believe this legislation is needed and why I hope the Senate will act quickly.

Last September, President Clinton decided to grant clemency to 11 members of the Puerto Rican terrorist groups FALN and Los Macheteros. When this decision became known, it was greeted with virtually universal shock and disbelief, followed by calls for the President to reconsider and ultimately by near universal condemnation. The FALN had been involved in numerous terrorist acts. The most heinous of these acts was the bombing of Fraunces Tavern in New York City. In the middle of the lunch time rush at this Wall Street tavern, FALN members planted a bomb. The explosion killed four people and left 55 people wounded. In addition, FALN has taken credit for more than 130 bombings, attempted bombings, bomb threats and kidnapings. They took credit for the bombing of office buildings in New York and Chicago where at least one other person was killed and several more injured.

Although it has been suggested that the individuals the President pardoned were not convicted of direct involvement in these acts, the conduct that they were convicted of made clear that they all played important roles in facilitating the activities of the organization, fully aware that the entity in question engaged in just this kind of conduct. Despite this, there is no evidence that any of them are seriously remorseful about their serious wrongdoing. Singling them out for the extraordinary favor of Presidential clemency is, under these circumstances, frankly inexplicable.

Both this body and the House of Representatives passed resolutions stating our disapproval of the President's action. Following these events, the Committee on the Judiciary held two hearings on how the President had made his decision. In the first of these hearings, it was discovered that Reverend Ikuta, a supporter of clemency for the terrorists, had several meetings with the Department of Justice concerning the potential grant of clemency. At the same time, law enforcement officials, who attempted to contact the President and the Department of Justice concerning the clemency, received no response from the administration. Nor were the victims consulted in any way. The son of one of the victims of the Fraunces Tavern bombing was told in 1998 by the FBI that they were still searching for the FALN member thought to have planted the bomb. Meanwhile, the President was considering granting clemency to individuals who not only were members of the group responsible for the bomb in the first place, but also who may have had information about the whereabouts of this primary suspect. The victims of the terrorists' acts were never even informed of the President's grant of clemency. They had to read it in the newspaper. Perhaps the gravest oversight of all is that the terrorists were never asked to provide any information about other FALN members who are still on the FBI most wanted list.

The goal of this bill is to try to do what Congress can to prevent this situation from recurring. The bill would require the Department of Justice, if asked to investigate a pardon request, to make all reasonable efforts to inform the victims that a pardon request is being reviewed and give the victims an opportunity to present their views. The Department is also required to notify the victims of a decision to grant clemency as soon as practical after it is made and, if it will result in the release of someone, before release of that person if practicable. The bill also requires that the Department of Justice make all reasonable efforts to determine the views of law enforcement on whether the person has accepted responsibility for his or her actions and whether the person is a danger to any person or society. Finally the Department must determine from federal, state and local law enforcement whether the person may have information relevant to any ongoing investigation, prosecution, or effort to apprehend a fugitive, and to determine the effect of a grant of clemency on the threat of terrorism or future criminal activity.

Opponents of this bill argue that it is an unconstitutional infringement on the Presidential pardon power. This is not so. This bill dictates a process to be used when the President delegates investigatory power to the Department of Justice. Accordingly, this bill is not a usurpation of the President's pardon power, but within the legitimate exercise of Congress's power, in establishing the Department of Justice, to ''make all laws which are necessary and proper for carrying into Execution'' not only the powers vested in Congress but also ''all other powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.'' The President's own freedom to exercise the pardon power however he sees fit is in no way infringed by this bill. In fact, this bill only acts to ensure that the President has the information before

him to make a well rounded and informed decision. The President can ignore the information provided by the victims and the law enforcement officers if he chooses to do so. I would hope that he would not. But while requirements that would force him to give particular weight to their views would most likely be unconstitutional, requiring the Department to make this information available to him, for whatever use he chooses to make of it, surely is not. Indeed, the President and the Department of Justice should be supportive of this bill as it should help return to the American people confidence in the clemency process that may have been lost following the release of the FALN and Los Macheteros terrorists.

It is unconscionable that in this instance, the views of the victims and law enforcement officers, the parties most affected by both the criminal act and the clemency, were ignored in the decision making process. This bill goes a long way in helping to prevent a recurrence of the defects in process in President Clinton's grant of clemency last September to the 11 terrorists. It will enhance the quality of information available so as to ensure a more balanced basis for the President's decisions regarding clemency. I am, therefore, pleased the committee has reported this legislation to the floor of the Senate, and I urge its prompt enactment.

ACTS OF BRUTALITY

Mr. FRIST. Mr. President, for the second time in one week, I come to the floor of the Senate to bring attention to an atrocious and despicable act of brutality against innocent men, women, and children.

Just 8 days ago, the Government of Sudan bombed nine towns, hospitals and feeding centers in the areas of the vast country outside of their control. As I said a week ago, they did not hit key rebel facilities or strongholds. However, they did bomb the town of Lui and the only rudimentary hospital and a TB clinic for a hundred mile radius.

They killed, maimed, and injured dozens of innocent and infirmed civilians.

As I said last week, I know this ''target'' well. It is the very hospital where I served as a volunteer surgeon and medical missionary just two years ago.

One of the worst aspects of the bombings is that the Government of Sudan knew exactly what these targets were. There was no mistaking it. Rebel forces had even caught government army agents attempting to mine the airstrip earlier in the year.

Last Sunday, 4 days after the bombing, the old Soviet cargo planes, which have been converted into bombers, returned. They dropped no bombs, but inspected the damage of the earlier raid and, we suspect, continued selecting targets.

On Tuesday morning, just past 10 a.m. local time, the bomber returned. It dropped 15 more bombs on the Samaritan's Purse hospital it targeted last week.

The sad part of the story is that it is not surprising. For years the Government of Sudan has targeted the relief facilities of organizations it deems friendly toward the rebels. That is, those who operate exclusively in areas outside of government control or those who criticize the regime in Khartoum.

In the town of Yei, the hospital has been bombed so many times, bombings of the facility no longer necessary even makes it to wire reports.

On February 8 of this year, one of those routine bombings of civilian targets was especially horrific, when school children in the Nuba Mountains region—an isolated area especially devastated by government bombings and offensive—were killed as they took their lessons under a tree. At least a dozen students and two adults were killed by antipersonnel bombs pushed out the cargo doors of the converted cargo planes. These were schoolchildren. They were not rebels nor child soldiers, but children learning to read.

In that case, we have good reason to believe that the strike was retribution for the local Roman Catholic Bishop, who has been charged with treason for coming to the United States in an effort to publicize the atrocities of his government against its own people. It was a school run by his church and a location that he was known to frequent.

In general, the United States policy is pointed in the right direction with respect to Sudan: its primary focus is on ending the war through multilateral negotiations, and on aiding the areas of greatest food insecurity.

But the United States policy is not without serious flaws, the greatest of which is failing to use our full diplomatic and economic weight to change the political environment where the Government of Sudan can repeatedly and intentionally bomb civilian targets, including schools and hospitals, and not face a single substantial objection from any member of the United Nations Security Council—nor any member of the United Nations.

That includes the United States. We do not sufficiently use the international body to promote peace to even raise objections about the murder of innocent civilians.

This failure of the international community to forcefully act or to raise even routine objections in international fora in an effort to stop the most brutal and devastating war since the Second World War is as inexplicable as it is tragic.

It is also hypocritical when compared to any number of United Nations sponsored peace missions.

Why is the United Nations so unwilling or unable to act? Because it lacks the necessary leadership among its members. It lacks the type public exposure to the truth of the horrors in Sudan to cause sufficient shame and embarrassment to change inaction into action.

The United Nations and its members do not suffer from a lack of information about the war I have described as lurking on the edge of the world's conscience. The United Nations own Special Rapporteur for Sudan has submitted an extensive report detailing the atrocities and some common sense recommendations for the body to act upon. But nothing has happened.

It is behind this veil of obscurity that some of our closest allies' inaction has somehow instead become the United States ''isolation'' on the issue. It is behind this veil of obscurity and sense of this being an esoteric American issue that inaction has hidden and thrived.

That failure, that veil of obscurity, is the greatest tragedy of them all. The United Nations was formed to stop or prevent injustice such as what is happening in Sudan. But it has instead become a vehicle for obfuscation of responsibility. it has become the chosen forum for denial and the Sudanese government's charm offensive: a concerted and effective public relations effort which portrays them as simply ''misunderstood'' and the victim of undeserved American vilification.

The United Nations should be the forum to pull the war in Sudan from the edge of the world's consciousness, to the center of the world's attention. To fail to take every reasonable opportunity to use the United Nations to generate the necessary embarrassment and shame to drive our complicity and compel nations to act to end the war would be the greatest failure of our policy and a tragic loss of potential for good. It is our failure to fully use the United Nations as an effective instrument to end the war in Sudan which must become a major focus of the United States policy.

If the United Nations is not used as a forum for resolution of a conflict like this, and if we are not willing to assert American leadership within that forum, the unavoidable question becomes what, then, is the purpose of United Nations and our membership therein?

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Mr. BIDEN. Mr. President, nearly two decades ago, President Carter submitted to the Senate the Convention on the Elimination of All Forms of Discrimination Against Women, known in shorthand as the ''Womens' Convention.''

In the two decades since then, the Committee on Foreign Relations has acted on the Convention only once. In 1994, the Committee voted to report the treaty by a strong majority of 13 to 5. Unfortunately, the 103rd Congress ended before the full Senate could act on the Convention.

Since then, not one hearing has been held in the Committee on Foreign Relations. Not one.

It is a great mystery to me that a treaty that calls for the international promotion of civil and human rights for women would not be considered by the Senate.

Over 160 nations have become party to this treaty, which entered into force in 1981. To its great discredit, the United States stands outside this treaty with a just handful of other nations.

There is hardly anything revolutionary about this treaty. It contains a specific set of obligations calling on member states to enact legal prohibitions on discrimination against women—prohibitions which, in large part, the United States has already enacted.

In fact, if the United States becomes a party to the treaty, we would not need to make any changes to U.S. law in order to comply with the treaty.

So what are the opponents of this treaty supposedly concerned about?

In 1994, the five Senators who voted against the Convention in the Committee filed ''minority views.'' In it they expressed two concerns.

First, the dissenting Senators expressed concern that, in ratifying the Convention, several nations had taken reservations to the treaty, and thereby ''cheapened the coin'' of the treaty and the human rights norms that it embodies.

To this objection there are two answers. First, no treaty signed by dozens of nations will ever be perfect. It will be the product of numerous compromises, some of which will not always be acceptable.

That's why the Senate thinks it so important that we retain the right, whenever possible, to offer reservations to treaties—to attempt to remedy, or if necessary, opt-out, of any bad deals agreed to by our negotiators.

Second, this Senate has frequently entered reservations in ratifying human rights treaties in the 1980s and 1990s—such as the Convention on Torture, the Convention on Racial Discrimination, and the International Covenant on Civil and Political Rights.

In unanimously approving each of these treaties, the Senate imposed numerous reservations and understandings on U.S. ratification. In approving the Race Convention, for example, the Senate added three reservations, one understanding, and one condition.

Did we ''cheapen the coin'' of the Race Convention in doing so? The answer is no, because in entering these reservations we did not undermine the central purpose of the treaty—to require nations to outlaw racial discrimination.

The second objection registered by the five senators who voted against the Convention in 1994 is that joining the treaty was not the ''best use'' of our government's ''energies'' in promoting the human rights of women around the world.

This is a rather remarkable objection. What this group of senators was saying, in short, is that we should reserve our resources—and only promote human rights for women at certain times and in certain places.

I would hope that every senator would agree that we should promote equal rights for women at every opportunity—not when it suits us or when where it is the ''best use'' of our ''energies.'' Advancing human rights and human liberty—for women and for everyone else—is a never-ending struggle.

Of course, the United States has a powerful voice, and we do not need to be a party to this Convention in order to speak out on womens' rights. But we should join this Convention so we can be heard within the councils of the treaty.

Now the Senator from California stepped forward with a simple resolution which calls on the Senate to have hearings on the treaty, and for the Senate to act on the Convention by March 8, International Womens' Day.

Unfortunately, the effort to call up this resolution yesterday was objected to. So we are here on the floor today simply to try to raise the profile of this treaty. I hope that our colleagues are listening.

I urge the other members—whether on the Foreign Relations Committee or not—to step forward and join with us in urging support for this treaty.

MIDDLE EAST PEACE PROCESS

Mr. BROWNBACK. Mr. President, there is a lot of information swirling about concerning the Middle East Peace Process, specifically the so called ''Syrian track.'' Facts and figures are being bandied about freely and there is little to indicate which are fact and which are fiction. Therefore I rise today to lay down a marker for the coming year and to express the hope that the administration will consult with Congress on a continual basis as this process picks up again.

Last year, Congress and the American people were presented with a bill for the Middle East peace process that was in excess of $1 billion—that is $1 billion more than the $5 billion plus we already spend in the Middle East. And this extra bill was compiled without any congressional input. It was approved, but this is no way to do business.

The peace process is ongoing, but the President and the Department of State should consider themselves on notice from this moment on: This Congress will not rubber stamp another Wye Plantation Accord, we will not cough up another check without consultation and due consideration; we will not be left out of our Constitutionally assigned role.

I am a strong believer in the Middle East peace process. The Governments of Egypt, Jordan and Israel have shown enormous character and courage in making peace, and they deserve our support. The nations of Egypt and Jordan, like Israel, need economic and military security in a bad neighborhood. They have made real sacrifices to do the right thing, and they have the backing of the United States.

However, ultimately, peace is not something that can be bought. Both Israel and its Arab partners, be they the Palestinians, the Lebanese or the Syrians, must make peace on their own terms without regard to sweeteners or inducements from the United States. The US has always played a historical role in promoting peace, but ultimately, peace only works when it is in the interests of the parties directly involved. Should we help? I believe we can. Should that help be the sole basis of an agreement? Unreservedly, no.

All of us who follow foreign policy issues are well aware that in this, the last year of the Clinton Administration, the President would like to preside over an historic peace between Israel and its remaining enemies in the Arab world. Perhaps we shouldn't blame President Clinton too much for yearning for a place in the history books. But President Clinton and his entire foreign policy team need to remember a few important points: 1: Congress has the power of the purse; 2: We are not the Syrian parliament: We will not rubber stamp any agreement with any price tag; 3: Notwithstanding rumors to the contrary, we are interested and wish to be kept apprised of important developments in American diplomacy. In other words, Mr. President, come and talk to us. Keep us in the loop.

I have read in the newspapers that Israel is looking at the security implications of returning the Golan Heights and is also considering requesting a security package from the United States which will be very costly. There are ongoing discussions between Israel and the Defense Department on this matter. But Congress has not been briefed. Syria too, has visions of sugar plum fairies dancing into Damascus with billions in aid; and I am sure the Lebanese will not be too far behind.

There will be many reasons to support a peace in the Middle East, but much will depend upon exactly what commitments will be expected of the United States. The President must not again make the mistake of signing IOUs which, this time, the Congress may have no intention of covering. We are willing partners in peace, but we will not accept the presentation of another fait accompli. Mr. President, we look forward to hearing from you—often.

WOMEN'S HISTORY MONTH

Mr. SARBANES. Mr. President, today I rise in recognition of Women's History Month—a time to honor the many great women leaders from our past and present who have served our Nation so well. These women have worked diligently to achieve social

change and personal triumph often against incredible odds. As scientists, writers, doctors, teachers, and mothers, they have shaped our world and guided us down the road to prosperity and peace. For far too long, however, their contributions to the strength and character of our society went unrecognized and undervalued.

It is also important to recognize the countless American women whose names and great works are known only to their families. They too have played critical roles in the development of our State and National heritage.

Women have led efforts to secure not only their own rights, but have also been the guiding force behind many of the other major social movements of our time—the abolitionist movement, the industrial labor movement, and the civil rights movement, to name a few. We also have women to thank for the establishment of many of our early charitable, philanthropic, and cultural institutions.

I am proud of the many women from Maryland whose bravery, hard work, and dedication have earned them a place in our Nation's history. They include Margaret Brent, America's first woman lawyer and landholder. In 1648, she went before the Maryland General Assembly demanding the right to vote. Another brave Maryland woman was Harriet Tubman, hero of the Underground Railroad, who was personally responsible for freeing over 300 slaves. Dr. Helen Taussig, another great Marylander, in 1945, developed the first successful medical procedure to save ''blue babies'' by repairing heart birth defects in children whose blood was starved of oxygen, turning their skin a bluish hue. This breakthrough laid the foundation for modern heart surgery.

I would also like to recognize my colleague, another great Maryland woman, Senator BARBARA A. MIKULSKI. One of only nine female Members of the Senate, she has forged a path for women legislators into the Federal political arena and has tirelessly fought for recognition of the right of women to equal treatment and opportunities in our society. Through her leadership, the effort to designate March as Women's History Month has been a resounding success.

Other Maryland women leaders include Dr. Lillie Jackson and Enolia McMillan, two great champions of the Civil Rights Movement, and Henrietta Szold, the founder of Hadassah, the Women's Zionist Organization of America. Hattie Alexander, a native of Baltimore, was a microbiologist and pediatrician who won international recognition for deriving a serum to combat influenzal meningitis. Rachel Carson, founder of the environmental movement, Billie Holiday, the renowned jazz singer, and Elizabeth Seton, the first American canonized as a saint were also all from Maryland. The achievements and dedication of these women are a source of inspiration to us all.

Now more than ever, women are a guiding force in Maryland and a major presence in our business sector. As of 1996, there were over 167,000 women-owned businesses in our State—that amounts to 39 percent of all firms in Maryland. Maryland's women-owned businesses employ over 301,000 people and generate over $39 billion in sales. Between 1987 and 1996, the number of women-owned firms in Maryland is estimated to have increased by 88 percent.

During Women's History month we have the opportunity to remember and praise great women leaders who have opened doors for today's young women in ways that are often overlooked. Their legacy has enriched our lives and deserves prominence in the annals of American history.

With this in mind, I have co-sponsored legislation again this Congress to establish a National Museum of Women's History Advisory Committee. This Committee would be charged with identifying a site for the National Museum of Women's History and developing strategies for raising private funding for the development and maintenance of the museum. Ultimately, the museum will enlighten the young and old about the key roles women have played in our Nation's history and the many contributions they have made to our culture.

However, we must do more than merely recognize the outstanding accomplishments women have made. Women's History Month also is a time to recognize that women still face substantial obstacles and inequities. At every age, women are more likely than their male contemporaries to be poor. A working woman still earns on average only 74 cents for every dollar earned by a man. A female physician only earns about 58 cents to her male counterpart's dollar, and female business executives earn about 65 cents for every dollar paid to a male executive. The average personal income of men over 65 is nearly double that of their female peers. Access to capital for female entrepreneurs is still a significant stumbling block, and women business owners of color are even less likely than white women entrepreneurs to have financial backing from a bank.

To address some of these discrepancies, I have co-sponsored the Paycheck Fairness Act which would provide more effective remedies to victims of wage discrimination on the basis of sex. It would enhance enforcement of the existing Equal Pay Act and protect employees who discuss wages with coworkers from employer retaliation.

On the other hand, we have made great strides toward ensuring a fairer place for women in our society. The college-educated proportion of women, although still smaller than the comparable proportion of men, has been increasing rapidly. In 1995, women represented 55 percent of the people awarded bachelor's degrees, 55 percent of people awarded masters', 39 percent of the doctorates, 39 percent of the M.D.'s, and 43 percent of the law degrees. As recently as the early 1970s, the respective percentages were 43 percent, 40 percent, 14 percent, 8 percent, and 5 percent. Women are now the majority in some professional and managerial occupations that were largely male until relatively recently.

The future does not look so bright for women in many other countries where women not only lack access to equal opportunities, but even worse are subject to dehumanizing social practices and abominable human rights violations. For this reason, I have added my name to a resolution calling on the Senate to act on the Convention on the Elimination of All Forms of Discrimination Against Women.

Mr. President, in the dawn of this new millennium, we must renew our efforts to ensure that gender no longer predetermines a person's opportunities or station in life. It is my hope that we can accelerate our progress in securing women's rights. As we celebrate Women's History Month, let us reaffirm our commitment to the women of this Nation and to insuring full equality for all of our citizens.

A PARENT'S PLEA

Mr. LEVIN. Mr. President, a week ago, Veronica McQueen didn't have the slightest idea she would be the latest parent thrust into a tragic spotlight. Now, the mother of Kayla Rolland, the six-year-old girl who was shot and killed in Mount Morris Township, Michigan, is very much the focus of public attention and empathy.

Kayla's mother and parents across the country are heartsick. Parents too often fear sending their children to school in the morning. They are joining the fight against gun violence and demanding that Congress make this country safer for their own children and the nation's children. As Kayla's mother said, ''I just don't want to see another parent have to bury another baby over this, over something that is preventable, something that is very, very preventable.''

I would like to share some of the thoughts and feelings of mothers across the country. They have written to the Million Mom March, an organization fighting for commonsense gun legislation, asking Congress to listen to their pleas for safety. I urge Congress to stop listening to the NRA and heed the words of parents: pass legislation before more children's voices are silenced by gunshots.

Victoria of Pittsburgh, PA writes: ''It is 4 a.m. and my daughter had that terrifying dream again—the one about the man with the gun—'he'd already shot you and Dad, Mom—and now he's coming for me.' Was my daughter affected by Columbine? I was!''

Cindy of Bridgewater, NJ: ''Our children look to their parents for protection. What are we suppose to tell them when we can't? Who are we suppose to go to for help? It is the job of EVERY citizen in this country and EVERY

government official to make sure our children are safe. Stricter gun laws are only meant to do ONE thing. . . . PROTECT OUR CHILDREN! I am asking the government to please step up to the plate and protect them . . . after all aren't some of you parents too?''

Julie of Hamilton, VA: ''I want to protect my two remaining children and grandchild from the horror of gun violence. I was not able to protect my precious son Jesse, who was a victim of a self-inflicted gunshot wound to the head on June 11, 1999.''

Leslie of Philadelphia, PA: ''On February 2 ,2000, my son, Songha Thomas Willis, was fatally shot in a holdup while visiting me in Philadelphia . . . Needless to say, this has been a very difficult time for me and my family over the past few weeks. We are still in shock, and as a family of law enforcers, we are doubly affected by this event . . . I support not only changing gun control laws but changing the hearts of those who are against our efforts, because the heart is the fountainhead of all things moral.''

Deborah of Walled Lake, MI: ''. . . A few months ago someone I love lost a child to violence and a hand gun. His son who had just turned 17 a few weeks before was shot sitting on his own front porch. Someone thought he was someone else and walked up to him and ended his life his dreams his families dreams for him in an instant. He is gone and the world is a sadder place because of that loss. We have to stop this senseless killing the loss of our children. Our best chance of making Washington listen to us is if our voices are one. I will be with those who march in Washington on Mothers day. We have to stop the killing of our children.''

B. Adams of Littleton, CO: ''My daughter survived Columbine, but looking into the faces of the parents that night who had not found their children was the hardest thing I've ever done. Although guns were not the only equation, how can we not do what we can to prevent this from happening again?! How can gun commerce be more important than the lives and safety of our children? How can we face them and not say that we have done all we can to protect them?''

Eileen of Palm Beach Gardens, FL: ''My 19 yr. old son Michael was murdered on March 21, 1996 along with his best friend. Both were shot in the head execution style by two teens who had been involved in an attempted murder 13 hours before using a hand gun. These last four years have been a living hell and if I can stop just one mother from living the nightmare I have had to live, then I will be happy.''

Suzy of Raleigh, NC: ''Last April, my growing lanky 10 yr. old sat on my lap the day after Columbine and asked me—'Why?' I had no answer. I simply held him and cried with him. I still have no answer. But I don't ever want him to ask me why I didn't do something. I will link hands with all of you on Mothers Day. Its time to take back our precious babies' childhoods.''

Lori of Troy, MI: ''I am scared and outraged for our children. In Michigan there is an effort to allow concealed weapons. I have had enough of the NRA and the pro gun lobby. They say the hand that rocks the cradle rules the world. I hope we can change it.''

Angelique of Imperial Beach, CA: ''A close friend of mine once found a little boy that had been accidentally shot in the head by a friends' dads' gun. To this day she will never in a million years forget what it felt like to have that little boy tug and pull at her shirt during his last few moments alive. Had there been a trigger-lock on that firearm his life could've been saved . . . As well as so many others . . .''

RECOGNIZING THE FIRST BUY BACK OF NATIONAL DEBT IN 70 YEARS

Mr. ROBB. Mr. President, I take a moment to recognize a milestone we reached today that was simply unthinkable eight short years ago. While it has gone largely unnoticed, in my view it represents real hope for our children's future.

Today, for the first time in 70 years, we bought back part of our Nation's debt. It was a relatively small amount—$1 billion—compared to our $5.7 trillion debt. But at least it shows that we are willing to pay down the mortgage the federal government took out on our children's future over the last 30 years.

We hear a great deal about wasteful spending, and we need to remain vigilant to root out wasted taxpayer dollars. But in my view, the most wasteful federal spending is the money we are forced to spend on interest to support our publicly held debt—debt which represents all the tough choices we did not make. Last year, we spent nearly $230 billion on interest payments on the debt. That compares with the roughly $38 billion the federal government spent last year on education.

Those of us who care deeply about keeping government from spending more than it takes in need to continue to make fiscally responsible choices so we can remove the millstone of debt from the necks of our children as quickly and responsibly as possible.

THE AFFORDABLE EDUCATION ACT

Mr. KOHL. Mr. President, I rise today as a proud cosponsor of ''The Public Education Reinvestment, Reinvention, and Responsibility Act of 2000''—better known as ''Three R's.'' I have been pleased to work with the education community in Wisconsin, as well as Senator LIEBERMAN and our other cosponsors, on this important piece of legislation. I believe that this bill represents a realistic, effective approach to improving public education—where 90% of students are educated.

We have made great strides in the past six years toward improving public education. Nearly all States now have academic standards in place. More students are taking more challenging courses. Test scores have risen slightly. Dropout rates have decreased.

In Wisconsin, educators have worked hard to help students achieve. Fourth-graders and eighth-graders are showing continued improvement on State tests in nearly every subject, particularly in science and math. Third-graders are scoring higher on reading tests. Test results show some improvement across all groups, including African American, disabled, and economically disadvantaged groups.

Unfortunately, despite all of our best efforts, we still face huge challenges in improving public schools. The most recent TIMSS study of students from 41 different countries found that many American students score far behind those in other countries. In Wisconsin, scores in math, science and writing are getting better but still need improvement. And test scores of students from low-income families, while showing some improvement, are still too low.

I strongly support the notion that the Federal government must continue to be a partner with States and local educators as we strive to improve public schools. As a nation, it is in all of our best interests to ensure that our children receive the best education possible. It is vital to their future success, and the success of our country.

However, addressing problems in education is going to take more than cosmetic reform. We are going to have to take a fresh look at the structure of Federal education programs. We need to let go of the tired partisan fighting over more spending versus block grants and take a middle ground approach that will truly help our States, school districts—and most importantly, our students.

Our ''Three R's'' bill does just that. It makes raising student achievement for all students—and eliminating the achievement gap between low-income and more affluent students—our top priorities. To accomplish this, our bill centers around three principles.

First, we believe that we must continue to make a stronger investment in education, and that Federal dollars must be targeted to the neediest students. A recent GAO study found that Federal education dollars are significantly more targeted to poor districts than money spent by States. Although Federal funds make up only 6–7% of all money spent on education, it is essential that we target those funds where they are needed the most.

Second, we believe that States and local school districts are in the best position to know what their educational needs are. They should be given more flexibility to determine how they will use Federal dollars to meet those needs.

Finally—and I believe this is the key component of our approach—we believe that in exchange for this increased flexibility, there must also be accountability for results. These principles are

a pyramid, with accountability being the base that supports the federal government's grant of flexibility and funds.

For too long, we have seen a steady stream of Federal dollars flow to States and school districts—regardless of how well they educated their students. This has to stop. We need to reward schools that do a good job. We need to provide assistance and support to schools that are struggling to do a better job. And we need to stop subsidizing failure. Our highest priority must be educating children—not perpetuating broken systems.

I believe the ''Three R's bill is a strong starting point for taking a fresh look at public education. We need to build upon all the progress we've made, and work to address the problems we still face. This bill—by using the concepts of increased funding, targeting, flexibility—and most importantly, accountability—demonstrates how we can work with our State and local partners to make sure every child receives the highest quality education—a chance to live a successful productive life. I look forward to working with all of my colleagues on both sides of the aisle, as well as education groups in my State, as Congress debates ESEA in the coming months.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, March 8, 2000, the Federal debt stood at $5,745,125,070,490.06 (Five trillion, seven hundred forty-five billion, one hundred twenty-five million, seventy thousand, four hundred ninety dollars and six cents).

One year ago, March 8, 1999, the Federal debt stood at $5,651,493,000,000 (Five trillion, six hundred fifty-one billion, four hundred ninety-three million).

Five years ago, March 8, 1995, the Federal debt stood at $4,848,282,000,000 (Four trillion, eight hundred forty-eight billion, two hundred eighty-two million).

Ten years ago, March 8, 1990, the Federal debt stood at $3,023,842,000,000 (Three trillion, twenty-three billion, eight hundred forty-two million).

Fifteen years ago, March 8, 1985, the Federal debt stood at $1,704,823,000,000 (One trillion, seven hundred four billion, eight hundred twenty-three million) which reflects a debt increase of more than $4 trillion—$4,040,302,070,490.06 (Four trillion, forty billion, three hundred two million, seventy thousand, four hundred ninety dollars and six cents) during the past 15 years.

ADDITIONAL STATEMENTS

RECOGNITION OF CAMP FIRE BOYS AND GIRLS BIRTHDAY WEEK

● Mr. GRAMS. Mr. President, I rise today to honor the Camp Fire Boys and Girls as it celebrates its 90th birthday. Founded in 1910 as the Camp Fire Girls, it focuses on educational and leadership programs to mentor America's young women, and at the time was the nation's only organization specifically for girls. My own state of Minnesota was one of the first states to develop a local chapter for Camp Fire Girls, with a small group of eight and their 21-year-old leader.

Minnesota Governor John Lind purchased 63 acres on Lake Minnewashta in 1924 to provide Camp Fire members with a permanent campground. This concept caught on, as two years later, 1000 feet of shoreline on Green Lake was purchased for the St. Paul council. Many of the early camping ventures were for girls in high school. But many councils, like Minnesota, developed a Blue Bird program to provide younger girls with activities all their own. This additional age group completed the support Camp Fire brought to girls up to age 18. To better serve all of America's youth, Camp Fire opened its doors and allowed boys to become members in 1975. In 1994, the St. Paul and Minneapolis councils merged and now serve not only the cities of Minneapolis and St. Paul, but most of Southern Minnesota. This partnership has provided Camp Fire the opportunity to maintain its flexibility and remain responsive to the changing needs of children.

That Camp Fire has consistently adapted to the changes necessitated by changing times is perhaps the organization's strongest asset in reaching out to America's youth.

Camp Fire was not intended to solve the problems of the world, but rather provide the right tools to the children who will. From the beginning, Camp Fire has used the ideals behind Work, Health, and Love (Wohelo) to guide our youth in developing self-esteem and responsibility. Wohelo was the name of the organization's first camp in Vermont and more than 50 years later, in 1962, the Wohelo medallion was created to bestow the highest honor to those who personify the meaning of the Camp Fire organization.

Today, there are 125 local councils in 41 States serving some 629,000 young Americans. Camp Fire provides direct access to youth through development programs in three areas: club programs, self-reliance programs, and outdoor programs.

Club programs provide children with regular, informal educational meetings in local communities led by volunteers or paid leaders. In elementary schools, self-reliance courses are led by trained, certified teachers who educate children about personal safety and self-care. Last year, more than 6,000 children were involved in this program in Minneapolis alone. And in St. Paul, teens are involved in the teaching process to broaden their community involvement. The outdoor programs provide an outdoor setting for children to better understand the world we live in while developing vision, commitment, and participation skills in team and individual activities.

I am honored to wish the Camp Fire Boys and Girls across America a happy 90th birthday. I wish it continued success in reaching our youth by inspiring individual potential while having fun.●

HONORING SISTER AGNES CLARE

● Mr. DURBIN. Mr. President, in my hometown of Springfield, IL, we have extraordinary people who have made noteworthy contributions in service to others.

Julie Cellini, a freelance writer and community activist, has written many profiles which highlight the lives of these fine neighbors in our state capital.

Recently, Julie shared the life story of such a person: Sister Agnes Clare, O.P.

At 103 years of age with a sharp mind, an enduring will to savor each day of her life and an irresistible Irish charm, Sister Agnes Clare is more than a living legend. She is an eyewitness to a century of history in Springfield; a young observer of Washington, D.C., as the daughter of a U.S. Congressman; and most of all, a vivid illustration of the legacy of a life of giving as a member of the Dominican Sisters of Springfield.

In this week before the celebration of St. Patrick's birthday, I would like to share with the Senate Julie Cellini's recent feature story on Sister Agnes Clare from the Springfield State Journal-Register. As you read it, you will learn of the Grahams, a great Irish-American family, and a woman who has touched so many lives with so much goodness.

Mr. President, I ask that this article be printed in the CONGRESSIONAL RECORD.

[From the State Journal-Register, March 5, 2000]

GOLDEN OPPORTUNITIES—SISTER AGNES CLARE

(By Julie Cellini)

Agnes Graham was 11 years old when the race riot of 1908 broke out in Springfield.

''I remember the smashed dishes and glass from the windows of Loper's Restaurant strewn across South Fifth Street,'' she says. ''My mother tried to keep me from reading the newspapers so I wouldn't know all that happened. She always thought children should be trouble free, but it wasn't possible to avoid what was going on.''

Now at 103 years old, Agnes Graham has been Sister Agnes Clare O.P. of the Cominican Sisters of Springfield for 80 years. She has lived during three centuries of Springfield history, but her voice still carries a hint of the same incredulousness she might have felt some 92 years ago when she watched her hometown erupt into violence that culminated in the lynching of two black men.

''There was a mob. They became very angry when they couldn't get to the black prisoners in the county jail. They said a black man raped a white woman, but it wasn't true. The town was just torn apart.''

By the time the two-day upheaval ended, seven people, blacks and whites, were dead,

and 40 black homes and 15 black-owned businesses were destroyed.

Whether the race riot is her worst memory from more than a century of living, Sister Agnes Clare won't say. Her voice is steady, but she moves quickly to other events, often telling stories about her childhood in the leafy confines of what once was called ''Aristocracy Hill.''

Born in 1987 in a handsome, Lincoln-era house that sill stands at 413 S. Seventh St., Agnes Graham was the youngest of seven children—three girls and four boys. She grew up in an adoring, achieving family headed by James M. Graham, an Irish immigrant who co-founded the family law firm of Graham & Graham. James M. Graham served in the Illinois General Assembly and as Sangamon County state's attorney before being elected to Congress, where he served from 1908 to 1914.

Sister Agnes Clare's earliest memories are of life in the Victorian-style, painted-brick house, where water came from a backyard pump and transportation meant hitching up a horse and buggy. She frames them from the perspective of a much loved child who appears to have been the favorite of her older siblings.

She recalls the Christmas she was 5 years old (''about the age when I started doubting Santa Clause'') and too sick with the flu to walk downstairs to open gifts. Her brother Hugh, a law student at the University of Illinois, wrapped her in a blanket and carried her in his arms down the long, curved staircase with its polished walnut banister.

''My father had given me a big dollar bill to buy eight presents, she says, ''I spent 30 cents for three bottles of perfume for my mother and sisters, and the place smelled to high heaven. I bought my father two bow ties for 10 cents. I think they were made of paper, and they fastened with safety pins. When I got downstairs, I saw a cup of tea for Santa Claus.

''When I was very young, my father went on a ship to Ireland to visit. I asked him to bring me back a leprechaun, but he said he didn't want me to be disappointed if the leprechauns were too fast for him to catch. What he did bring back was a leprechaun doll in a box, with gray socks and a pipe and bat. He told me it was a dead leprechaun, and that the salt water had killed him. I think I half-believed him, and I went around the neighborhood showing my dead leprechaun to my friends. One of their mother told my mother, 'Agnes' imagination is growing up faster than she is.''

''The leprechaun went back into a box,'' she says, ''but he'd get to come out on my birthdays and special occasions.''

Now a family heirloom, the doll resides with her great-niece, Sallie Graham.

Sister Agnes Clare says he Springfield she grew up in wasn't a small town. There were 50,000 people living here at the beginning of the 20th century. Downtown was populated with family-owned businesses, and people tended to stay at the same job all of their lives.

The streets were paved with bricks that popped up without warning. People waited all year for the biggest event on the calendar: the Illinois State Fair.

''My mother baked hams and fried chickens so we had safe food to take to the fair. Lots of people got sick from eating at the fairgrounds because there was no refrigeration. At night, the area around the Old Capitol would be filled with fair performers who put on shows. Acrobats, singers and actors would perform on one side of the square. Then we would rush to the other side to get a front row seat on the ground. Everyone in town seemed to come out, and all the stores stayed open late so people could ship.''

A rare treat was a little cash for ice cream, usually provided by big brother Hugh because there was an ice cream shop across from the Graham law office.

A change meeting with Supreme Court Justice Louis Brandeis was a highlight of the years Sister Agnes Clare spent in Washington as the young daughter of an Illinois congressman. She tells how Brandeis and her father worked together to investigate and remove corrupt agents who were swindling the residents of Indian reservations.

''Justice Brandeis came to our home because he was leaving Washington and he wanted to tell my father goodbye. I happened to be hanging on the fence in the front yard, so he gave me his business card and told me to give it to my father. He said my father was a great man.''

''Indians would show up at my father's office in full native dress. My father spent a lot of time away from Washington inspecting the reservations. He told me stories of Indians so badly cared for (that) their feet left bloody footprints in the snow. One agent my father got removed gave an Indian a broken sewing machine for land that had oil and timber on it. The Indians were so grateful, a tribe in South Dakota made my father an honorary member with the title Chief Stand Up Straight.''

Years later, when the Graham family home in Springfield was sold, she says, relatives donated her father's papers from that period to Brandeis University in Waltham, Mass.

In adulthood, Sister Agnes Clare attended college and was a librarian and a founding teacher at a mission and school in Duluth, Minn. However, her long lifetime often has been attached to a small geographic area bounded by the neighborhood where she was born and extending a few blocks west to the places where she attended school, spent much of her working career and retired to the Sacred Heart Convent in 1983.

Within those confines, she has lived most of a full, rich life that shows few signs of diminishing.

''Sister Agnes' bones don't support her, so she moves around in a wheel chair,'' says Sister Beth Murphy, communication coordinator for the Springfield Dominican order.

''Other than that, she has no illnesses, and her mind is sharp and clear.''

The order has had other nuns who lived to be 100, but Sister Agnes Clare holds the longevity record.

''She's amazing,'' says Sister Murphy. ''She continues to live every day with interest and curiosity. She listens to classical music and follows politics and current events on public radio. She reads the large-print edition of The New York Times every day. Recently I dropped by her room to visit and couldn't find her. She had wheeled herself off to art appreciation class.''

Sister Agnes Clare's gaze is steady and assured and her face is remarkably unlined. She occupies a sunny room filled with photos and religious keepsakes. Less than a block away is the former Sacred Heart Academy (now Sacred Heart-Griffin High School), where she worked as a librarian for nearly 60 years.

''No, I didn't plan on becoming a nun,'' she says matter-of-factly. ''I always thought I'd have a lot of children and live in a fairy-tale house. No one lives that way, of course.

''I always loved books, so when I graduated I went across the street from my family's home and got a job at Lincoln Library. The librarians were patient and put up with me while I learned how to do the work. One day I was alone when a man with a gruff voice and a face that looked like leather came in and asked to see the books written by Jack London. Of course, we had 'Sea Wolf' and 'Call of the Wild' and all the popular London books. I showed him, and then I asked who he was.

''He said he was Jack London. I was so astonished, I forgot to ask for his autograph.''

Sister Agnes Clare brushes aside any suggestion that she was a writer, despite her essays published in Catholic Digest and other publications. She once sold an article to The Atlantic Monthly. The piece was a rebuttal to one written by a nun critical of convent life. The editors asked for more of Sister Agnes Clare's work but World War II intervened and life became too busy for writing articles.

She has been a prolific letter writer to four generations of Grahams. Carolyn Graham, another grand-niece says each of her four adult children treasures letters from their Aunt Agnes.

''Whenever my kids come home,'' she says, ''they always check in with her. They think she's extraordinary and she is.''

After a lifetime that has seen wars and sweeping societal changes and the invention of everything from airplanes to the Internet, Sister Agnes Clare isn't offering any advice on how to live longer than 100 years.

An academically engaged life with good health habits probably has helped, and so has genetics. She comes from a long-lived family. Her father lived to age 93 and her brother Huge died at 95. A nephew, Dr. James Graham, continues to practice medicine at age 91.

There are, she admits, perks attached to being among the rare triple-digit individuals called centenarians.

''People ask you questions when you get to be my age,'' she says, smiling. ''They even listen to my answers.''●

LEGISLATION CONCERNING DR. MARTIN LUTHER KING, JR.

● Mr. COVERDELL. Mr. President, Dr. Martin Luther King, Jr. was an extraordinary man who left a legacy for each of us as Americans and also as Georgians. On a hot summer day, August 28, 1963, Dr. King delivered his now famous and unforgettable ''I Have A Dream'' speech on the steps of the Lincoln Memorial in Washington, D.C. His words will always stay with us and help remind our Nation that we must look to our own home and family, friends and community, to see what we can do to make a better world for all. As Dr. King himself said, ''When we let freedom ring, when we let it ring from every village and every hamlet, from every state and every city, we will be able to speed up that day when all of God's children, Black men and White men, Jews and Gentiles, Protestants and Catholics will be able to join hands and sing in the words of that old Negro spiritual, 'Free at last, Free at last, Thank God Almighty, We are free at last.' ''

Thousands of visitors come to our Nation's capital to see where Martin Luther King delivered the ''I Have A Dream'' speech. Unfortunately, there is not a marker or words to show where he helped change the course of our country's history. To commemorate this historic event and truly honor Dr. King, today I am introducing legislation which directs the Secretary of the Interior to insert a plaque at the exact site of the speech on the steps of the

LINCOLN Memorial. It is my hope that this marker will preserve Dr. King's legacy for generations to come. The Secretary of the Interior may accept contributions to help defray the costs of preparing and inserting the plaque on the steps. This legislation is noncontroversial and is consistent with what has been done previously at the Memorial to commemorate similar events. The bill is a Senate companion to legislation introduced by Representative ANN NORTHUP of Kentucky. I look forward to working with her on securing its enactment.●

RETIREMENT OF KEITH McCARTY

● Mr. BAUCUS. Mr. President, 2½ years ago, when the Balanced Budget Act (BBA) was enacted, few Members of Congress paid much attention to a small section in the BBA that created a new program for hospitals in frontier and rural communities.

This program, called the Critical Access Hospital, was buried among hundreds of provisions affecting Medicare. Yet, in many ways, it may well be one of the most lasting achievements of that session of Congress.

The Critical Access Hospital idea is based on a very successful demonstration project in Montana. This project, called the Medical Assistance Facility Demonstration Project, was coordinated by the Montana Health Research and Education Foundation (MHREF). This foundation is affiliated with MHA, an Association of Montana Health Care Providers, formerly the Montana Hospital Association.

As is usually the case, many people can claim at least some of the credit for the huge success of the MAF demonstration project. But the person who should claim the lion's share of the credit has never chosen to do so. It is that person—Keith McCarty—who I would like to recognize today.

Keith McCarty joined MHREF in 1989. At that time, even the concept of an MAF was vague. Several years earlier, a citizens' task force had dreamed up the idea of a limited service hospital to provide access to primary hospital and health care services in rural and frontier communities. Acting on the recommendations of the task force, the Montana Legislature had created a special licensure category for these hospitals.

MHA, the state department of health and others seized the opportunity created by the Legislature and, working with the regional office of the Department of Health and Human Services, developed a demonstration project aimed at determining whether MAFs would actually work. Keith was hired with the unenviable task of transforming this amorphous concept into reality, a job few gave him much hope of performing successfully.

Keith brought a broad range of skills to his job. Trained as a psychologist, from 1968 to 1975, he worked with the developmentally disabled in a variety of positions, including serving as the Superintendent of the Boulder, Montana School and Hospital, the state's school for developmentally disabled children. Beginning in 1975, he provided professional contract services for a wide variety of health care and social service organizations.

By the time he joined MHREF, Keith was skilled at managing projects, preparing grant applications, coordinating and supervising grant-funded projects, program development and evaluation, research and data analysis, facilitating community decision-making and interagency cooperation. All these were skills he would use in developing the MAF demonstration project.

The MAF demonstration project brought its share of challenges. Among Keith's toughest challenges was convincing communities that the quality of their health care would not decline if they converted to MAF status. Once beyond that hurdle, Keith worked tirelessly with the state's peer review organization, fiscal intermediary, facility licensure and certification bureau and HHS officials to remove other potential roadblocks.

First one facility made the conversion, then another and before long there were more than twice as many as the project thought might convert to MAF status. I pushed for the Medicare waiver in the early 1990s, and the Medical Assistance Facility became a reality.

As the demonstration neared completion, Keith worked closely with my staff to draft the Critical Access Hospital legislation that I introduced in 1997 and saw through to final passage as part of the BBA. His insights about how Critical Access Hospitals might function, in practical terms, proved invaluable. And the model embodied in the Balanced Budget Act of 1997 closely parallels the experience Montana's MAFs enjoyed.

Keith McCarty retired on December 31, 1999. He retired only after ensuring that Montana's MAFs were able to seamlessly transition into the new Critical Access Hospital program.

His departure from MHREF marks a fitting transition for the Critical Access Hospital program. Once only a dream in the minds of a few people in the sparsely-populated areas of central Montana, the Critical Access Hospital has already become an institution in many communities across America.

Keith is far too modest to take credit for his labors. So, what he won't say, we should. Keith's efforts—and the MAF demonstration project—have been recognized in special awards from the National Rural Health Association and the American Hospital Association.

But perhaps the most fitting tribute that can be paid is to note that today, in 15 communities in Montana, routine health care services are provided in Critical Access Hospitals. If there had been no MAF demonstration project, health care services in at least half of these towns would no longer be available.

I want to acknowledge and thank Keith McCarty for the service he has provided to so many Montanans.●

TRIBUTE TO KEN SULLIVAN

● Mr. GRASSLEY. Mr. President, on March 18th there will be a retirement party in Shueyville, IA for one of Iowa's most highly-regarded journalists.

Ken Sullivan left *The Cedar Rapids Gazette* on February 10th, after 36½ years on the job. He started his career as a radio news reporter a few months after high school and reported for the *Oelwein Daily Register* for three years before joining Iowa's second-largest newspaper.

I have known Ken as one of the leading political reporters in a state where political dialogue is healthy and rigorous. Ken's many years of public service have greatly enriched this political landscape, as well as the civic life of metropolitan Cedar Rapids. He brought to his work tremendous dedication and demonstrated through his commentary the common sense and independence that characterizes the people of Iowa.

Mr. President, I salute the contribution that Ken Sullivan has made to our democracy by letting the sun shine in to the processes of government and encouraging public dialogue on the issues through his news reports, editorials and columns. His keen insights and energetic coverage of the issues important to Iowa and the country have well-served his readers and the public good. He will be missed, and I congratulate him on his many years of fine service.●

THE VOLUNTEERS OF AMERICA FOUNDERS' WEEK

● Mr. GRAMS. Mr. President, I rise today to recognize and honor the Volunteers of America on the occasion of its Founders' Week Celebration.

Volunteers of America was founded in 1896 by Christian social reformers Ballington and Maud Booth in New York with the mission of ''reaching and uplifting'' the American people. Soon afterwards, more than 140 ''posts'' were established across the nation. One of these posts sprang to life in my home state of Minnesota.

Volunteers of America serves people in many ways, with a special emphasis on human services, housing, and health services. The organization is noted for being the nation's largest nonprofit provider of quality, affordable housing for low-income families and the elderly. Currently, more than 30,000 people reside in Volunteers of America housing. Along with its commitment to providing homes, Volunteers of America also focuses on helping the homeless, through emergency shelters, transitional housing, jobs training, and counseling.

In Minnesota, Volunteers of America is one of the most important providers of social services and workers with

children, adults, and seniors. Children are provided residential treatment, shelter, and foster care. Adult services include help filling housing needs and skills training for individuals with developmental disabilities. Senior services include home-delivered meals and home health care assistance.

None of this would be possible without the more than 11,000 employees and 300,000 volunteers who work with the Volunteers of America. Volunteers of America of Minnesota is home to more than 350 employees and over 1,000 volunteers. Volunteerism is a community necessity, and I extend my utmost thanks and appreciation to those who are providing our country and my state with such an invaluable resource through their participation in Volunteers of America.

I again applaud the Volunteers of America during this Founders' Week for its extraordinary record of service. For more than 100 years, Volunteers of America has been there for countless Minnesotans; given its good work and record of success, I am confident this vital organization will be with us for many years to come.●

MS. TINA NOBLE, WINNER OF THE ''POWER OF ONE'' AWARD

● Mr. GORTON. Mr. President, I am delighted to recognize the extraordinary efforts of one of my constituents, Ms. Tina Noble, to help women in her community market themselves to potential employers through the 'Dress for Success' program. For her efforts, Tina Noble is one of the Washington Women 2000 ''Power of One'' Award recipients.

Dress for Success provides professional clothing for low-income women as they transition into the workplace. Many times these women are single mothers, trying to gain financial independence. Tina Noble, together with her small army of volunteers has helped over 500 women in the Seattle area get suited up for new jobs since she began the Seattle chapter of Dress for Success in 1998.

In addition to her community service, Tina is also a hero to her family as a wife and mother of three children. Tina is a wonderful example of the tremendous difference that one person can make in her community. I applaud Tina's efforts to help other women dress for and find success in the workplace. She is a most deserving recipient of the ''Power of One'' award.●

TIME HONORS DELAWAREAN

● Mr. BIDEN. Mr. President, I rise today to make special note of the national honor bestowed upon one of the leading citizens in the central part of my State, in historic Kent County, Delaware. At the very heart of this national recognition for his business excellence is the story of a strong, close family, which makes this award all the more special.

TIME Magazine has named John W. Whitby, Jr., President of Kent County Motor Sales Company, as its recipient of the 2000 Quality Dealer Award. The competition was formidable—Whitby won over 63 other dealers nominated for the 31st annual award, from more than 20,500 auto dealers nationwide. And make no mistake—this is a coveted award for auto dealers. It's the equivalent of TIME's ''Man of the Year'' award for automobile dealers.

John operates Kent County Motor Sales in Dover, building on the successful business his dad, Jack Whitby founded. Upon accepting the award at the National Auto Dealers Association Convention, John readily gave credit to his father for the extensive training he received and to his employees and colleagues for their dedication and commitment to excellence.

American philosopher and poet, George Santayana, wrote that: ''The family is one of nature's masterpieces.'' To extend that metaphor: The Whitby family is one of Kent County's masterpieces. Not only is John a top business owner, he is a community leader as well. John is a member of the Delaware Business Roundtable Greater Dover Committee; the Central Delaware Chamber of Commerce; the Quarterback Club of Kent County; and, Friends of Capitol Theatre among many other civic contributions. John is continuing the strong Whitby family tradition. He lives in his native Dover, with his wife Diane and two children, Emily and Jay.

Mr. President, it is with great pride that I commend John Whitby, Jr. and his family for this outstanding national award.●

IDAHO TEACHER OF THE YEAR

● Mr. CRAIG. Mr. President, I rise today to recognize teachers across America for the vital work they do. I come from a family of educators, so I have seen firsthand the impact teachers have on children. They do this because they care about each and every child they teach. These public servants deserve our gratitude and thanks.

While I believe this can be said of all teachers, I would like to recognize one particular teacher today who embodies this sentiment. She is Nancy Larsen, of Coeur d'Alene, Idaho, and she was chosen by my state as Educator of the Year.

One look at her career shows why she was chosen as the Educator of the Year. She has dedicated eight years of her life to teaching the second grade, and these eight years have been full of innovation and a real love for education. Not only has she been busy in the classroom, she has also found time for activities which broaden her knowledge and make her a better teacher. For example, she has published articles in magazines such as Learning and Portals: A Journal of the Idaho Council International Reading Association. She has also designed and presented numerous workshops in the past five years, and participates in many professional organizations, including serving as President of the Panhandle Reading Council.

While these activities are important, her classroom work is what truly sets her apart. For example, she actively seeks to involve parents in her students' education, realizing that parental involvement is key for scholastic success. Her weekly letters on students' activities, her project, ''Family Math Night,'' are further examples of her commitment to parents as computer and classroom helpers. There have been many studies which show that parental involvement increases children's ability to learn. Nancy know this from her first day on the job, and has worked to make this involvement a reality.

Her students adore her and her peers respect her. This is what every teacher strives for, and Nancy has earned this respect. As one of her students said, ''I'm really glad to have such a nice teacher.''

As you can see, Nancy Larsen is truly a treasure for her school, for Idaho, and indeed for the Nation in general. Teachers like Nancy make education a rewarding experience for students and parents alike. I am proud that the state of Idaho chose her as its Teacher of the Year. She is a great example for the rest of the state and the Nation, and I hope this award gives her a platform so she can help other teachers to have the same success she has.●

RECOGNIZING THE 44TH ANNIVERSARY OF TUNISIAN INDEPENDENCE

● Mr. ABRAHAM. Mr. President, I rise today in celebration of the 44th anniversary of Tunisian independence. On March 20, Tunisia—one of America's oldest allies—will mark its 44th year of independence, but our two nations have been sharing the ideals of freedom and democracy for a much longer time.

In 1797, our two nations signed a treaty calling for ''perpetual and constant peace.'' Indeed, for the past 200 years, our two nations have enjoyed such a friendship. Whether protecting Mediterranean shipping lanes against Barbary pirates, opposing the Nazi war machine in North Africa, or supporting Western interests during the Cold War, the U.S. could count on Tunisia. More recently, Tunisia displayed great courage in urging other Arab nations to seek an accord with Israel. Tunisia has built on that pioneering stand by playing an important role as an honest and fair broker at delicate points in the Middle East peace process.

By adopting progressive social policies that feature tolerance for minorities, equal rights for women, universal education, a modern health system, and avoiding the pitfall of religious extremism that has tormented so many other developing countries, Tunisia has built a stable, middle-class society. In stark contrast to its two neighbors (Algeria, which has been racked by civil

war and persecution for many years, and Libya, whose dictator has supported the most nefarious and subversive kinds of terrorism), Tunisia has been a quiet and wonderful success. In fact, Tunisia became the first nation south of the Mediterranean to formally associate itself with the European Union.

Mr. President, Tunisia has been a model for developing countries. It has sustained remarkable economic growth, and undertaken reforms toward political pluralism. It has been a steadfast ally of the United States and has consistently fought for democratic goals and ideals. Tunisia has responded to President Dwight D. Eisenhower's request to consider the U.S. as ''friends and partner'' in the most effective way—by its actions.

In commemoration of 44 years of independence for Tunisia, I urge my colleagues to reflect on our strong commitment to Tunisian people, who are still our friends and partners in North Africa.●

VI HILBERT, WINNER OF THE ''POWER OF ONE'' AWARD

● Mr. GORTON. Mr. President, today I am delighted to honor the achievements of a remarkable Washingtonian for her work in preserving the culture and traditions of the Pacific Northwest. For all her efforts, Upper Skagit elder Vi Hilbert is one of the Washington Women 2000 ''Power of One'' Award recipients.

A native speaker of Lushootseed, Vi has worked tirelessly to preserve the indigenous language of the Puget Sound area as well as the stories and history of the Pacific Northwest tribes.

In 1983, Vi founded Lushootseed Research which is a non-profit organization to preserve the Lushootseed language through audio and printed materials as well as education. Vi taught Lushootseed language and literature classes at the University of Washington for 15 years.

In addition to preserving her own native tongue, Vi has served to preserve art, artifacts and cultural heritage of tribes from all of the Pacific Northwest. She serves on the advisory board for the Burke Museum and the Seattle Art Museum and is an active board member of United Indians of All Tribes and Tillicum Village.

On behalf of all of us who treasure the heritage of the Pacific Northwest, I thank Vi for all her efforts. She is a tremendous example of the ''Power of One.''●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Wanda Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

THE ANNUAL REPORT ON FEDERAL ADVISORY COMMITTEES—MESSAGE FROM THE PRESIDENT—PM 92

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

As provided by the Federal Advisory Committee Act (FACA), as amended (Public Law 92–463; 5 U.S.C., App. 2, 6(c)), I hereby submit the *Twenty-seventh Annual Report on Federal Advisory Committees*, covering fiscal year 1998.

In keeping with my commitment to create a more responsive government, the executive branch continues to implement my policy of maintaining the number of advisory committees within the ceiling of 534 required by Executive Order 12838 of February 10, 1993. Accordingly, the number of discretionary advisory committees (established under general congressional authorizations) was again held to substantially below that number. During fiscal year 1998, 460 discretionary committees advised executive branch officials. The number of discretionary committees supported represents a 43 percent reduction in the 801 in existence at the beginning of my Administration.

Through the planning process required by Executive Order 12838, the total number of advisory committees specified mandated by statute also continues to decline. The 388 such groups supported at the end of fiscal year 1998 represents a modest decrease from the 391 in existence at the end of fiscal year 1997. However, compared to the 439 advisory committees mandated by statute at the beginning of my Administration, the net total for fiscal year 1998 reflects nearly a 12 percent decrease since 1993.

The executive branch has worked jointly with the Congress to establish a partnership whereby all advisory committees that are required by statute are regularly reviewed through the legislative reauthorization process and that any such new committees proposed through legislation are closely linked to compelling national interests. Furthermore, my Administration will continue to direct the estimated costs to fund required statutory groups in fiscal year 1999, or $45.8 million, toward supporting initiatives that reflect the highest priority public involvement efforts.

Combined savings achieved through actions taken during fiscal year 1998 to eliminate all advisory committees that are no longer needed, or that have completed their missions, totaled $7.6 million. This reflects the termination of 47 committees, originally established under both congressional authorities or implemented by executive agency decisions. Agencies will continue to review and eliminate advisory committees that are obsolete, duplicative, or of a lesser priority than those that would serve a well-defined national interest. New committees will be established only when they are essential to the conduct of necessary business, are clearly in the public's best interests, and when they serve to enhance Federal decisionmaking through an open and collaborative process with the American people.

I urge the Congress to work closely with the General Services Administration and each department and agency to examine additional opportunities for strengthening the contributions made by Federal advisory committees.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 9, 2000*.

MESSAGE FROM THE HOUSE

At 11:42 a.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 91. Concurrent resolution congratulating the Republic of Lithuania on the tenth anniversary of the establishment of its independence from the rule of the former Soviet Union.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1827. An act to improve the economy and efficiency of Government operations by requiring the use of recovery audits by Federal agencies.

H.R. 2952. An act to redesignate the facility of the United States Postal Service located at 100 Orchard Park Drive in Greenville, South Carolina, as the ''Keith D. Oglesby Station.''

H.R. 3018. An act to designate the United States Post Office located at 557 East Bay Street in Charleston, South Carolina, as the ''Marybelle H. Howe Post Office.''

H.J. Res. 86. A joint resolution recognizing the 50th anniversary of the Korean War and the service by members of the Armed Forces during such war, and for other purposes.

MEASURES REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent and referred as indicated:

H.R. 1827. An act to improve the economy and efficiency of Government operations by requiring the use of recovery audits by Federal agencies; to the Committee on Governmental Affairs.

H.R. 2952. An act to redesignate the facility of the United States Postal Service located at 100 Orchard Park Drive in Greenville, South Carolina, as the ''Keith D. Oglesby Station''; to the Committee on Governmental Affairs.

H.R. 3018. An act to designate the United States Post Office located at 557 East Bay

Street in Charleston, South Carolina, as the ''Marybelle H. Howe Post Office''; to the Committee on Governmental Affairs.

H.J. Res. 86. A joint resolution recognizing the 50th anniversary of the Korean War and the service by members of the Armed Forces during such war, and for other purposes; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–7933. A communication from the Acting Assistant Secretary, Fish and Wildlife and Parks, Department of the Interior, transmitting a draft of proposed legislation relative to Hawaiian National Parks and for other purposes; to the Committee on Energy and Natural Resources.

EC–7934. A communication from the Acting Assistant Secretary, Fish and Wildlife and Parks, Department of the Interior, transmitting a draft of proposed legislation relative to the National Historic Trails System; to the Committee on Energy and Natural Resources.

EC–7935. A communication from the Assistant Secretary, Policy, Management and Budget, Department of the Interior transmitting, pursuant to law, the report of a rule entitled ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations'' (RIN1090–AA71), received March 7, 2000; to the Committee on Energy and Natural Resources.

EC–7936. A communication from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, a report relative to a cost comparison conducted at Tinker Air Force Base, OK; to the Committee on Armed Services.

EC–7937. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to Operation Stabilise; to the Committee on Armed Services.

EC–7938. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to plans for establishing and deploying Rapid Assessment and Initial Detection teams; to the Committee on Armed Services.

EC–7939. A communication from the Chief, Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Application of Producers' Good Versus Consumers' Good Test in Determining Country of Origin Marking'' (T.D. 00–15) , received March 7, 2000; to the Committee on Finance.

EC–7940. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled ''Financial Subsidiaries and Operating Subsidiaries'', received March 8, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–7941. A communication from the Deputy Administrator, General Services Administration, transmitting, pursuant to law, a report relative to the building project survey for the Food and Drug Administration consolidation in suburban Maryland; to the Committee on Governmental Affairs.

EC–7942. A communication from the Assistant General Counsel for Regulations, Office of Educational Research and Improvement, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''NIDRR–NFP–Model Spinal Cord Injury Center and Rehabilitation Engineering Research Centers'' (84.133), received March 8, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–7943. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Standards of Performance for New Stationary Sources: Industrial-Commercial-Institutional Steam Generating Units; Final Rule Correction'' (FRL # 6549–3), received March 7, 2000; to the Committee on Environment and Public Works.

EC–7944. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Amendments to the List of Regulated Substances and Thresholds for Accidental Release Prevention; Flammable Substances Used as Fuel or Held for Sale as Fuel at Retail Facilities'' (FRL # 6550–1), received March 8, 2000; to the Committee on Environment and Public Works.

EC–7945. A communication from the Special Assistant to Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Pleasanton, Bandera, Hondo, and Schertz, TX'' (MM Docket No. 98–55, RM–9255, RM–9237), received March 8, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7946. A communication from the Special Assistant to Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Denmark and Kaukana, WI'' (MM Docket No. 99–36), received March 8, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7947. A communication from the Special Assistant to Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Colony and Weatherford, OK'' (MM Docket No. 99–190, RM–9631, RM–9689), received March 8, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7948. A communication from the Special Assistant to Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Paxton, Overton, Hershey, Sutherland, and Ravenna, NE'' (MM Docket Nos. 99–159, RM–9616, MM99–160, RM–9617, MM99–161 RM–9565, MM99–162, RM–9566, MM99–192, and RM–9633), received March 8, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7949. A communication from the Legal Adviser, Cable Services Bureau, Federal Communications Commission transmitting, pursuant to law, the report of a rule entitled ''Horizontal Ownership Limits, Third Report and Order'' (MM Docket No. 92–964, FCC 99–289), received March 8, 2000; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with amendments:

S. 2042. A bill to reform the process by which the Office of the Pardon Attorney investigates and reviews potential exercises of executive clemency (Rept. No. 106–231).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 397. A bill to authorize the Secretary of energy to establish a multiagency program in support of the Materials Corridor Partnership Initiative to promote energy efficient, environmentally sound economic development along the border with Mexico through the research, development, and use of new materials (Rept. No. 106–232).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

S. 503. A bill designating certain land in the San Isabel National forest in the State of Colorado as the ''Spanish Peaks Wilderness'' (Rept. No. 106–233).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

S. 1694. A bill to direct the Secretary of the Interior to conduct a study on the reclamation and reuse of water and wastewater in the State of Hawaii (Rept. No. 106–234).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment

S. 1167. A bill to amend the Pacific Northwest Electric Power Planning and Conservation Act to provide for expanding the scope of the Independent Scientific Review Panel (Rept. No. 106–235).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 150. A bill to amend the Act popularly known as the Recreation and Public Purposes Act to authorize disposal of certain public lands or national forest lands to local education agencies for use for elementary or secondary schools, including public charter schools, and for other purposes (Rept. No. 106–236).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 150. A bill to amend the Act popularly known as the Recreation and Public Purposes Act to authorize disposal of certain public lands or national forest lands to local education agencies for use for elementary or secondary schools, including public charter schools, and for other purposes (Rept. No. 106–236).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 834. A bill to extend the authorization for the National Historic Preservation Fund, and for other purposes (Rept. No. 106–237).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment

H.R. 1231. A bill to direct the Secretary of Agriculture to convey certain National forestlands to Elko County, Nevada, for continued use as a cemetery (Rept. No. 106–238).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 1444. A bill to authorize the Secretary of the Army to develop and implement projects for fish screens, fish passage devices, and other similar measures to mitigate adverse impacts associated with irrigation system water diversions by local governmental entities in the States of Oregon, Washington, Montana, and Idaho (Rept. No. 106–239).

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2368. A bill to assist in the resettlement and relocation of the people of Bikini Atoll by amending the terms of the trust fund established during the United States administration of the Trust Territory of the Pacific Islands (Rept. No. 106–240).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2862. A bill to direct the Secretary of the Interior to release reversionary interests held by the United States in certain parcels of land in Washington County, Utah, to facilitate an anticipated land exchange (Rept. No. 106–241).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2863. A bill to clarify the legal effect on the United States of the acquisition of a parcel of land in the Red Cliffs Desert Reserve in the State of Utah (Rept. No. 106–242).

By Mr. HELMS, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 87. A resolution commemorating the 60th Anniversary of the International Visitors Program.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 258. A resolution designating the week beginning March 12, 2000 as ''National Safe Place Week.''

By Mr. HELMS, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and with a preamble:

S. Res. 263. A resolution expressing the sense of the Senate that the President should communicate to the members of the Organization of Petroleum Exporting Countries (''OPEC'') cartel and non-OPEC countries that participate in the cartel of crude oil producing countries, before the meeting of the OPEC nations in March 2000, the position of the United States in favor of increasing world crude oil supplies so as to achieve stable crude oil prices.

By Mr. HELMS, from the Committee on Foreign Relations, without amendment:

S. Res. 267. An original executive resolution directing the return of certain treaties to the President.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. Res. 270. An original resolution designating the week beginning March 11, 2000, as ''National Girl Scout Week.''

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1796. A bill to modify the enforcement of certain anti-terrorism judgements, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 39. A joint resolution recognizing the 50th anniversary of the Korean War and the service by members of the Armed forces during such war, and for other purposes.

By Mr. HELMS, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 87. A concurrent resolution commending the Holy See for making significant contributions to international peace and human rights, and objecting to efforts to expel the Holy See from the United Nations by removing the Holy See's Permanent Observer status in the United Nations, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS for the Committee on Foreign Relations.

N. Cinnamon Dornsife, of the District of Columbia, to be United States Director of the Asian Development Bank, with the rank of Ambassador.

Earl Anthony Wayne, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be an Assistant Secretary of State (Economic and Business Affairs).

Alan Philip Larson, of Iowa, to be United States Alternate Governor of the International Bank for Reconstruction and Development for a term of five years; United States Alternate Governor of the Inter-American Development Bank for a term of five years; United States Alternate Governor of the African Development Bank for a term of five years; United States Alternate Governor of the African Development Fund; United States Alternate Governor of the Asian Development Bank; and United States Alternate Governor of the European Bank for Reconstruction and Development.

(The above nominations were reported with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I report favorably a nomination list which was printed in the RECORD on the date indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that the nomination lie at the Secretary's desk for the information of Senators.

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

Foreign Service nominations beginning John Patrice Groarke and ending James Curtis Struble, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 11, 1999.

By Mr. JEFFORDS for the Committee on Health, Education, Labor, and Pensions.

Bobby L. Roberts, of Arkansas, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2003. (Reappointment)

Michael G. Rossmann, of Indiana, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2006.

Daniel Simberloff, of Tennessee, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2006.

Leslie Lenkowsky, of Indiana, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring February 8, 2004.

Juanita Sims Doty, of Mississippi, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring June 10, 2004.

Joan R. Challinor, of the District of Columbia, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2004. (Reappointment)

Jerome F. Kever, of Illinois, to be a member of the Railroad Retirement Board for a term expiring August 28. 2003. (Reappointment)

Virgil M. Speakman, Jr., of Ohio, to be a member of the Railroad Retirement Board for a term expiring August 28, 2004. (Reappointment)

(The above nominations were reported with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. JEFFORDS. Mr. President, for the Committee on Health, Education, Labor, and Pensions, I report favorably nomination lists which were printed in the RECORDS of the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

Public Health Service nominations beginning Edwin L. Jones III and ending Colleen E. White, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 19, 1999.

Public Health Service nominations beginning Susan J. Blumenthal and ending William Tool, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 19, 1999.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRASSLEY (for himself and Mr. GRAHAM):

S. 2225. A bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs; to the Committee on Finance.

By Mr. BAUCUS:

S. 2226. A bill to establish a Congressional Trade Office; to the Committee on Finance.

By Mr. BOND (for himself, Ms. LANDRIEU, Mr. CRAIG, Mrs. LINCOLN, Mr. JOHNSON, Mr. LIEBERMAN, Mr. JEFFORDS, Mr. ROBB, Mr. STEVENS, and Mr. WARNER):

S. 2227. A bill to amend chapter 79 of title 5, United States Code, to allow Federal agencies to reimburse their employees for certain adoption expenses, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. MURRAY (for herself and Mr. GORTON):

S. 2228. A bill to require the Secretary of the Army to conduct studies and to carry out ecosystem restoration and other protective measures within Puget Sound, Washington, and adjacent waters, and for other purposes; to the Committee on Environment and Public Works.

By Ms. MIKULSKI (for herself, Mr. KENNEDY, Mr. BINGAMAN, Mr. LEVIN, Mr. SARBANES, Mrs. MURRAY, Mrs. LINCOLN, Mrs. BOXER, Mr. JOHNSON, Mr. KERRY, Mr. DURBIN, Mr. HOLLINGS, Mr. REID, Mr. ROCKEFELLER, Mr. BREAUX, Mr. DORGAN, Mr. TORRICELLI, Mr. BAUCUS, Mr. DODD, Mr. CLELAND, and Mrs. FEINSTEIN):

S. 2229. A bill to provide for digital empowerment, and for other purposes; to the Committee on Finance.

By Mr. GRAMS:

S. 2230. A bill to provide tax relief in relation to, and modify the treatment of, members of a reserve component of the Armed

Forces, and for other purposes; to the Committee on Finance.

By Mr. COVERDELL:

S. 2231. A bill to provide for the placement at the Lincoln Memorial of a plaque commemorating the speech of Martin Luther King, Jr., known as the ''I Have A Dream'' speech; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM (for himself, Mr. JEFFORDS, Mr. BINGAMAN, Mr. BRYAN, Mr. L. CHAFEE, Mr. KERRY, Mr. ROCKEFELLER, Mr. MOYNIHAN, Mrs. MURRAY, Mr. LUGAR, and Ms. SNOWE):

S. 2232. A bill to promote primary and secondary health promotion and disease prevention services and activities among the elderly, to amend title XVIII of the Social Security Act to add preventive benefits, and for other purpose; to the Committee on Finance.

By Mr. FITZGERALD (for himself, Mr. BAYH, Mr. ABRAHAM, Mr. KOHL, Mr. GRASSLEY, Mr. DURBIN, Mr. BROWNBACK, and Mr. GRAMS):

S. 2233. A bill to prohibit the use of, and provide for remediation of water contaminated by, methyl tertiary butyl ether; to the Committee on Environment and Public Works.

By Mr. WARNER:

S. 2234. A bill to designate certain facilities of the United States Postal Service; to the Committee on Governmental Affairs.

By Ms. COLLINS (for herself, Mr. MURKOWSKI, Mr. DODD, Mr. TORRICELLI, and Mr. HUTCHINSON):

S. 2235. A bill to amend the Public Health Act to revise the performance standards and certification process for organ procurement organizations; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FRIST (for himself and Mr. DODD):

S. 2236. A bill to establish programs to improve the health and safety of children receiving child care outside the home, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CRAIG:

S. 2237. A bill to amend the Internal Revenue Code of 1986 to provide for the deductibility of premiums for any medigap insurance policy of Medicare+Choice plan which contains an outpatient prescription drug benefit, and to amend title XVIII of the Social Security Act to provide authority to expand existing medigap insurance policies; to the Committee on Finance.

By Mr. BAUCUS:

S. 2238. A bill to designate 3 counties in the State of Montana as High Intensity Drug Trafficking Areas and authorize funding for drug control activities in those areas; to the Committee on the Judiciary.

By Mr. ALLARD (for himself, Mr. CAMPBELL, Mr. HATCH, Mr. BENNETT, and Mr. BINGAMAN):

S. 2239. A bill to authorize the Bureau of Reclamation to provide cost sharing for the endangered fish recovery implementation programs for the Upper Colorado River and San Juan River basins; to the Committee on Energy and Natural Resources.

By Mr. BUNNING:

S. 2240. A bill to suspend temporarily the duty on certain polyamides; to the Committee on Finance.

By Mr. CRAPO:

S. 2241. A bill to amend title XVIII of the Social Security Act to adjust wages and wage-related costs for certain items and services furnished in geographically reclassified hospitals; to the Committee on Finance.

By Mr. THOMAS:

S. 2242. A bill to amend the Federal Activities Inventory Reform Act of 1998 to improve the process for identifying the functions of the Federal Government that are not inherently governmental functions, for determining the appropriate organizations for the performance of such functions on the basis of competition, and for other purposes; to the Committee on Governmental Affairs.

By Ms. LANDRIEU (for herself, Ms. SNOWE, Mr. KERRY, Mr. CLELAND, Mrs. MURRAY, Ms. MIKULSKI, Mr. ABRAHAM, and Mr. JEFFORDS):

S. 2243. A bill to reauthorize certain programs of the Small Business Administration, and for other purposes; to the Committee on Small Business.

By Mr. WYDEN (for himself and Mr. BAUCUS):

S. 2244. A bill to increase participation in employee stock purchase plans and individual retirement plans so that American workers may share in the growth in the United States economy attributable to international trade agreements; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2245. A bill to amend the Harmonized Tariff Schedule of the United States to modify the article description with respect to certain hand-woven fabrics; to the Committee on Finance.

By Mr. BOND (for himself and Mr. GRASSLEY):

S. 2246. A bill to amend the Internal Revenue code of 1986 to clarify that certain small businesses are permitted to use the cash method of accounting even if they use merchandise or inventory; to the Committee on Finance.

By Mr. BYRD:

S. 2247. A bill to establish the Wheeling National Heritage Area in the State of West Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HELMS:

S. Res. 267. An original executive resolution directing the return of certain treaties to the President; placed on the Executive Calendar.

By Mr. EDWARDS (for himself, Mr. HAGEL, Mr. ROBB, Mrs. BOXER, and Mr. KERREY):

S. Res. 268. A resolution designating July 17 through July 23 as ''National Fragile X Awareness Week''; to the Committee on the Judiciary.

By Mr. HELMS:

S. Res. 269. A resolution expressing the sense of the Senate with respect to United States relations with the Russian Federation, given the Russian Federation's conduct in Chechnya, and for other purposes; to the Committee on Foreign Relations.

By Mr. HATCH:

S. Res. 270. An original resolution designating the week beginning March 11, 2000, as ''National Girl Scout Week''; placed on the calendar.

By Mr. WELLSTONE (for himself, Mr. TORRICELLI, Mr. LEAHY, Mr. FEINGOLD, and Mr. BROWNBACK):

S. Res. 271. A resolution regarding the human rights situation in the People's Republic of China; to the Committee on Foreign Relations.

By Mr. VOINOVICH:

S. Res. 272. A resolution expressing the sense of the Senate that the United States should remain actively engaged in southeastern Europe to promote long-term peace, stability, and prosperity; continue to vigorously oppose the brutal regime of Slobodan Milosevic while supporting the efforts of the democratic opposition; and fully implement the Stability Pact; to the Committee on Foreign Relations.

By Mrs. HUTCHISON (for herself, Ms. MIKULSKI, Mr. HATCH, Ms. SNOWE, Mr. WARNER, Mr. BUNNING, Mr. BOND, Mr. ASHCROFT, Mr. SMITH of Oregon, Mr. HELMS, Mr. MURKOWSKI, Mr. CRAIG, Mr. DOMENICI, and Ms. COLLINS):

S. Res. 273. A resolution designating the week beginning March 11, 2000, as ''National Girl Scout Week''; considered and agreed to.

By Mr. REED:

S. Con. Res. 93. A concurrent resolution expressing the support of Congress for activities to increase public awareness of multiple sclerosis; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LOTT:

S. Con. Res. 94. A concurrent resolution providing for a conditional adjournment or recess of the Senate; considered and agreed to.

By Mr. LOTT:

S. Con. Res. 95. A concurrent resolution commemorating the twelfth anniversary of the Halabja massacre; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself and Mr. GRAHAM):

S. 2225. A bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs; to the Committee on Finance.

THE LONG-TERM CARE AND RETIREMENT SECURITY ACT OF 2000

Mr. GRASSLEY. Mr. President, long-term tax credits may seem like a dull topic. But the expenses of caring for an ailing family member are shocking. Millions of people bear these expenses every day, without any help.

Here's a typical example: A state legislator from Ohio named Barbara Boyd testified before my Special Committee on Aging last year. Ms. Boyd cared at home for her mother who had Alzheimer's disease and breast cancer. Her mother had $20,000 in savings and a monthly Social Security check. That went quickly. Prescription drugs alone ran $400 a month.

Antibiotics, ointments to prevent skin breakdown, incontinence supplies and other expenses cost hundreds of dollars a month. Ms. Boyd exhausted her own savings to care for her mother, and exhausted herself. She isn't complaining. Family caregivers don't complain. But we can and should use the tax code to ease their burden.

Yesterday a bipartisan group of legislators, and two prominent groups—AARP and the Health Insurance Association of America, announced a consensus agreement on a legislative package to help people with a variety of long-term care needs. Our bill contains a tax deduction to encourage individuals to buy long-term care insurance. We want to help people to prepare for their health needs in retirement.

The bill also contains a $3,000 tax credit for family caregivers caring for a disabled relative at home. Under this legislation, Ms. Boyd's mother could have purchased long-term care insurance long before she developed Alzheimer's. In addition, Ms. Boyd could have used the tax credit to help with the costs of the medications and medical supplies for her mother.

I'm pleased that we have so much agreement in Washington about helping people with long-term care expenses. The legislators sponsoring this legislation have pushed for long-term care relief for years. Today, my colleagues and I will introduce this bill. We'll work to get it passed into law as soon as possible. An aging nation has no time to waste in preparing for long-term care. Family caregivers need immediate relief from their expensive and exhausting work.

Joining me in introducing this bill is Senator BOB GRAHAM of Florida, Representative NANCY JOHNSON, and Representative KAREN THURMAN.

By Mr. BAUCUS:

S. 2226. A bill to establish a Congressional Trade Office; to the Committee on Finance.

TO CREATE A CONGRESSIONAL TRADE OFFICE

• Mr. BAUCUS. Mr. President, last year I introduced a bill to create a Congressional Trade Office. That bill was designed to provide the Congress with new and additional trade expertise that would be independent, non-partisan, and neutral. Today, I am introducing the same bill with several small changes.

The role of Congress in trade policy has expanded in the few short months since I introduced my bill in September. We went through Seattle and the failure to launch a new multilateral trade round. The public is more interested in trade issues than ever before. There is a new urgency to reconcile labor and environmental issues with trade. We are on the cusp of seeing China enter the WTO with permanent Normal Trade Relations with the United States. The General Accounting Office has told us of the deficiencies in the Executive Branch in following trade agreements and monitoring compliance. And, for the first time, trade will be an issue in the Presidential campaign, as well as in Senate and House races.

Congress needs to be much better prepared. And that means we need access to more and better information, independently arrived, at from people whose commitment is to the Congress, and only to the Congress.

Congress has the Constitutional authority to provide more effective and active oversight of our Nation's trade policy. We must use that authority. Congress should be more active in setting the direction of trade policy. I believe strongly that we must re-assert Congress' constitutionally defined responsibility for international commerce.

A Congressional Trade Office would provide the entire Congress, through the Senate Finance Committee and the House Ways and Means Committee, with this additional trade expertise. It would have three sets of responsibilities.

First, it will monitor compliance with major bilateral, regional, and multilateral trade agreements. Last week, along with Senator MURKOWSKI and several other Senators, I introduced the China WTO Compliance Act. That bill is designed to ensure continuing and comprehensive monitoring of China's WTO commitments. It is also designed to ensure aggressive Administration action to ensure compliance with those commitments. But that bill deals only with China. Congress needs the independent ability to look more closely at agreements with other countries. The Congressional Trade Office will analyze the performance under key agreements and evaluate success based on commercial results. It will do this in close consultation with the affected industries. The Congressional Trade Office will recommend to the Congress actions necessary to ensure that commitments made to the United States are fully implemented. It will also provide annual assessments about the agreements' compliance with labor and environmental goals.

Second, the Congressional Trade Office will have an analytic function. For example, after the Administration delivers its annual National Trade Estimates report, the NTE, to Congress, it will analyze the major outstanding trade barriers based on the cost to the US economy. It will also provide an analysis of the Administration's Trade Policy Agenda.

The Congressional Trade Office will analyze proposed trade agreements, including agreements that do not require legislation to enter into effect. It will examine the impact of Administration trade policy actions, including an assessment of the Administration's argument for not accepting an unfair trade practices case. And it will analyze the trade accounts every quarter, including the global current account, the global trade account, and key bilateral trade accounts.

Third, the Congressional Trade Office will be active in dispute settlement deliberations. It will evaluate each WTO decision where the US is a participant. In the case of a US loss, it will explain why it lost. In the case of a US win, it will measure the commercial results from that decision. It will do a similar evaluation for NAFTA disputes. Congressional Trade Office staff should participate as observers on the US delegation at dispute settlement panel meetings at the WTO.

The Congressional Trade Office is designed to service the Congress. Its Director will report to the Senate Finance Committee and the House Ways and Means Committee. It will also advise other committees on the impact of trade negotiations and the impact of the Administration's trade policy on those committees' areas of jurisdiction.

The staff will consist of professionals who have a mix of expertise in economics and trade law, plus in various industries and geographic regions. My expectation is that staff members will see this as a career position, thus, providing the Congress with long-term institutional memory.

The Congressional Trade Office will work closely with other government entities involved in trade policy assessment, including the Congressional Research Service, the General Accounting Office, and the International Trade Commission. The Congressional Trade Office will not replace those agencies. Rather, the Congressional Trade Office will supplement their work, and leverage the work of those entities to provide the Congress with timely analysis, information, and advice.

Dispute resolution and compliance with trade agreements are central elements of US trade policy. The credibility of the global trading system, and the integrity of American trade law, depend on the belief, held by trade professionals, political leaders, industry representatives, workers, farmers, and the public at large, that agreements made are agreements followed. They must be fully implemented. There must be effective enforcement. Dispute settlement must be rapid and effective.

Often more energy goes into negotiating new agreements than into ensuring that existing agreements work. The Administration has increased the resources it devotes to compliance, and I support that. But an independent and neutral assessment in the Congress of compliance is necessary. It is unrealistic to expect an agency that negotiated an agreement to provide a totally objective and dispassionate assessment of that agreement's success or failure.

Looking at the WTO dispute settlement process, I don't think we even know whether it has been successful or not from the perspective of U.S. commercial interests. A count of wins versus losses tells us nothing. The Congressional Trade Office will give us the facts we need to evaluate this process properly.

Article I, Section 8, of the U.S. Constitution says: ''The Congress shall have power . . . To regulate commerce with foreign nations.'' It is our responsibility to provide oversight and direction on US trade policy. The Congressional Trade Office, as I have outlined it today, will provide us in the Congress with the means to do so.•

By Mr. BOND (for himself Ms. LANDRIEU, Mr. CRAIG, Mrs. LINCOLN, Mr. JOHNSON, Mr. LIEBERMAN, Mr. JEFFORDS, Mr. ROBB, Mr. STEVENS, and Mr. WARNER):

S. 2227. A bill to amend chapter 79 of title 5, United States Code, to allow

Federal agencies to reimburse their employees for certain adoption expenses, and for other purposes; to the Committee on Governmental Affairs.

THE FEDERAL EMPLOYEES ADOPTION ASSISTANCE ACT

Mr. BOND. Mr. President, today I join my colleagues in the House, Congressmen BLILEY and OBERSTAR and 42 other House Members, as well as Senators LANDRIEU, CRAIG, JEFFORDS, LINCOLN, JOHNSON, LIEBERMAN, JEFFORDS, ROBB, STEVENS, and WARNER, in introducing a bill to reimburse all federal employees up to $2,000 for qualified expenses associated with the adoption of a child and for special-needs adoptions—the Federal Employees Adoption Assistance Act of 2000.

Every year, couples who are unable to have children of their own spend literally thousands of dollars to adopt a child. Statistics show that approximately 2.1 million couples in the Unites States are infertile. One of the main reasons for this is because couples are waiting longer to start a family in order to focus on careers. Many seek treatment to conceive a child, but are unsuccessful. For them, their only hope of having a child of their own is through adoption.

The adoption process demands an incredible amount of time and money and creates stress that can affect job performance. For this reason many private-sector businesses, such as Microsoft, Hewlett-Packard, Sprint, Prudential, Home Depot, and Freddie Mac, now provide financial assistance to employees adopting a child, thus increasing employee satisfaction, productivity, and loyalty and commitment to the employer. Unfortunately, the largest employer in the U.S.—the federal government—currently provides no financial assistance for adoption expenses to its employees. That is why I am introducing the Federal Employees Adoption Assistance Act.

This legislation would allow federal agencies to reimburse employees up to $2,000 for all qualified expenses associated with the adoption of a child, including special-needs children. Any benefit paid by this legislation would come out of funds available for salaries and expenses of the relevant agencies. Currently, active-duty armed services personnel receive this adoption benefit, $2,000 per adoption; however, no other branch of the federal government covers this expense.

A key aspect of adoption that is frequently overlooked, and that I have made sure is addressed in this legislation, is that of special-needs children. Recent estimates show there are currently around 110,000 special-needs children in foster care who are eligible for adoption. Many of these children have physical or mental disabilities and need extensive care and therapy. Another common situation is two or more siblings in need of a family willing to take on the responsibility of more than one child. Most of these children are currently in foster care waiting to find a permanent home and family of their own, and are less likely to be adopted than non-special-needs children.

Often, couples who may already have children of their own are interested in opening their home and their hearts to adopt a child or children with special needs, but are hesitant to do so due to the costs involved. By providing an adoption reimbursement benefit, many couples already considering adopting special-needs children decide to go ahead with the process. The Federal Employees Adoption Assistance Act broadens the adoption benefits package to include the costs associated with special-needs adoptions.

Mr. President, this is why I, along with numerous colleagues on both sides of the aisle and in both chambers, are introducing and advocating the passage of this legislation. Additionally, this bipartisan and bicameral bill has the endorsement of numerous adoption advocacy groups, including:

Bethany Christian Services in Grand Rapids, Michigan, Covenant House, The Dave Thomas Foundation for Adoption, The Edgewood Children's Center in St. Louis, Missouri, Family Voices, The National Adoption Center, The National Council for Adoption, The National Treasury Employees Union, and Voice for Adoption.

As a member of the Congressional Coalition on Adoption, I believe we should provide incentives to make sure that more children find loving parents. I thank my colleagues, Senators LANDRIEU, CRAIG, JEFFORDS, LINCOLN, JOHNSON, LIEBERMAN, JEFFORDS, ROBB, STEVENS, and WARNER, Congressmen BLILEY and OBERSTAR, and the numerous other House and Senate sponsors, as well as the many adoption advocacy groups, for joining me in promoting adoption and supporting our civil servants by cosponsoring and endorsing this legislation.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

BETHANY CHRISTIAN SERVICES,
Grand Rapids, MI, March 3, 2000.

Hon. CHRISTOPHER BOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOND, I have read the draft of the Federal Employees Adoptions Assistance Act that you have proposed. On behalf of Bethany Christian Services, I express my support for this legislation.

Bethany is a national child welfare 501(c)3 organization and is located in 31 states. We place close to 1500 children for adoption each year and most of them have some form of ''special need.'' The families that choose to adopt are typically in need of some form of financial assistance.

Thank you for your efforts to promote adoption with this proposed legislation.

Sincerely,

GLENN DE MOTS,
President.

DAVE THOMAS FOUNDATION FOR ADOPTION,
Dublin, OH, March 8, 2000.

Hon. CHRISTOPHER BOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOND: As you know, adoption is a personal thing for me. I was adopted when I was six weeks old, and If I hadn't had a family to care for me, I know, I wouldn't be where I am now. Today over 110,000 children in the United States foster care system are waiting to be adopted. I'd like to see them have the same chance that I had for a loving home and family. I support your efforts to help these children and the families who adopt them through the introduction of the Federal Employees Adoption Assistance Act of 2000.

Wendy's began to offer adoption assistance to our employees in 1990, and since then thirty-six employees have adopted. We discovered many advantages to offering adoption benefits. They are a highly valued part of employees' benefits and they make the process of building a family more fair. When a company offers adoptive parents financial assistance and leave comparable to maternity benefits, they are doing what is best for families—and employees appreciate it. Adoption benefits also provide an opportunity to give back to the community. By offering employers adoption benefits we are making it possible for more children to be adopted from the child welfare system. Through our work at Wendy's, we are reminded that building and supporting families is the right thing to do. It costs so little to make a tremendous difference in the lives of families and children.

We appreciate your hard work to ensure that this legislation covers a broader range of adoption related expenses. This is especially important because of the unique costs that families who adopt children with special needs incur.

Again, thank you for your efforts to encourage the federal government to join the growing number of employers who agree that adoption benefits make good business sense. We commend you for your leadership in this area and hope your fellow Members of Congress will support it.

Warm regards,

DAVE THOMAS,
Founder.

COVENANT HOUSE,
New York, NY, March 8, 2000.

Hon. CHRISTOPHER BOND,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR BOND: Covenant House is proud to be a supporter of the Federal Employees Adoption Assistance Act of 2000. I would like to have joined you for the actual announcement of this legislation but am unable to do so due to a previous commitment.

Each year, thousands of youth come to Covenant House lacking the support of a stable family and desperately in need of love and protection. This legislation will encourage federal employees to adopt youth who have this great need and hopefully set an example for employers throughout the nation to provide similar encouragement to their employees who want to adopt a youth. We know so many young people whose lives would have been turned around if only adoption could have been possible for them.

Thank you so much for drafting and sponsoring this important legislation.

Sincerely,

Sister MARY ROSE MCGEADY, D.C.,
President.

EDGEWOOD CHILDREN CENTER,
St. Louis, MO, February 16, 2000.

Hon. CHRISTOPHER S. BOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOND: As you know, at Edgewood Children's Center we often work with children whose own families are unable to care for them. Finding permanent families for those children is usually more of a priority than anything else we do.

The ''Federal Employees Adoption Assistance Act'' will support an important group of potential parents in their desire to parent these and other children. Easing the financial burden of adoption will increase the pool of available families and make the way easier for those who choose this important step.

Thank for, once again, leading the way on behalf of kids. Know of our strong support of this bill and please let me know of anything we can do to be of assistance.

Most sincerely,

SUSAN S. STEPLETON,
Executive Director.

FAMILY VOICES,
Algodones, NM, February 9, 2000.

Senator CHRISTOPHER BOND,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR BOND: Family Voices is pleased to write in support of the ''Federal Employees Adoption Assistance Act'' you have proposed. Family Voices, 30,000 members understand the delicate nature of our children with special needs have a loving home to grow up in and a nurturing family to support them.

We believe that any assistance that can be provided to help families adopt children with special needs is crucial. Today's changing health care environment and families concerns about growing costs may provide barriers to the adoption of our children with special needs. Your bill simply equals the playing field for our children with special needs and the families who wish to be apart of their lives. Our children deserve a nurturing environment and this bill will encourage adopting families to take a second look at our kids. You have truly addressed a need our children and their future families have and Family Voices stands behind your efforts.

Sincerely,

JULIE BECKETT,
National Policy Coordinator,
Family Voices, Inc.

MISSOURI COALITION OF
CHILDREN'S AGENCIES,
Jefferson City, MO, March 4, 2000.

Hon. CHRISTOPHER S. BOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOND: As you know, the Missouri Coalition of Children's Agencies is the professional association representing sixty-five private child caring agencies in Missouri. The vast majority of these agencies spend a considerable portion of their time attempting to find permanent homes for the abused and neglected children in their care. This function is second only to providing a safe and caring environment for these children.

The ''Federal Employees Adoption Assistance Act'' is a great step in providing an important potential group of adoptive parents for children in need of permanent homes. Anything we can do to increase the pool of potential adoptive families can only help increase the chances for the children who most need the love and stability of a permanent home. Reducing the financial burden of adoption is a great step forward for these potential families.

We truly appreciate your strong support of children. If there is anything our association or its individual members can do to help in this effort, please let me know.

Sincerely,

JOE KETTERLIN,
Executive Director.

NATIONAL ADOPTION CENTER,
Philadelphia, PA.

Hon. CHRISTOPHER S. BOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOND: For the past four years, the National Adoption Center has been in the forefront of encouraging employers to offer adoption benefits through its Adoption and the Workplace project. During this time, more than 125 employers have implemented benefits' policies, including financial reimbursement for adoption expenses. This support allows families to consider adoption as a viable option and to provide loving homes to children who need permanence.

The reaction of adoptive families who receive adoption benefits has been overwhelmingly positive. Many have spoken of their appreciation of their employer's efforts to provide fairness in relation to those who create families biologically and often express their gratitude through greater loyalty and commitment to their workplace.

We support the Federal Employees Adoption Assistance Act you are proposing as an effective way of providing financial reimbursement to employees interested in adopting and as a means of encouraging families to consider adoption as a family-building alternative. We feel that this legislation addresses the need for equity, recognizing that families who adopt have traditionally had no employer-supported financial benefits, unlike those who receive maternity coverage.

We commend you for this farsighted bill and urge your fellow legislators to support it.

Sincerely,

CAROLYN L. JOHNSON,
Executive Director.

NATIONAL COUNCIL FOR ADOPTION,
Washington, DC, February 8, 2000.

Hon. CHRISTOPHER S. BOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOND: I reviewed the draft version of the Federal Employees Adoption Assistance Act that you have proposed and am in support of this legislation. As you know, the National Council For Adoption has taken the position of promoting adoption for the past 20 years. The Federal Employees Adoption Assistance Act provides families with much needed financial assistance to defray the cost of certain adoption expenses. By providing this assistance, hopefully a number of strong families that would not otherwise have the financial ability to adopt a child will have the opportunity to provide a loving home to a child in need of a family.

As a supporter of companion legislation sponsored by Representative Tom Bliley and Representative James Oberstar, the National Council for Adoption supports your efforts to enact the Federal Employees Adoption Assistance Act into law this year.

Sincerely,

DAVID M. MALUTINOK,
President.

STATEMENT OF COLLEEN M. KELLEY, NATIONAL PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION, IN SUPPORT OF THE FEDERAL ADOPTION ASSISTANCE ACT

The National Treasury Employees Union, which represents over 155,000 federal workers in the Department of the Treasury, Department of Energy, Federal Communications Commission, Nuclear Regulatory Commission, Patent and Trademark Office and other agencies announces its strong support for the bipartisan legislation introduced by Senator Kit Bond and Representative Tom Bliley to provide adoption assistance for federal employees.

Many federal employees are ready and willing to provide a loving home for a child in need. Sadly, significant financial barriers often exist particularly for the lower and middle grade public servants that make up the membership of our union. This legislation would lessen the financial burden these hopeful parents would bear as they take on the duties of providing love and care for a child in need of a home.

The federal government should set the example for employers everywhere in developing compassionate and socially responsible employment and benefit policies. NTEU asks that Congress move quickly on this important legislation.

VOICE FOR ADOPTION,
Washington, DC, February 9, 2000.

Hon. CHRISTOPHER BOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOND: On behalf of Voice for Adoption (VFA), I applaud your efforts to help special needs children move from foster care to permanent loving homes. VFA supports the Federal Employees Adoption Assistance Act.

Founded in 1996, VFA has more than 70 national and local special needs adoption organizations as members. VFA participants include professionals, parents, and advocates committed to securing adoptive families for America's waiting children.

Our distinguished board of directors has more than two hundred years combined experience in the adoption field. VFA's board includes: North American Council on Adoptable Children (NACAC), the National Adoption Center, Adoption Exchange Association (AEA) Child Welfare League of America (CWLA), Children Awaiting Parents (CAP), the Institute for Black Parenting, Three River Adoption Council, Spaulding for Children, Family Builders Adoption Network and The Evan B. Donaldson Adoption Institute. Our aim is to ensure permanent, nurturing families for our nation's most vulnerable children and to strengthen support for families who adopt.

In 1998, approximately 520,000 children were in out-of-home, foster, kinship, or residential care. The average age of these children in foster care is 9.5 year old. These children can expect to spend on average more than three years in the foster care system and be moved more than three different times during their stays.

The Federal Employees Adoption Assistance Act, which allows up to $2,000 reimbursement for adoption expenses, would encourage employees of the federal government to adopt who would not have been able to afford it otherwise.

Again, VFA applauds your leadership with this important piece of legislation.

Sincerely,

COURTENEY ANNE HOLDEN,
Executive Director.

Mr. CRAIG. Mr. President, I am pleased to join my colleagues and to acknowledge the leadership of Senator BOND in introducing the Federal Employees Adoption Assistance Act of 2000.

Congress has repeatedly demonstrated strong support for adoption.

I think there is a clear consensus here that adoption is a positive experience—for children needing homes, for birth parents, and for adoptive parents, not to mention for society at large. In recent years, we have shaped federal policies so that they do more to help waiting children find permanent, loving families.

Now we have an opportunity to bring home our advocacy for adoption.

The Federal Employees Adoption Assistance Act follows the lead of a growing number of private sector businesses in establishing an adoption benefit for employees. It is well known that family-friendly workforce policies help attract and retain qualified workers. While adoption benefits generate considerable good will and loyalty among employees, they cost little for employers, because they are relatively rarely used. Yet in view of what continues to be a huge price tag for adoption—in the tens of thousands of dollars—these benefits can truly make a difference in helping an employee choose this option for creating or expanding a family.

By implementing these policies for federal workers, we can underscore our strong message of support for adoption and encourage more private sector employers to do likewise. At the same time, we will be improving the competitiveness of the federal government in recruiting good workers and helping to increase current workers' job satisfaction and commitment.

The benefit that could be provided by the Federal Employees Adoption Assistance Act is by no means lavish, but it compares favorably with similar benefits in the private sector. This policy will be good for workers, good for the federal government, good for taxpayers, and—most important—good for the more than 100,000 children in this country who are eligible for adoption today but still awaiting a permanent, loving family.

I congratulate Senator BOND for bringing this initiative to the Senate and encourage all our colleagues to join us in working to pass this important legislation.

Mr. JEFFORDS. Mr. President, I rise today in support of the legislation that is being introduced by my friend and colleague from Missouri, Senator BOND. As Chairman of the Committee on Health, Education, Labor, and Pensions and a member of the Congressional Coalition on Adoption, I have been a long-standing supporter of legislation to make adoption easier. This bill does exactly that by requiring federal agencies to reimburse their employees up to $2,000 for all qualified expenses associated with the adoption of a child. Both this bill and its House companion, introduced by Representatives TOM BLILEY and JAMES OBERSTAR last August, have gathered the support of a bipartisan group of legislators and numerous groups in the adoption community.

Currently, many private sector businesses provide financial assistance to employees who wish to adopt a child. These businesses understand that adoption can be a very time-consuming, exhausting, and expensive process for parents. Relieving the financial burden on their employees will not only help encourage adoption, but also produce a happier and more productive work force.

The legislation being introduced today provides a benefit for our own hard-working federal employees. In the process, it brings the federal government up to par with those private-sector businesses that already provide financial assistance to employees adopting a child. Even further, it establishes a leadership role for the federal government in this area. This hopefully will encourage even more businesses to assist their employees financially should they wish to adopt a child.

I am proud to stand today with several of my colleagues as co-sponsors of the Federal Employees Adoption Assistance Act of 2000. I hope the Senate will proceed quickly to pass this legislation. It makes sense, both for the approximately 110,000 children currently awaiting adoption in the United States, and for those federal employees who are willing and able to provide a home for them.

By Mrs. MURRAY (for herself, and Mr. GORTON):

S. 2228. A bill to require the Secretary of the Army to conduct studies and to carry out ecosystem restoration and other protective measures within Puget Sound, Washington, and adjacent waters, and for other purposes; to the Committee on Environment and Public Works.

PUGET SOUND ECOSYSTEM RESTORATION

Mrs. MURRAY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. PUGET SOUND ECOSYSTEM RESTORATION.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of the Army (in this section referred to as the ''Secretary'') shall conduct studies and carry out ecosystem restoration and other protective measurers within Puget Sound, Washington, and adjacent waters and associated estuary and near-shore habitat, including—

(1) the 17 watersheds that drain directly into Puget Sound;

(2) Admiralty Inlet;

(3) Hood Canal;

(4) Rosario Strait; and

(5) the eastern portion of the Strait of Juan de Fuca.

(b) IMPLEMENTATION.—

(1) IN GENERAL.—The Secretary shall use funds made available to carry out this section to carry out ecosystem restoration and other protective measures (including environmental improvements related to facilities of the Corps of Engineers in existence on the date of enactment of this Act) determined by the Secretary to be feasible based on—

(A) the studies conducted under subsection (a); or

(B) analyses conducted before such date of enactment by non-Federal interests.

(2) CRITERIA AND PROCEDURES FOR REVIEW AND APPROVAL.—In consultation with the Secretary of Commerce and the Governor of the State of Washington, the Secretary shall develop criteria and procedures consistent with the National Marine Fisheries Service and State fish restoration goals and objectives for reviewing and approving analyses described in paragraph (1)(B) and the protective measures proposed in those analyses. The Secretary shall use prior studies and plans to identify project needs and priorities wherever practicable.

(3) PRIORITIZATION OF PROJECTS.—In prioritizing projects for implementation under this subsection, the Secretary shall consult with public and private entities active in watershed planning and ecosystem restoration in Puget Sound watersheds, including the Salmon Recovery Funding Board, the Northwest Straits Commission, the Hood Canal Coordinating Council, county watershed planning councils, and salmon enhancement groups, and shall give full consideration to their priorities for projects.

(c) PUBLIC PARTICIPATION.—In developing and implementing protective measures under subsections (a) and (b), the Secretary shall provide for public review and comment in accordance with applicable Federal law, including—

(1) providing advance notice of public meetings;

(2) providing adequate opportunity for public input and comment;

(3) maintaining appropriate records; and

(4) compiling a record of the proceedings of meetings.

(d) COMPLIANCE WITH APPLICABLE LAW.—In developing and implementing protective measures under subsections (a) and (b), the Secretary shall comply with applicable Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) COST SHARING.—

(1) IN GENERAL.—Studies and technical assistance provided to determine the feasibility of protective measures under subsections (a) and (b) shall—

(A) be considered to be project costs; and

(B) be shared by non-Federal interests during project implementation in accordance with this subsection.

(2) NON-FEDERAL SHARE.—Subject to paragraph (4), the non-Federal share of the cost of the protective measures shall be 35 percent; except that if a project would otherwise be eligible for cost-sharing under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2294 note), the non-Federal share of the cost of the protective measures for the project shall be 25 percent.

(3) IN-KIND CONTRIBUTIONS.—Not more than 80 percent of the non-Federal share may be provided in the form of services, materials, supplies, or other in-kind contributions necessary to carry out the protective measures.

(4) FEDERAL SHARE.—The Federal share of the cost of any single protective measure shall not exceed $5,000,000.

(5) OPERATION AND MAINTENANCE.—The operation and maintenance of the protective measures shall be a non-Federal responsibility.

(6) TRIBAL COST-SHARING.—The Secretary shall waive the first $200,000 in non-Federal cost share for all studies and projects cosponsored by federally recognized Indian tribes.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to not

to exceed $125,000,000 to pay the Federal share of the cost of carrying out this section.

By Ms. MIKULSKI (for herself, Mr. KENNEDY, Mr. BINGAMAN, Mr. LEVIN, Mr. SARBANES, Mrs. MURRAY, Mrs. LINCOLN, Mr. JOHNSON, Mr. KERRY, Mr. DURBIN, Mr. HOLLINGS, Mr. REID, Mr. ROCKEFELLER, Mr. BREAUX, Mr. DORGAN, Mr. TORRICELLI, Mr. BAUCUS, Mr. DODD, Mr. CLELAND, and Mrs. FEINSTEIN):

S. 2229. A bill to provide for digital empowerment, and for other purposes; to the Committee on Finance.

DIGITAL EMPOWERMENT ACT

Ms. MIKULSKI. Today, I introduce the Digital Empowerment Act. The goal of this legislation is to ensure that every child is computer literate by the eighth grade regardless of race, ethnicity, income, gender, geography, or disability.

Yesterday, the Senate's Education Committee voted for my amendment to establish this as our national goal. This vote was taken on a bipartisan basis and was unanimous. Today, I am introducing this legislation to make this goal a reality. This bill has been a team effort. I reached out to the Congressional Hispanic Caucus, the Congressional Black Caucus, to my colleagues, the people throughout Maryland, ministers in Baltimore, business leaders, educators, and political leadership. Why? It is because a digital divide exists in America. Those who have access to technology and know how to use it will be ready for the new digital economy. Those who don't will be left out and left behind.

Low-income urban and rural families are less likely to have access to the Internet and computers. Black and Hispanic families are only two-fifths as likely to have Internet access as their white counterparts. Some schools have 10 computers in every classroom. In other schools, there are 200 students who share one computer. The private sector is doing important and exciting work, such as Power Up from AOL, but technology empowerment can't be limited to a few zip codes. What we need is a national policy and national programs.

Mr. President, I believe the best antipoverty program is an education. If we practice the ABCs, we will ensure that our children have a good education and will cross this digital divide. Crossing the digital divide is about technology and about children having access to technology. It is about teachers knowing how to teach children the tools of technology so they can cross this digital divide.

The ABCs are simply this: Access—each child must have universal access to computers, whether it is in a school, a library, or a community center. Many families cannot afford to buy computers for their homes, but children in America should have access to them through public institutions.

We also need to practice the B—best-trained teachers and, I might add, better-paid teachers.

But C would be computer literacy for all students by the time they finish eighth grade.

My Digital Empowerment Act will, first of all, create a one-stop shop for Federal education technology programs at the Department of Education. Why do we need this? Well, right now, our programs are scattered throughout the Department. School superintendents have to forage to be able to find that information, and when they do, they find the funding is absolutely spartan or skimpy. That is why my legislation also improves our schools in terms of access to technology and teacher training.

Teachers want to help their students cross the digital divide, but they are facing three major problems. One, they need technology. They need hardware and software. They need training to use the technology because without training of the teachers or librarians, it is a hollow opportunity.

In my own home State of Maryland, over 600 teachers from across the State volunteered to participate in a tech-prep academy so they could be ready. But hundreds were turned away. For every one teacher who can sign up for tech-prep training, four or five are standing in line to do so.

My bill addresses these concerns. We are going to double funding for school technology and for teacher training. We now spend less than half a billion dollars on training and technology for our schools. We would double that to $850 million. But we also have to make sure we go where children learn, and that is in the community. Right now, what we find is that the only reliable source of revenue for wiring schools and libraries is the E-rate. But, the E-rate does not go to community centers.

Whether it is an African-American church or a community center in an Appalachian region or rural parts of the South or the upper regions of Alaska, what my legislation would do is help community centers. My legislation would create an E-corps within the AmeriCorps national service program. It would bring AmeriCorps volunteers with special technology training into our schools and into our communities.

I recently had a town hall meeting in an elementary school in Riverdale, MD. The teachers and students told me they need extra pairs of hands to help out in the computer lab to be able to teach the children. Also, we want to create 1,000 community tech centers. Community leaders have told me we need to bring technology to where kids learn, not just where we want them to learn. Our legislation would create 1,000 community-based centers that would be run by community organizations such as the YMCA and YWCA, Urban League, or a faith-based organization, where children could be there for structured afterschool activities, and also adults could be there earlier in the day to develop their job skills.

Government cannot do this alone. We want public-private partnerships. I want to use our Tax Code to encourage public-private partnerships. This bill uses our Tax Code to encourage the donations of technology, technology training, and technology maintenance for schools, libraries and community centers.

Mr. President, that is the core of our program. We are living in exciting times. The opportunities are tremendous to use technology to improve our lives, to use technology to remove the barriers caused by income, race, or ethnicity. Technology could mean the death of distance as a barrier for bringing jobs into the rural areas of our country. We want technology to be the death of discrimination where children have been left out or left aside. Bringing this technology into schools and libraries would enable children to leapfrog into the future.

Technology is the tool, but empowerment is the outcome. We want to be sure each child in the United States of America, by being computer literate by the time they are in the eighth grade, will be ready for the new economy. We hope that by setting that as a national goal we will get children to stay in school and know that the future lies in working in this new economy.

I thank everybody who worked on this bill with me. I thank everyone on my staff who helped me, including Julia Frifield, Jill Shapiro, and Andrea Vernot. This has truly been a team effort. I am pleased that I have 25 cosponsors from the U.S. Senate on this legislation. I hope that kind of bipartisan support will move this legislation forward.

I will conclude by saying this is a tremendous opportunity. This is not about a laundry list of new Government programs. We are here to make the highest and best use of the programs that exist, a wise and prudent use of taxpayer funds, and also to say to each child in America if you want to learn and get ready for the new economy, your Federal Government is on your side.

I give all praise and thanks to the Dear Lord who has inspired me to do this and gives me the opportunity to serve in the Senate. I truly believe one person can make a difference. I am trying to do that with this legislation. If we can work together, I know we will be able to bring about change—change for our children and change for the better.

Mr. LEVIN. Mr. President, it is my pleasure to join Senator MIKULSKI in introducing the National Digital Empowerment Act, which seeks to close the gap between those who have technology available to them and those who do not. I commend Senator MIKULSKI for her commitment to connect every school and community to the Information Superhighway. The legislation we are introducing will help to achieve this goal. It will enable students and teachers in all communities to have access to computers, as well as the training that is necessary to use this technology effectively.

The widening digital divide falls heaviest on those who can least afford to be left behind. Recent studies show that the Digital divide for the poorest Americans has grown by 29 percent since 1997, and that over 50 percent of schools lack the infrastructure needed to support new technology. In addition, approximately 4 out of 10 teachers report that they have had no training in using the Internet; and a mere 10 percent of new teachers reported that they felt prepared to use technology in their classrooms, while only 13 percent of all public schools reported that technology-related training for teachers was mandated by the school, district, or teacher certification agencies. This legislation will provide the necessary tools to reverse this trend.

It will substantially increase funding for teacher training in technology, including the creation of Teacher Technology Preparation Academies—teachers who are trained by the Academies would be encouraged to return to their schools and act as technology instructors for other teachers; increase funding for school technology; extend the current enhanced deduction for computer technology which is currently due to expire in 2001; require HUD to establish e-Villages in all HUD housing programs; authorize and increase funding for the creation of Community Technology Centers and e-corps within the AmeriCorps; create a one stop shop clearinghouse of public and private technology efforts within the U.S. Department of Education to be headed by an Assistant Secretary for Technology Education. In addition, the legislation directs the Secretary to implement an Internet-based, one-to-one pilot project that specifically targets the educational needs of K–12 students in low-income school districts, including hardware, software and ongoing support and professional development; and improve the e-Rate program.

After two funding cycles the total e-Rate funding that went to our nation's schools and libraries was $3.6 billion nationally, including $137.15 million for Michigan. That is a good investment to help prepare our children and citizens for the information age of the 21st century. But it is still not sufficient to provide all qualified schools and libraries with the e-Rate discounts they have requested. This legislation would improve the Universal Service Fund by making the e-Rate application process simpler, and would increase the current cap of $2.25 billion and expand eligibility to include structured after school programs, Head Start centers and programs receiving federal job training funds. The e-Rate has proven itself to be a successful and popular program and its time to make it available to everyone who needs it.

I am especially pleased to be a part of this legislative effort because it supports some model initiatives that I have established in my home state of Michigan, to create ways in which teachers can become more computer literate and able to integrate technology into the curriculum and to bring technology into every classroom.

About 2 years ago, I convened an education technology summit that brought together over 400 business leaders, school administrators, school board members, foundation representatives, deans of Michigan's colleges of education and others to identify ways in which Michigan could excel in the area of Education technology. What I learned was that one of the biggest obstacles to technologically up-do-date classrooms is the lack of training of our teachers in the use of technology. If teachers don't understand how to integrate computers, the Internet, and other technology into the instructional program, students won't get full advantage of these innovations, no matter how much hardware and wiring have been installed.

Despite impressive achievements in the utilization of education technology in a few localities, Michigan as a whole was below the national average in every measure of the use of technology in our schools. It ranked 44 in teacher training in the use of technology; and 10 percent of teachers reported that they had less than 9 hours of technology training. In addition, Michigan ranked 32 among the states in the ratio of students per computer. I have subsequently hosted a number of working sessions which have resulted in a specific plan of action to advance education technology in Michigan.

Some key elements of the plan of action include the formation of a consortium that will establish the nation's highest standards for training new teachers to use technology in the classroom. Beginning with the 1999–2000 academic year, the Consortium for Outstanding Achievement in Teaching with Technology {COATT} will award certificates of recognition to new teachers who have demonstrated an exceptional ability to use information technology as a teaching tool.

COATT membership includes an impressive slate of higher educational institutions from Michigan: Albion College, Andrews University, Eastern Michigan University, Ferris State University, Lake Superior State University, Michigan State University, Oakland University, University of Detroit-Mercy, University of Michigan, University of Michigan-Dearborn, Wayne State University and Western Michigan University. Neither the education nor the certificate is mandatory. However, new teachers with certificates will have an advantage in the job market and school districts will benefit by knowing which applicants are qualified in using technology effectively in their instruction. The letter of agreement signed by each COATT member in committing their institution to provide the resources to achieve the success of the COATT initiative which is included at the end of my remarks.

Michigan is already recognized as a leader in producing new teachers and if we set our minds to it, I'm convinced we can be the best in the nation when it comes to teaching teachers how to integrate technology in the classroom.

Another key element of my plan of action to advance Michigan's standing in education technology is the establishment of the Teach for Tomorrow Project, TFT, an online delivery system for educational technology training and credentialing of in-service teachers. By using technology to teach the technology, lessons can be accessed statewide and at time and location which are convenient to the learners. An added bonus, which results in an expansion of the use of technology in the classroom, is that teachers who complete TFT teach other teachers what they have learned. Central Michigan University has approved the use of TFT materials as a professional development course eligible for 3 graduate credit hours when done in conjunction with local onsite training.

The legislation before us, the National Digital Empowerment Act, will speed the closing of the digital divide not only in my state of Michigan, but nationwide. Time is of the essence. We must act responsibly and we must act now!

Mr. President, I ask unanimous consent to print in the RECORD the COATT member agreement signed by higher education institutions in Michigan.

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

CONSORTIUM FOR OUTSTANDING ACHIEVEMENT IN TEACHING WITH TECHNOLOGY LETTER OF AGREEMENT

We, the undersigned, commit our institutions to be members of the Consortium for Outstanding Achievement in Teaching with Technology (COATT). In doing so our institutions accept the following requirements:

(1) Each institution shall designate a facility liaison to COATT. This person will participate in an annual review of the COATT standards and participate in periodic meetings with other core members of the COATT organization.

(2) Each institution shall designate a person to act as a point of contact within the institution for potential COATT candidates.

(3) Each institution shall promote COATT to potential candidates. This might occur through flyers, regular newsletters, publications, placement files, etc.

(4) Each institution shall provide adequate and relevant learning opportunities in the application of educational technology for students who wish to acquire COATT certification.

(5) Each institution shall provide adequate resources for COATT applicants to produce, maintain, and gain access to their COATT digital portfolios.

(6) Each institution shall be responsible for recommending and pre-certifying COATT applicants.

(7) Each institution shall involve its faculty and other qualified personnel in COATT evaluation teams.

By signing below, we understand that we are committing our institutions to provide the personnel, resources, and opportunities described in the above seven points. We recognize that this level of commitment is crucial to the success of the COATT initiative.

Reuben Rubio, Director of the Ferguson Center for Technology-Aided Teaching,

Albion College; Dr. Niels-Erik Andreasen, President, Andrews University; Dr. Jerry Robbins, Dean of the School of Education, Eastern Michigan University; Dr. Nancy Cooley, Dean of the College of Education, Ferris State University; Dr. David L. Toppen, Executive Vice President and Provost, Lake Superior State University; Dr. Carole Ames, Dean of the College of Education, Michigan State University; Dr. James Clatworthy, Associate Dean of the School of Education and Human Resources, Oakland University; Aloha Van Camp, Acting Dean of the College of Education and Human Services, University of Detroit-Mercy; Dr. Karen Wixson, Dean of the School of Education, University of Michigan; Dr. Robert Simpson, Provost, University of Michigan-Dearborn; Dr. Paula Wood, Dean of the College of Education, Wayne State University; and Dr. Alonzo Hannaford, Associate Dean of the College of Education, Western Michigan University.

By Mr. GRAMS:

S. 2230. A bill to provide tax relief in relation to, and modify the treatment of, members of a reserve component of the Armed Forces, and for other purposes; to the Committee on Finance.

THE MILITARY GUARD AND RESERVE FAIRNESS ACT OF 2000

Mr. GRAMS. Mr. President, I rise today to introduce legislation addressing a very important issue-fairness for the Guard and Reserve members in our armed forces.

Le me begin with a February 3rd report from the Washington Post titled ''A Tough Goodbye: Guard Members Leave for Nine Months in Bosnia.'' It reads ''Sgt. Deedra Lavoie was alone, after leaving her two young children with her ex-husband. Sgt. Bill Wozniak, hugging his 3-year-old daughter, was worried about not having the same job when he returns in nine months. Staff Sgt. Stephen Smith won't have a home to come back to: Movers have cleared out his Annapolis apartment, which he can't afford to keep while overseas.''

This brings home, Mr. President, the real hardship that thousands of Guards and Reservists, and their families, are facing today.

The traditional duty of the National Guards and reservists was to keep domestic peace or fight in wars. But as the number of our Armed Forces has fallen by more than 1 million personnel since 1988, increasing numbers of our Guards and Reserve members are being pulled out of the private sector and into what amounts to at times to be full-time military service.

They are often called on to carry out overseas peacekeeping, humanitarian and other missions. Their deployment time is longer than ever before in peacetime. Today we rely heavily on our Guardsmen and Reservists to support overseas contingency operations. Since 1990, they have been called to service in Operation RESTORE HOPE in Somalia, Operation UPHOLD DEMOCRACY in Haiti, Operation JOINT ENDEAVOR/JOINT GUARD in Bosnia, Operation STABILIZE in Southeast Asia and Operation TASK FORCE FALCON in Kosovo.

Mr. President, the statistics speak for themselves:

Work days contributed by Guardsmen and Reservists have risen from 1 million days in 1992, to over 13 million days last year. Without the service of these citizen soldiers, we would need an additional force of 35,000 soldiers to do the job.

43,000 Guardsmen and Reservists have served in Bosnia and Kosovo from December 1995 through March 1, 2000. This is 33 percent of the total Armed Forces personnel participating in that region during that period.

Mr. President, Guardsmen and Reservists are willing to do their duty and serve when they are called, but increasingly frequent overseas deployments create tremendous hardship for them, and their families, as well their employers. We need to give our reserve forces fair treatment by improving the quality of life both for them and their dependents. We must help their employers adjust as well.

That's why I am introducing the Military Guard and Reserve Fairness Act of 2000. This bill would do the following:

First, my legislation would exempt federal tax on the base pay for enlisted Guardsmen and Reservists and exempt federal tax on the base pay of Guard and Reserve officers up to the highest level of that if enlisted Guardsmen and Reservists' base pay during their overseas deployment.

The majority of Guardsmen and Reservists take pay cuts when called up for involuntary overseas deployment, and sustain a huge financial loss. Our active duty military personnel enjoy federal tax exemption on their base pay, why not our Guardsmen and Reservists who perform the same duty as full-time military personnel?

Secondly, my legislation would provide a tax credit to employers who employ Guardsmen and Reservists. The tax credit would be equal to 50 percent of the amount of compensation that would have been paid to an employee during the time that the employee participates in contingency operations. However, the credit is capped at $2000 for each individual Reservist employee and a maximum of $30,000 for all employees. This provision would apply to the self-employed as well.

Despite the fact that most businesses are fully supportive of the military obligations of their employees, studies show that the increasingly long overseas deployments have created a new strain on Guard/Reserve-employer relations. One of the reasons is that the unplanned absence of Guard/Reservist-employees creates a variety of problems for employers. Employers have to hire and train temporary employees, budget for overtime, or reschedule work and deadlines. As a result, it increases employer costs, reducing revenue and profits. This is particularly problematic for small business and the self-employed.

The Defense Department acknowledges the increased use of the Guard and Reserve and that unplanned contingency operations do create problems for employers. DOD suggests that a financial incentive may help to correct some of the problems.

The tax credit included in my bill would offset at least some of the expense that Guard and Reserve employers face, and help reduce tension with employees.

Third, the Military Guard and Reserve Fairness Act would provide federal income tax deductions for transportation, meals and lodging expenses incurred in performance of Guard and Reserve military duty.

Mr. President, many Guardsmen and Reservists have to travel to a Reserve center, such as a National Guard Armory, far away from their home areas for drills or training.

Often Guardsmen and Reservists incur expenses for transportation, meals, lodging and other necessities. Before 1986, members of the Guard and Reserve could deduct these costs as business expenses. But the Tax Reform Act of 1986 eliminated this deduction.

This is not fair. This nation requires our Guard and Reserve members to perform their duty but also expects them to bear the expense. Restoring the deductibility would help restore fairness for Reservists.

The Military Guard and Reserve Fairness Act would also include a number of provisions that would give our Guard and Reserve members fair treatment by improving their quality of life.

It would extend space-available travel (''Space-A'') to Reservists and the National Guard, to travel outside of the United States—the same level as retired military, and gives the Guardsmen and Reservists the same priority status as active duty personnel when traveling for their monthly drills.

It would grant so-called ''gray area retirees'' the right to travel Space-A under the same conditions as the retired military receiving retired pay as well.

In addition, my legislation would provide Guardsmen and Reservists, when traveling to attend monthly military drills, the same billeting privileges as active duty personnel.

The bill would also remove the annual Guard and Reserve retirement point maximum—upon which retirement pensions are based—and allow retirement pensions to be based upon the actual number of points earned annually.

Finally, my legislation would extend free legal services to Guardsmen and Reservists by Judge Advocate General officers for a time equal to twice the length of their last period of active duty service.

Mr. President, our Guard and Reserve members are being called upon to perform more overseas active duty assignments to keep pace with the rising

number of U.S. peacekeeping and humanitarian missions. I believe that this increase in overseas active-duty assignments for Guard and Reserve component members merits the extension of military benefits for our Nation's citizen soldiers. It is only fair to close these disparities.

The passage of my Military Guard and Reserve Fairness Act would restore fairness to our Guard and Reserve members, and it would greatly increase morale and the quality of life for our National Guard and Reserves and prevent problems of recruitment and retention in the future. Hence, it would strengthen our national defense and increase our military readiness. I urge my colleagues to join me in support of our military Guard and Reserves.

By Mr. GRAHAM (for himself, Mr. JEFFORDS, Mr. BINGAMAN, Mr. BRYAN, Mr. L. CHAFEE, Mr. KERRY, Mr. ROCKEFELLER, Mr. MOYNIHAN, Mrs. MURRAY, Mr. LUGAR, and Ms. SNOWE):

S. 2232. A bill to promote primary and secondary health promotion and disease prevention services and activities among the elderly, to amend title XVIII of the Social Security Act to add preventive benefits, and for other purpose; to the Committee on Finance.

MEDICARE WELLNESS ACT OF 2000

• Mr. GRAHAM. Mr. President, today, along with my colleagues, Senator JEFFORDS, Senator BINGAMAN, Senator CHAFEE, Senator BRYAN, Senator ROCKEFELLER, Senator KERRY, Senator MURRAY, Senator MOYNIHAN, Senator LUGAR, and Senator SNOWE, I introduce the Medicare Wellness Act of 2000.

The Medicare Wellness Act represents a concerted effort by myself and my distinguished colleagues to change the fundamental focus of the Medicare program.

it changes the program from one that simply treats illness and disability, to one that is also proactive.

Enhancing the focus on health promotion and disease prevention for Medicare beneficiaries.

Mr. President, despite common misperceptions, declines in health status are not inevitable with age. A healthier lifestyle, even one adopted later in life, can increase active life expectancy and decrease disability.

This fact is a major reason why The Medicare Wellness Act has support from a broad range of groups, including the National Council on Aging, Partnership for Prevention, American Heart Association, and the National Osteoporosis Foundation.

The most significant aspect of this bill is its addition of several new preventative screening and counseling benefits to the Medicare program.

The benefits being added focus on some of the most prominent, underlying risk factors for illness that face all Medicare beneficiaries, including: screening for hypertension, counseling for tobacco cessation, screening for glaucoma, counseling for hormone replacement therapy, screening for vision and hearing loss, nutrition therapy, expanding screening and counseling for osteoporosis, and screening for cholesterol.

The new benefits added by The Medicare Wellness Act represent the highest recommendations for Medicare beneficiaries of the Institute of Medicine and the U.S. Preventative Services Task Force—recognized as the gold standard within the prevention community.

Attaching these prominent risk factors will reduce Medicare beneficiaries' risk for health problems such as stroke, diabetes, and osteoporosis, heart disease, and blindness.

The addition of these new benefits would accelerate the fundamental shift, that began in 1997 under the Balanced Budget Act, in the Medicare program from a sickness program to a wellness program.

Prior to 1997, only three preventive benefits were available to beneficiaries, pneumococcal vaccines, pap smears, and mammography. Other major components of our bill include the establishment of the Healthy Seniors Promoting Program.

This program will be led by an interagency workgroup within the Department of Health and Human Services.

It will being together all the agencies within HHS that address the medical, social and behavioral issues affecting the elderly and instructs them to undertake a series of studies which will increase knowledge about the utilization of prevention services among the elderly.

In addition, The Medicare Wellness Act incorporates an aggressive applied and original research effort that will investigate ways to improve the utilization of current and new preventive benefits and to investigate new methods of improving the health of Medicare beneficiaries.

Mr. President, this latter point is critical. The fact is that there are a number of prevention-related services available to Medicare beneficiaries today, including mammograms and colorectal cancer screening. But those services are seriously underutilized.

In a study published by Dartmouth University this spring (The Dartmouth Atlas of Health Care 1999), it was found that only 28 percent of women age 65–69 receive mammograms and only 12 percent of the beneficiaries were screened for colorectal cancer.

These are disturbing figures and they clearly demonstrate the need to find new and better ways to increase the rates of utilization of proven, demonstrated prevention services.

Our bill would get us the information we need to increase rates of utilization for these services. Further, our bill would establish a health risk appraisal and education program aimed at major behavioral risk factors such as diet, exercise, alcohol and tobacco use, and depression.

This program will target both pre-65 individuals and current Medicare beneficiaries. The main goal of this program is to increase awareness among individuals of major risk factors that impact on health, to change personal health habits, improve health status, and save the Medicare program money. Our bill would require the Medicare Payment Advisory Commission, known as MedPAC, to report to Congress every two years and assess how the program needs to change over time in order to reflect modern benefits and treatment.

Shockingly, this is information that Congress currently does not receive on a routine basis. And this is a contributing factor to why we find ourselves today in a quandary over the outdated nature of the Medicare program. Quite frankly, Medicare hasn't kept up with the rest of the health care world. While a vintage wine from the 1960s may be desirable, a health care system that is vintage 1965 is not. We need to do better.

Our bill would also require the Institute of Medicine (IOM) to conduct a study every five years to assess the scientific validity of the entire preventive benefits package. The study will be presented to Congress in a manner that mirrors The Trade Act of 1974. The IOM's recommendations would be presented to Congress in legislative form. Congress would then have 60 days to review and then either accept or reject the IOM's recommendations for changes to the Medicare program. But Congress could not change the IOM's recommendations.

This ''fast-track'' process is a deliberate effort to get Congress out of the business of micro-managing the Medicare program. While limited to preventive benefits, this will offer a litmus test on a new approach to future Medicare decision making.

In the aggregate, The Medicare Wellness Act represents the most comprehensive legislative proposal in the 106th Congress for the Medicare program focused on health promotion and disease prevention for beneficiaries. It provides new screening and counseling benefits for beneficiaries, it provides critically needed research dollars, and it tests new treatment concepts through demonstration programs.

The Medicare Wellness Act represents sound health policy based on sound science.

Before I conclude, I have a few final thoughts.

There are many here in Congress who argue that at a time when Medicare faces an uncertain financial future, this is the last time to be adding new benefits to a program that can ill afford the benefits it currently offers. Normally I would agree with this assertion. But the issue of prevention is different. The old adage of ''an ounce of prevention is worth a pound of cure'' is very relevant here. Does making preventive benefits available to Medicare beneficiaries ''cost'' money? Sure it does.

But the return on the investment, the avoidance of the pound of cure and

the related improvement in quality of life is unmistakable.

Along these lines, a longstanding problem facing lawmakers and advocates of prevention has been the position taken by the Congressional Budget Office, as it evaluates the budgetary impact of all legislative proposals.

Only costs incurred by the Federal Government over the next 10 years can be considered in weighing the ''cost'' of adding new benefits. From a public health and quality of life standpoint, this premise is unacceptable.

Among the problems with this practice is that ''savings'' incurred by increasing the availability and utilization of preventive benefits often occur over a period of time greater than 10 years.

This problem is best illustrated in an examination of the ''compression of morbidity'' theory developed by Dr. James Fries of Stanford University over 20 years ago.

According to Dr. Fries, by delaying the onset of chronic illness among seniors, there is a resulting decrease in the length of time illness or disability is present in the latter stages of life. This ''compression'' improves quality of life and reduces the rate of growth in health care costs.

But, these changes are gradual and occur over an extended period of time—10, 20, even 30 years.

With the average life expectancy of individuals who reach 65 being nearly 20 years—20 years for women and 18 years for men—it only makes sense to look at services and benefits that improve quality of life and reduce costs to the Federal Government for that 20 year lifespan.

In addition to increased lifespan, a 10 year budget scoring window doesn't factor into consideration the impact of such services on the private sector, such as increased productivity and reduced absenteeism, for the many seniors that continue working beyond age 65.

The bottom line is, the most important reason to cover preventive services is to improve health.

While prevention services in isolation won't reduce costs, they will moderate increases in the utilization and spending on more expensive acute and chronic treatment services.

As Congress considers different ways to reform Medicare, two basic questions regarding preventive services and the elderly must be part of the debate.

(1) Is the value of improved quality of life worth the expenditure? And,

(2) How important is if for the Medicare population to be able to maintain healthy, functional and productive lives?

These are just some of the questions we must answer in the coming debate over Medicare reform.

While improving Medicare's financial outlook for future generations is imperative, we must do it in a way that gives our seniors the ability to live longer, healthier and valued lives.

I believe that by pursuing a prevention strategy that addresses some of the most fundamental risk factors for chronic illness and disability that face seniors, we will make an invaluable contribution to the Medicare reform debate and, more importantly, to our children and grandchildren.

Finally, Mr. President, I would be remiss in pointing out that the Medicare Wellness Act represents the first time in this Congress that Republicans and Democrats have gotten together in support of a major piece of Medicare reform legislation.

This bill represents a health care philosophy that bridges political boundaries. It just makes sense. And you see that common sense approach today from myself and my esteemed colleagues who have joined me in the introduction of this bill.

Mr. President, I encourage my colleagues to join us on this important bill and to work with us to ensure that the provisions of this bill are reflected in any Medicare reform legislation that is debated and voted on this year in the Senate.●

● Mr. JEFFORDS. Mr. President, I am pleased to join Senator GRAHAM today in introducing the Medicare Wellness Act of 2000. Our nation's rapidly growing senior population and the ongoing search for cost-effective health care have led to the development of this important bipartisan legislation. The goal of the Medicare Wellness Act is to increase access to preventive health services, improve the quality of life for America's seniors, and increase the cost-effectiveness of the Medicare program.

Congress created the Medicare program in 1965 to provide health insurance for Americans age 65 and over. From the outset, the program has focused on coverage for hospital services needed for an unexpected or intensive illness. In recent years, however, a great escalation in program expenditures and an increase in knowledge about the value of preventive care have forced policy makers to re-evaluate the current Medicare benefit package.

The Medicare Wellness Act adds to the Medicare program those benefits recommended by the Institute of Medicine and the U.S. Preventive Services Task Force. These include: screening for hypertension, counseling for tobacco cessation, screening for glaucoma, counseling for hormone replacement therapy, screening for vision and hearing loss, cholesterol screening, expanded screening and counseling for osteoporosis, and nutrition therapy counseling. These services address the most prominent risk facing Medicare beneficiaries.

In 1997, Congress added several new preventive benefits to the Medicare program through the Balanced Budget Act. These benefits included annual mammography, diabetes self-management, prostate cancer screening, pelvic examinations, and colorectal cancer screening. Congress's next logical step is to incorporate the nine new screening and counseling benefits in the Medicare Wellness Act. If these symptoms are addressed regularly, beneficiaries will have a head start on fighting the conditions they lead to, such as diabetes, lung cancer, heart disease, blindness, osteoporosis, and many others.

Research suggests that insurance coverage encourages the use of preventive and other health care services. The Medicare Wellness Act also eliminates the cost-sharing requirement for new and current preventive benefits in the program. Because screening services are directed at people without symptoms, this will further encourage the use of services by reducing the cost barrier to care. Increased use of screening services will mean that problems will be caught earlier, which will permit more successful treatment. This will save the Medicare program money because it is cheaper to screen for an illness and treat its early diagnosis than to pay for drastic hospital procedures at a later date.

However, financial access is not the only barrier to the use of preventive care services. Other barriers include low levels of education of information for beneficiaries. That is why the Medicare Wellness Act instructs the Secretary of Health and Human Services to coordinate with the Centers for Disease Control and Prevention and the Health Care Financing Administration to establish a Risk Appraisal and Education Program within Medicare. This program will target both current beneficiaries and individuals with high risk factors below the age of 65. Outreach to these groups will offer questions regarding major behaviorial risk factors, including the lack of proper nutrition, the use of alcohol, the lack of regular exercise, the use of tobacco, and depression. State of the art software, case managers, and nurse hotlines will then identify what conditions beneficiaries are at risk for, based on their individual responses to the questions, then refer them to preventive screening services in their area and inform them of actions they can take to lead a healthier life.

The Medicare Wellness Act also establishes the Healthy Seniors Promotion Program. This program will bring together all the agencies within the Department of Health and Human Services that address the medical, social and behavorial issues affecting the elderly to increase knowledge about and utilization of prevention services among the elderly, and develop better ways to prevent or delay the onset of age-related disease or disability.

Mr. President, now is the time for Medicare to catch up with current health science. We need a Medicare program that will serve the health care needs of America's seniors by utilizing up-to-date knowledge of healthy aging. Effective health care must address the whole health of an individual. A lifestyle that includes proper exercise and

nutrition, and access to regular disease screening ensures attention to the whole individual, not just a solitary body part. It is time we reaffirm our commitment to provide our nation's seniors with quality health care.

It is my hope that my colleagues in Congress will examine this legislation and realize the inadequately of the current package of preventive benefits in the Medicare program. We have the opportunity to transform Medicare from an out-dated sickness program to a modern wellness program. I want to thank Senator BOB GRAHAM and all the other cosponsors of the Medicare Wellness Act who are supporting this bold step towards successful Medicare reform.●

Mr. BINGAMAN. Mr. President, I rise today to join my colleagues, Senator GRAHAM of Florida and Senator JEFFORDS of Vermont, in the introduction of the ''Medicare Wellness Act of 2000.''

This bipartisan, bicameral measure represents a recognition of the role that health promotion and disease prevention should play in the care available to Medicare beneficiaries. The bill adds several new preventative screening and counseling benefits to the Medicare program. Specifically, the act adds screening for hypertension, counseling for tobacco cessation, screening for glaucoma, counseling for hormone replacement therapy, and expanded screening and counseling for osteoporosis.

My colleagues have addressed most of these aspects of the bill so I will focus my remarks on one additional provision that is pivotal in achieving improved health outcomes of beneficiaries with several chronic diseases. Specifically, the Medicare Wellness Act of 2000 provides for coverage under Part B of the Medicare program for medical nutrition therapy services for beneficiaries who have diabetes, cardiovascular disease, or renal disease.

Medical nutrition therapy refers to the comprehensive nutrition services provided by registered dietitians as part of the health care team. Medical nutrition therapy has proven to be a medically necessary and cost effective way of treating and controlling heart disease, stroke, diabetes, high cholesterol, and various renal diseases. Patients who receive this therapy require fewer hospitalizations and medications and have fewer complications.

The treatment of patients with diabetes and cardiovascular disease accounts for a full 60 percent of Medicare expenditures. In my home state of New Mexico, Native Americans are experiencing an epidemic of Type II diabetes. Medical nutrition therapy is integral to their diabetes care and to the prevention of progression of the disease. Information from the Indian Health Service shows that medical nutrition therapy provided by professional dietitians results in significant improvements in medical outcomes in Type II diabetics.

Mr. President, while medical nutrition therapy services are currently covered under Medicare Part A for inpatient services, there is no consistent Part B coverage policy for medical nutrition.

Nutrition counseling is best conducted outside the hospital setting. Today, coverage for nutrition therapy in ambulatory settings is at best inconsistent, but most often, non existent.

Because of the comparatively low treatment costs and the benefits associated with nutrition therapy, expanded coverage will improve the quality of care, outcomes and quality of life for Medicare beneficiaries.

Two years ago, my colleague from Idaho, Senator CRAIG and I requested that the National Academy of Sciences' Institute of Medicine study the issue of medical nutrition therapy as a benefit for Medicare beneficiaries. The Institute of Medicine released this study last December entitled: ''The Role of Nutrition in Maintaining Health in the Nation's Elderly: Evaluating Coverage of Nutrition Services for the Medicare Populations.'' This IOM study reaffirms what I have been working toward the past few years. Namely, it recommended that medical nutrition therapy, ''upon referral by a physician, be a reimbursable benefit for Medicare beneficiaries.'' The study substantiates evidence of improved patient outcomes associated with nutrition care provided by registered dietitians.

Mr. President, I again want to thank my colleagues for including medical nutrition therapy as a key component of the Medicare Wellness Act. I look forward to working with them toward passage of the act this Congress.

By Mr. FITZGERALD (for himself, Mr. BAYH, Mr. ABRAHAM, Mr. KOHL, Mr. GRASSLEY, Mr. DURBIN, Mr. BROWNBACK, and Mr. GRAMS):

S. 2233. A bill to prohibit the use of, and provide for remediation of water contaminated by, methyl tertiary butyl ether; to the Committee on Environment and Public Works.

MTBE ELIMINATION ACT

Mr. FITZGERALD. Mr. President, I rise to introduce legislation called the ''MTBE Elimination Act of 2000.'' As I so rise, I thank my colleagues who have cosponsored this legislation. They are Senators BAYH, ABRAHAM, KOHL, GRASSLEY, DURBIN, BROWNBACK, and GRAMS. I appreciate their support and I look forward to talking to each of my colleagues about this very important piece of legislation we are introducing today.

Mr. President, the MTBE Elimination Act would ban all across the country, the chemical compound which is termed MTBE for short. Its longer chemical name is methyl tertiary butyl ether.

MTBE is one of the world's most widely used chemicals, and is found anywhere in the United States. In fact, it is added to approximately 30 percent of our Nation's gasoline supplies. Its use in this country dates back at least to about 1979 and was originally added to gasoline to boost the octane. For many years, oil companies had added lead to fuel in order to improve its performance and to boost octane. The Federal Government banned lead in the 1970s, and ultimately it was replaced in many cases by MTBE.

Later on, in 1990, Congress amended the Clean Air Act and President Bush at the time signed those amendments. Those amendments required all the smog filled large cities in this country to have an additive in their gasoline that would make the gasoline approximately 2.7 percent oxygen by weight. This is commonly referred to as the oxygenate requirement in our Nation's Clean Air Act.

The purpose of that oxygenate requirement was to make the oil companies produce, and our cars use, a cleaner burning fuel. The idea was to clean up the smog in some of our Nation's largest and most congested cities. That program has worked very well over the last 10 years in cleaning up the smog all across the country, in cities like New York, Los Angeles, and San Francisco. My home State of Illinois, of course, has a large metropolitan area in Chicago. The reformulated fuel requirements that were implemented by the 1990 amendments to the Clean Air Act have helped greatly in reducing the emissions from our automobiles, in providing cleaner burning fuels, at least as far as our air quality is concerned.

As I said earlier, about 30 percent of the gasoline used in this country is reformulated and has an additive in it, most of which is MTBE. In the parts of this country that are required to use reformulated fuel, over 80 percent of them are using MTBE as their oxygenate. The other areas are using another oxygenate known as ethanol to meet the requirements of the Clean Air Act. In fact, Chicago and Milwaukee both use ethanol as opposed to MTBE.

It turns out now that we have mounting evidence that MTBE, while it works well in cleaning up smog, has a problem we had not anticipated, and one which very regrettably had not been fully investigated before we started down the path that encouraged a dramatic increase in the usage of MTBE. MTBE has, in recent years, been detected in the nation's drinking water all across the country, from the east coast to the west coast. In fact, right now the U.S. Geological Survey is performing an ongoing evaluation of our nation's drinking water, groundwater supplies all across the country. They have not yet completed this survey. If you look at this chart, in the States that are in white, the U.S. Geological Survey analysis has not yet been performed.

But in the States that are in red, those are the States where they have found MTBE in the groundwater. Incidentally, I believe it is somewhere in the neighborhood of 22 States where

they have found methyl tertiary butyl ether in the groundwater.

In my home State of Illinois, we do not use much MTBE; ethanol is the oxygenate of choice. But nonetheless, the Illinois Environmental Protection Agency has been finding MTBE in our groundwater. So far, they have found MTBE in at least 25 different cities all across the State, and many Illinois municipalities have not tested the groundwater. Three of these cities have had to switch their source of drinking water and go to other wells because there was a sufficient amount of MTBE in that water to make it undrinkable.

About a month ago, CBS News, in their program ''60 Minutes,'' did a report on how MTBE has been turning up with greater and greater frequency in our Nation's drinking water supplies. During that report, which seemed to me to be very well researched, it was noticed that this chemical, MTBE, has some very interesting properties.

Unlike most of the other components of gasoline which, when it leaks out accidentally from underground storage tanks or out of pipes which carry fuel—there are leaks now and then; we try to prevent them, but they do occur—most of the components of gasoline are absorbed in the soil and do not make it down to the ground water.

MTBE is a pesky substance, however, that resists microbial degrading in the ground and rapidly seeks out the ground water. It resists degrading as it finds its way to the water. Then once it gets into the water, it rapidly spreads. It has properties that, when it is in drinking water in very minute quantities, between 20 to 40 parts per billion, make the drinking water undrinkable. I say undrinkable because it makes the water smell and taste like turpentine.

There have been studies that have shown that a single cup of MTBE renders 5 million gallons of water undrinkable. I say it makes the water undrinkable. The fact is, we do not know exactly what health effects it has on humans who ingest the water. Very few studies have been done on what happens to humans who consume MTBE. There have been studies of laboratory rats that suggest it is a possible carcinogen, and the EPA has recognized MTBE as a possible cause of cancer.

We need to do more research on MTBE's effects on human health. We simply do not know all that much about this chemical. However, we do know that most people, when they smell the turpentine-like smell or taste of it, it inspires an instant revulsion and they do not want to drink the water. It is almost a moot point as to whether it has ill health effects because it makes the water undrinkable. Most humans will recoil at the thought of drinking that type of water.

In the ''60 Minutes'' segment I referred to earlier, they went to a town in California where literally most of the town has left because their water has this MTBE in it. Many of the businesses have closed up, many of the people have left, and for those remaining in that community, the State of California is trucking in fresh water for them to drink. It is a very serious problem.

There have been a few cities around the country—I believe there is one in the Carolinas, and also Santa Barbara, CA—where they had sued oil companies and won judgments to clean up the ground water in which they detected MTBE.

In order to address this alarming trend of finding this pesky, horrible chemical in our drinking water all across the country with increasing frequency, I, with my colleagues, am introducing the MTBE Elimination Act. This act will do four things: First, it will phase MTBE out gradually over 3 years. The way the bill accomplishes that is it amends the Toxic Substances Control Act to add methyl tertiary butyl ether to the list of proscribed toxic substances in this country.

It will eliminate the MTBE over 3 years because it will be hard to simply switch our Nation's gasoline supply overnight. To be realistic, it will take a period of time. The bill allows discretion for the EPA to establish a timetable and a framework for this MTBE phase-out.

Secondly, the bill will require that gasoline which is dispensed at the pump containing MTBE be labeled so people know when they are filling up their car with gasoline that it contains this additive, and this chemical is being used in their community. In many cases, of course, people are not even aware of this chemical. They have never heard of it. We were very surprised in Illinois. We did not think much MTBE was even used in Illinois. Then we found it in our ground water.

Third, the bill authorizes grants for research on MTBE ground water contamination and remediation. It directs resources to do more research on the health effects of this chemical too. We need to know more about this chemical in order to combat it. Right now we do not fully understand the health risks. Most of the studies that have been done, of which I am aware, are on laboratory mice, and there have been very few studies, if any, on the effects to humans who ingest or inhale this chemical.

We also need research on how we remediate the chemical, how we clean it up because, in addition to all of its other properties, it turns out it is very difficult to eliminate. Our normal processes for eliminating hazardous chemicals from ground water, in many cases, according to the literature, do not seem to work on MTBE. EPA needs to research this issue and help the rest of the country have a body of knowledge, so when they find MTBE contamination, they know how to clean it up or remediate it.

The bill contains a section which expresses the sense of the Senate that the EPA, our national Environmental Protection Agency, should provide technical assistance, information, and matching funds to our local communities that are testing their underground water supplies and also trying to remediate and clean up MTBE that has been detected in those water supplies.

Finally, as an afterthought, some of my colleagues may be asking: What will we do about that portion of the Clean Air Act that requires our fuel in this country, at least in the smog-filled large cities, to have an oxygenate in it to reduce smog emissions? There is an answer. We do have an alternative—a renewable source produced from corn or other biomass products. It is called ethanol.

In my judgment, ethanol will allow us to meet the requirements of the Clean Air Act all across the country, and it will not require us to make that terrible choice between clean air and clean water. I want our country to have clean air and clean water and never one at the expense of the other. Ethanol, in my judgment, provides the answer to that problem.

The USDA recently did a study using ethanol to replace MTBE all across the country. It would mean, on average, about $1 billion in added income to our farmers every year.

Mr. DURBIN. Would my colleague yield for a question?

Mr. FITZGERALD. Yes.

Mr. DURBIN. First, I congratulate my colleague for the introduction of this legislation. I am happy to cosponsor it. It is truly bipartisan legislation which is of benefit not only to the farmers in our State of Illinois but to our Nation.

We understand, as most people do in Washington, the benefits of ethanol when it comes to reducing air pollution. We also understand the dangers of MTBE. Where it is used in other States, it has contaminated water supplies.

We are in the process of working with the Environmental Protection Agency to discuss the future of ethanol and hope it will remain strong.

I ask my colleague from Illinois—and I again congratulate him for his leadership in this area—if he can tell me whether his legislation on the elimination of MTBE is done on a phaseout basis or whether it is done to a date certain?

Mr. FITZGERALD. Yes. I thank the Senator and appreciate his support. I appreciate his cosponsorship of this legislation.

My bill would ban MTBE within 3 years after the enactment of this law. It would leave the exact timetable up to the EPA. They could set parameters within that 3 years. But within 3 years after the bill is signed into law, we would expect MTBE to be gone.

Following up on that, as Senator DURBIN said, we have been working very hard, particularly with Senator GRASSLEY, Senator HARKIN, and Senators from all over the country, in trying to clean up MTBE, and also trying

to promote renewable sources of fuels, such as ethanol. That discussion about the importance of renewable fuels is made much more important now as we see our dependence on foreign oil and the high prices of oil in recent weeks.

But this is an issue that has bipartisan support. Senator DURBIN is a Democrat; I am a Republican. But the ethanol issue has always been bipartisan. I look forward to working with my friends and colleagues on both sides of the aisle so that we can continue to work on improving our Nation's clean air and water and also our farm economy.

Mr. President, I ask unanimous consent to print the bill in the RECORD.

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

S. 2233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''MTBE Elimination Act''.

SEC. 2. FINDINGS; SENSE OF THE SENATE.

(a) FINDINGS.—Congress finds that—

(1) a single cup of MTBE, equal to the quantity found in 1 gallon of gasoline oxygenated with MTBE, renders all of the water in a 5,000,000-gallon well undrinkable;

(2) the physical properties of MTBE allow MTBE to pass easily from gasoline to air to water, or from gasoline directly to water, but MTBE does not—

(A) readily attach to soil particles; or

(B) naturally degrade;

(3) the development of tumors and nervous system disorders in mice and rats has been linked to exposure to MTBE and tertiary butyl alcohol and formaldehyde, which are 2 metabolic byproducts of MTBE;

(4) reproductive and developmental studies of MTBE indicate that exposure of a pregnant female to MTBE through inhalation can—

(A) result in maternal toxicity; and

(B) have possible adverse effects on a developing fetus;

(5) the Health Effects Institute reported in February 1996 that the studies of MTBE support its classification as a neurotoxicant and suggest that its primary effect is likely to be in the form of acute impairment;

(6) people with higher levels of MTBE in the bloodstream are significantly more likely to report more headaches, eye irritation, nausea, dizziness, burning of the nose and throat, coughing, disorientation, and vomiting as compared with those who have lower levels of MTBE in the bloodstream;

(7) available information has shown that MTBE significantly reduces the efficiency of technologies used to remediate water contaminated by petroleum hydrocarbons;

(8) the costs of remediation of MTBE water contamination throughout the United States could run into the billions of dollars;

(9) although several studies are being conducted to assess possible methods to remediate drinking water contaminated by MTBE, there have been no engineering solutions to make such remediation cost-efficient and practicable;

(10) the remediation of drinking water contaminated by MTBE, involving the stripping of millions of gallons of contaminated ground water, can cost millions of dollars per municipality;

(11) the average cost of a single industrial cleanup involving MTBE contamination is approximately $150,000;

(12) the average cost of a single cleanup involving MTBE contamination that is conducted by a small business or a homeowner is approximately $37,000;

(13) the reformulated gasoline program under section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) has resulted in substantial reductions in the emissions of a number of air pollutants from motor vehicles, including volatile organic compounds, carbon monoxide, and mobile-source toxic air pollutants, including benzene;

(14) in assessing oxygenate alternatives, the Blue Ribbon Panel of the Environmental Protection Agency determined that ethanol, made from domestic grain and potentially from recycled biomass, is an effective fuel-blending component that—

(A) provides carbon monoxide emission benefits and high octane; and

(B) appears to contribute to the reduction of the use of aromatics, providing reductions in emissions of toxic air pollutants and other air quality benefits;

(15) the Department of Agriculture concluded that ethanol production and distribution could be expanded to meet the needs of the reformulated gasoline program in 4 years, with negligible price impacts and no interruptions in supply; and

(16) because the reformulated gasoline program is a source of clean air benefits, and ethanol is a viable alternative that provides air quality and economic benefits, research and development efforts should be directed to assess infrastructure and meet other challenges necessary to allow ethanol use to expand sufficiently to meet the requirements of the reformulated gasoline program as the use of MTBE is phased out.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Administrator of the Environmental Protection Agency should provide technical assistance, information, and matching funds to help local communities—

(1) test drinking water supplies; and

(2) remediate drinking water contaminated with methyl tertiary butyl ether.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) ELIGIBLE GRANTEE.—The term ''eligible grantee'' means—

(A) a Federal research agency;

(B) a national laboratory;

(C) a college or university or a research foundation maintained by a college or university;

(D) a private research organization with an established and demonstrated capacity to perform research or technology transfer; or

(E) a State environmental research facility.

(3) MTBE.—The term ''MTBE'' means methyl tertiary butyl ether.

SEC. 4. USE AND LABELING OF MTBE AS A FUEL ADDITIVE.

Section 6 of the Toxic Substances Control Act (15 U.S.C. 2605) is amended by adding at the end the following:

''(f) USE OF METHYL TERTIARY BUTYL ETHER.—

''(1) PROHIBITION ON USE.—Effective beginning on the date that is 3 years after the date of enactment of this subsection, a person shall not use methyl tertiary butyl ether as a fuel additive.

''(2) LABELING OF FUEL DISPENSING SYSTEMS FOR MTBE.—Any person selling oxygenated gasoline containing methyl tertiary butyl ether at retail shall be required under regulations promulgated by the Administrator to label the fuel dispensing system with a notice that—

''(A) specifies that the gasoline contains methyl tertiary butyl ether; and

''(B) provides such other information concerning methyl tertiary butyl ether as the Administrator determines to be appropriate.

''(3) REGULATIONS.—As soon as practicable after the date of enactment of this subsection, the Administrator shall establish a schedule that provides for an annual phased reduction in the quantity of methyl tertiary butyl ether that may be used as a fuel additive during the 3-year period beginning on the date of enactment of this subsection.''.

SEC. 5. GRANTS FOR RESEARCH ON MTBE GROUND WATER CONTAMINATION AND REMEDIATION.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—There is established a MTBE research grants program within the Environmental Protection Agency.

(2) PURPOSE OF GRANTS.—The Administrator may make a grant under this section to an eligible grantee to pay the Federal share of the costs of research on—

(A) the development of more cost-effective and accurate MTBE ground water testing methods;

(B) the development of more efficient and cost-effective remediation procedures for water sources contaminated with MTBE; or

(C) the potential effects of MTBE on human health.

(b) ADMINISTRATION.—

(1) IN GENERAL.—In making grants under this section, the Administrator shall—

(A) seek and accept proposals for grants;

(B) determine the relevance and merit of proposals;

(C) award grants on the basis of merit, quality, and relevance to advancing the purposes for which a grant may be awarded under subsection (a); and

(D) give priority to those proposals the applicants for which demonstrate the availability of matching funds.

(2) COMPETITIVE BASIS.—A grant under this section shall be awarded on a competitive basis.

(3) TERM.—A grant under this section shall have a term that does not exceed 4 years.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2001 through 2004.

Mr. GRASSLEY. Mr. President, I am pleased to join my Illinois colleague, Senator FITZGERALD, as a cosponsor of his legislation banning MTBE. MTBE contaminates water, and it has been found in water throughout the United States.

With every day that passes, more water is being contaminated. Oddly enough, we have passed a clean air bill to clean up the air, and the oil companies have used a product to meet the requirements of the clean air bill that contaminates the water.

But there is an additive to the gasoline that will clean up the air as well as not contaminate the water. I will talk about that in just a minute.

It is simple: With every day that passes, more water is being contaminated.

Last August, the Senate soundly passed a resolution that I cosponsored with Senator BOXER of California calling for an MTBE ban.

In the face of damaging, irresponsible action by the Clinton administration, it is time we put some force to our Senate position. How long must Americans suffer this dilatory charade by President Clinton's administration, also by

the petroleum industry, and particularly by California officials? I say California officials because they have asked that the Clean Air Act of 1990 be gutted.

I have intentionally held my fire until after the California primary because I would not want anyone to misconstrue my motives in an attempt to undermine Vice President GORE'S political ambitions. But today I think it is time to say it as it really is: President Clinton, Vice President GORE, and the Environmental Protection Agency's Administrator, Carol Browner, have been dragging their feet—and dragging their feet too long.

They gave the oil and the MTBE industry everything they wanted. At the request of big oil, they threw out regulations proposed by President Bush which would have, by some estimates, tripled and even quadrupled ethanol production. This was done on the first day of the Clinton administration.

Instead, when they finally got around to putting some rules out, the administration approved regulations that guaranteed a virtual MTBE monopoly in the reformulated gasoline market.

This decision by the Clinton administration, way back then in the early part of the administration, opened wide the door for petroleum companies to use MTBE and thus contaminate our water.

With egg on its face, with an environmental disaster on its hands, the Clinton administration continues to delay and also duck its leadership responsibilities.

A replacement for MTBE exists today, but most oil companies refuse to use it. The Environmental Protection Agency's Director, Carol Browner, has been told time and time again, in every imaginable way possible, how MTBE can be replaced, and in California totally replaced this very day.

But she, as other Clinton-Gore officials, always seems to come up with some sort of excuse, a reason for delay, some other hurdle.

Last week, as the congressional delegation met with our Governor from Iowa, we were told that Carol Browner asked for more information on this subject about the supply of an alternative to MTBE—which is ethanol—that she needed more information. It happens to be information that the Environmental Protection Agency already has.

The new hurdle she is creating is the question: Is there enough of this alternative, ethanol? You might ask: Enough for what? To replace all MTBE today or tomorrow? That is kind of insulting. It is also incredible.

I want to illustrate how it is insulting and incredible with this point. Imagine the following: You have a brush fire sweeping to the city's edge, devouring home after home. Panicked citizens call 911, but the fire engines remain silent. The home owners scream to the fire department: Why won't you come to our rescue? The fire chief says: We don't have enough water to save the whole city, and until we can save all, we will save none.

It is absurd. Of course it is. Yet an equally absurd and dangerous line has been drawn by most California big oil companies and their political apologists. In the face of the largest environmental crisis of this generation—which is the contamination of water by the petroleum companies' controlled product, MTBE—Californians are being held hostage, forced to buy water-contaminating, MTBE-laced gasoline, even though a superior MTBE replacement is available, and available this very day—not tomorrow, not next year, but today.

California Governor Davis' so-called ''ban'' allows MTBE to be sold ''full bore, business-as-usual'' until the end of the year 2002.

Worse yet, California legislators dropped the deadline altogether. But why the wait? Well, we are told there is not enough of this MTBE alternative and thus the illogical decree imposed: No MTBE will be removed until all MTBE is removed. And with every day that passes, more of our water is contaminated. Think of this: A mere teacup of MTBE renders undrinkable 5 million gallons of water. CBS's ''60 Minutes,'' referred to by my colleague from Illinois, reported California has already identified 10,000 ground water sites contaminated by MTBE and that ''one internal study conducted by Chevron found that MTBE has contaminated ground water at 80 percent of the 400 sites that the company tested.''

Yet big oil holds you hostage, forcing you to buy MTBE-laced gasoline until either the Clinton-Gore administration or Congress guts one of the most successful Clean Air Act programs, the reformulated gasoline oxygenate requirement. So big oil is hoping that gullible bureaucrats and politicians conclude that MTBE is not the real problem but, instead, the real problem happens to be the oxygenate provisions of the 1990 Clean Air Act. Get rid of the oxygenate requirement and, presto, MTBE disappears.

People in my State are not buying that line. Iowa has no oxygenate requirement. Yet MTBE has been found in 29 percent of our water supplies tested. Let it be clear, let there be absolutely no misunderstanding: Iowa's water and the water in every Senator's State was contaminated by a product that big oil added to their gasoline, and it was not contaminated by the Clear Air Act. Big oil did everything it could to persuade Clinton-Gore appointees and judges in our courts to guarantee that MTBE monopolized the Clean Air Act's oxygenate market.

Our colleagues need to understand that nearly 500 million gallons of MTBE are sold every year throughout the United States, not to meet the oxygenate requirements of the Clean Air Act that I have been talking about up to this point, but as an octane enhancer in markets all over the United States where the oxygenate requirements under the Clean Air Act to clean up the smog don't even apply.

So your water is in danger whether you live in a city that has to meet the oxygenate requirements of the 1990 Clean Air Act or not because big oil uses the poison MTBE as an octane enhancer lots of places. So that gets us to a point where they want us to believe that changing the 1990 Clean Air Act is the solution to all the problems. I ask, how will gutting the Clean Air Act's oxygenate requirements protect the rest of America's water, if most gallons of gasoline have MTBE in them for octane enhancement outside the Clean Air Act? Well, that answer is pretty simple. It is not going to clean it up until we get rid of all MTBE. We need to, then, ban MTBE, which this bill we are introducing today does, not ban the Clean Air Act, or at least not gut it by eliminating the oxygenate requirements of it, which big oil says is the solution to our problem.

Then we get to what is the superior MTBE replacement that is available today. My colleagues don't have to wait for me to tell them what my answer is to that, but I will. It is ethanol, which is nothing more than grain alcohol. Let's get that clear. We are talking about MTBE, a poisonous product, poisoning the water in California, where the oxygenate requirements are, but also in the rest of the country where it is used as an octane enhancer, and grain alcohol on the other hand that you can drink. Ethanol can be made from other things as well. It can be made from California rice straw. It can be made from Idaho potato waste. It can be made from Florida sugarcane, North Dakota sugar beets, New York municipal waste, Washington wood and paper waste, and a host of other biodegradable waste products. Ethanol is not only good for your air, but if it did get into your water, your only big decision would be whether to add some ice and tonic before you drink it.

As my colleagues know, I am a teetotaler, so I am not going to pretend to advise you on the proper cocktail mixes. Today there is enough ethanol in storage and from what can be produced from idle ethanol facilities to displace all of the MTBE California uses in a whole year. It is available today not tomorrow, not the year 2002. And more facilities to produce it are in the works.

But big oil proclaims there is not enough ethanol. Translation, as far as I can tell: We, as big oil, don't control ethanol; farmers control it. So we don't want to use it.

They argue that ethanol is too difficult to transport. Translation: We would rather import Middle East MTBE from halfway across the world than transport ethanol from the Midwest of our great country. Big oil whines: Keeping the oxygenate requirement will give ethanol a monopoly. This is a whale of a tale, and it is kind

of hard to translate into sensible English. Since it takes half as much ethanol as MTBE to produce a gallon of reformulated gasoline, big oil will reap a 6.2-percent increase in the amount of plain gasoline used in reformulated gasoline. So how in the world does boosting by a whopping 6.2 percent gasoline's share of the reformulated gasoline market constitute a monopoly for ethanol? That issue has been raised with Senators on the environmental committee.

Currently, MTBE constitutes 3 percent of our total transportation fuel market. Ethanol, if it replaces all MTBE, would, therefore, gain a 1.5-percent share. Think about that. A 1.5-percent market share, if it is ethanol, is defined as a monopoly share. But a 3-percent market share, if it is MTBE, is not a monopoly.

I think it is pretty simple to get it because the translation of this big oil babble is this: Market share, as small as 1.5 percent, if not controlled by big oil, shall henceforth be legally defined as a monopoly. Market share at any level, 3 percent to 100 percent, if it is controlled by big oil, shall never be defined as a monopoly. It is such a bizarre proposition that a mere 1.5 percent of market equals a monopoly.

Big oil claims ethanol is too expensive. Let me translate that for you: We prefer—meaning oil—our cozy relationship with OPEC that allows us to price gouge Americans rather than sell at half the price an oxygenate controlled by American farmers and ethanol producers.

I hope you caught that. If not, you ought to brace yourself, sit down with your cup of coffee, get anything dangerous out of your hands. The March 7, 2000, west coast spot wholesale price for gasoline was $1.27 per gallon. MTBE sold for just over $1.17 per gallon, 10 cents less. But ethanol came right in at the same price, $1.17 a gallon. Now, remember, it takes twice as much MTBE as it does ethanol to meet the Clean Air Act's oxygenate requirement. In other words, at the March 7 prices, oxygenates made from ethanol cost petroleum marketers half as much as the oxygenate made from their product, MTBE.

So even though big oil has at its disposal an oxygenated alternate to MTBE, which costs half as much, and that will protect our water supplies, big oil, with the help of the Clinton administration, continues to hold hostage the people of California and other Americans who are forced to use MTBE.

Last summer, I asked President Clinton to announce that he would deny California's request to waive the oxygenate requirement. I asked him to announce that he would veto any legislation that would provide for such a waiver. I have heard nothing on this subject. No answer to my letter has come from the President. His silence, and that of Vice President Gore and the rest of the administration, is very deafening.

American farmers are suffering the worst prices in about 23 to 25 years. If farmers are allowed to replace MTBE with ethanol, farm income will jump $1 billion per year. But, no, increasing farm income through the marketplace, both domestic and foreign, seems to be of no interest to the Clinton-Gore administration, considering their unwillingness to act and make these public statements that would send a clear signal, as far as this consideration is concerned, that MTBE's days of poisoning the water are over, replacing that with something that is safe, something that will help the farmers, and something that will send a clear signal to OPEC that we are done with our days being dependent upon them for our oil supplies and our energy.

In the process of doing that, they would help clean up our environment as well. But that doesn't seem to be of any concern to this administration either when it comes to MTBE. It seems, unfortunately, that the only thing on the collective mind of this administration is the Vice President running for President, his legacy, his partisan politics; everybody's eyes are on the next election.

So I repeat, MTBE is the problem, not the Clean Air Act, as the big oil companies want us to believe. The answer to all this is so simple and clear:

As our bill does, ban MTBE, but don't gut the Clean Air Act's oxygenate requirement.

Let America's farmers fill this void with ethanol, and let them fill it today.

It will boost farm income by $1 billion per year and help lessen our reliance upon foreign oil, and it will not keep us at the whims of OPEC quite so much.

It will keep our air clean, and it will protect our water supplies.

So all of those things sound good, don't they? Ethanol. It is that simple. It is good, good, good. I might be wasting my breath, but I will make this plea one more time. It is the same plea I made in a letter to the President last June or July, which was: President Clinton, reject the waiver request today and declare that you will veto any legislation that would allow a waiver of the oxygenate requirements of the 1990 Clean Air Act. I assure you, Mr. President, if you do that, the water-polluting MTBE will be replaced as fast as our farmers can deliver the ethanol, and that is pretty darned swift. Do it today, President Clinton. Please do it today.

I yield the floor.

Mr. BAYH. Mr. President, I am pleased to join with my colleagues today in introducing this timely and important legislation to help the nation respond to growing concerns about the threats to public health and the environment caused by methyl tertiary butyl ether, or MTBE.

There is gathering evidence that MTBE, which is added to gasoline to reduce its impact on air quality, poses a threat to human health and the environment. Preliminary testing indicates groundwater has been contaminated in many areas of the country. The MTBE Elimination Act provides for a three-year phase out of the use MTBE. The legislation also provides resources for research, local testing programs, and labeling so that we can identify the size of the problem and move forward with meaningful solutions.

Addressing the health and environmental threats posed by MTBE is only half of the answer. While we move to phase out MTBE, we also need to be making decisions about the future of the reformulated fuels program and the oxygenate requirement in the Clean Air Act. The Reformulated Gasoline Program has significantly reduced emissions of air pollutants from motor vehicles, including volatile organic compounds, carbon monoxide, and mobile-source air toxics, such as benzene. It is important that we evaluate the options available for maintaining and enhancing these benefits.

The first step is evaluating the obvious options, ethanol. In its assessment of oxygenate alternatives, the EPA's Blue Ribbon Panel found that ethanol is ''an effective fuel-bending component, made from domestic grain and potentially from recycled biomass, that provides high octane, carbon monoxide emission benefits, and appears to contribute to the reduction of the use of aromatics with related toxics and other air quality benefits.'

The U.S. Department of Agriculture, in its report ''Economic Analysis of Replacing MTBE with Ethanol in the United States, ''concluded that ethanol production and distribution could be expanded to meet the needs of the Reformulated Gasoline Program by 2004 with no supply interruptions or significant price impacts.

We do not have to choose between clean air and clean water. Evidence that MTBE presents a risk to water quality does not mean that we have to end our efforts for cleaner fuels. Ethanol is a clean, safe alternative that has the potential to serve a larger national market. As a country, we are beginning to recognize the benefits that biofuels can provide to the environment. Recent oil price increases also remind us of how important domestic sources of energy are to our national security. This bill is a necessary step in minimizing the public health and environment damage attributable to MTBE. I believe it can also be the start of a serious discussion on the opportunities that ethanol and other biofuels provide to maximize clean, safe and economically viable energy options for America.

By Mr. WARNER:

S. 2234. A bill to designate certain facilities of the United States Postal Service; to the Committee on Governmental Affairs.

JOEL T. BROYHILL POSTAL BUILDING AND THE JOSEPH L. FISHER POST OFFICE

Mr. WARNER. Mr. President, I join my colleague in the House of Representatives, Congressman WOLF, in introducing legislation to honor two former Representatives from Virginia's 10th district which designates two postal buildings in Northern Virginia after Joel T. Broyhill and Joseph L. Fisher.

The Honorable Joel Broyhill, was the first member elected to Virginia's newly created 10th district. He served in the House of Representatives for twenty-two years. A native of Hopewell, Virginia, Congressman Broyhill is also a decorated veteran and served as captain in the 106th Infantry Division in WWII. During the war, he was taken prisoner by the Germans and held in a POW camp after fighting in the infamous and costly ''Battle of Bulge.''

Congressman Broyhill currently resides in Arlington, Virginia. I believe renaming the postal building at 8409 Lee Highway in Merrifield, Virginia would be appropriate in recognition of his honorable and extensive political and military careers.

I would also like to honor another former Representative from the 10th District, the late Honorable Joseph L. Fisher. Congressman Fisher had a notable political career in the local, state and federal government.

Congressman Fisher, who held a Ph.D. in Economics from Harvard University, began his career in public service as an economist with the U.S. Department of State. After his service in World War II, he became a member of the Arlington County Board. He began a three-term service in the House of Representatives when he was elected in 1974, defeating the incumbent Republican Joel Broyhill.

Subsequent to his service in the House, among other positions, Congressman Fisher served as secretary of the Virginia Department of Human Resources and was a professor of political economy at George Mason University.

Congressman Fisher's commitment to public service should be recognized with the designation of the post office located at 3118 Washington Boulevard in Arlington, Virginia as the Joseph L. Fisher Post Office.

Joseph Fisher passed away in 1992 at his home in Arlington, Virginia. He is survived by his wife, Margaret, their seven children, sixteen grandchildren, and two great grandchildren.

I seek my colleagues to support legislation to honor these two former members in recognition of their distinguished public service.

By Ms. COLLINS:

S. 2235. A bill to amend the Public Health Act to revise the performance standards and certification process for organ procurement organizations; to the Committee on Health, Education, Labor, and Pensions.

ORGAN PROCUREMENT ORGANIZATION CERTIFICATION ACT OF 2000

• Ms. COLLINS. Mr. President, I rise today on behalf of myself and my colleagues, Senators MURKOWSKI, DODD, TORRICELLI, and HUTCHINSON to introduce the Organ Procurement Organization Certification Act to improve the performance evaluation and certification process that the Health Care Financing Administration currently uses for organ procurement organizations (OPOs).

Recent advantages in technology have dramatically increased the number of patients who could benefit from organ transplants. Unfortunately, however, while there has been some interest in the number of organ donors, the supply of organs in the United States has not kept pace with the growing number of transplant candidates, and the gap between transplant demand and organ supply continues to widen. According to the United Network for Organ Sharing (UNOS), there are now 68,220 patients in the United States on the waiting list for a transplant.

Our nation's 60 organ procurement organizations (OPOs) play a critical role in procuring and placing organs and are therefore key to our efforts to increase the number and quality of organs available for transplant. They provide all of the services necessary in a particular geographic region for coordinating the identification of potential donors, requests for donation, and recovery and transport of organs. The professionals in the OPOs evaluate potential donors, discuss donation with family members, and arrange for the surgical removal of donated organs. They are also responsible for preserving the organs and making arrangements for their distribution according to national organ sharing policies. Finally, the OPOs provide information and education to medical professionals and the general public to encourage organ and tissue donation to increase the availability of organs for transplantation.

According to a 1999 report of the Institute of Medicine (IOM) entitled ''Organ Procurement and Transplantation: Assessing Current Policies and the Potential Impact of the DHHS Final Rule'', a major impediment to greater accountability and improved performance on the part of OPOs is the current lack of a reliable and valid method for assessing donor potential and OPO performance.

The HCFA's current certification process for OPOs sets an arbitrary, population-based performance standard for certifying OPOs based on donors per million of population in their service areas. It sets a standard for acceptable performance based on five criteria: donors recovered per million, kidneys recovered per million, kidneys transplanted per million, extrarenal organs (heart, liver, pancreas and lungs) recovered per million, and extrarenal organs transplanted per million. The HCFA assesses the OPOs' adherence to these standards every two years. Each OPO must meet at least 75 percent of the national mean for four of these five categories to be recertified as the OPO for a particular area and to receive Medicare and Medicaid payments. Without HCFA certification, an OPO cannot continue to operate.

The GAO, the IOM, the Harvard School of Public Health and others all have criticized HCFA's use of this population-based standard to measure OPO performance. According to the GAO, ''HCFA's current performance standard does not accurately assess OPOs' ability to meet the goal of acquiring all usable organs because it is based on the total population, not the number of potential donors, within the OPOs' service areas.''

OPO service areas vary widely in the distribution of deaths by cause, underlying health conditions, age, and race. These variations can pose significant advantages or disadvantages to an OPO's ability to procure organs, and a major problem with HCFA's current performance assessment is that it does not account for these variations. An extremely effective OPO that is getting a high yield of organs from the potential donors in its service area may appear to be performing poorly because it has a disproportionate share of elderly people or a high rate of people infected with HIV or AIDS, which eliminates them for consideration as an organ donor. At the same time, an ineffective OPO may appear to be performing well because it is operating in a service area with a high proportion of potential donors.

For example, organ donors typically die from head trauma and accidental injuries, and these rates can vary dramatically from region to region. According to the Centers for Disease Control and Prevention (CDC), in 1991, the number of drivers fatally injured in traffic accidents in Maine was 15.54 per 100,000 population. In Alabama, however, it was 29.56, giving the OPO serving that state a tremendous advantage over the New England Organ Bank, which serves Maine, but not for a very good reason!

Use of this population-based method to evaluate OPO performance may well result in the decertification of OPOs that are actually excellent performers. Under HCFA's current regulatory practice, OPOs are decertified if they fail to meet the 75th percentile of the national means on 4 of the 5 performance areas. In this process, which resembles a game of musical chairs, it is a mathematical certainty that some OPOs will fail in each cycle, no matter how much they might individually improve.

Moreover, unlike other HCFA certification programs, the certification process for OPOs lacks any provision for corrective action plans to remedy deficient performance and also lacks a clearly defined due process component for resolving conflicts. The current system therefore forces OPOs to compete on the basis of an imperfect grading system, with no guarantee of an opportunity for fair hearing based on their actual performance. This situation pressures many OPOs to focus on the

certification process itself rather than on activities and methods to increase donation, undermining what should be the overriding goal of the program. Moreover, the current two-year cycle—which is shorter than other certification programs administered by HCFA—provides little opportunity to examine trends and even less incentive for OPOs to mount long-term interventions.

The legislation we are introducing today has three major objectives. First, it imposes a moratorium on the current recertification process for OPOs and the use of population-based performance measurements. Under our bill, the certification of qualified OPOs will remain in place through January 1, 2002, for those OPOs that have been certified as a January 1, 2000, and that meet other qualification requirements apart from the current performance standards. Second, the bill requires the Secretary of Health and Human Services to promulgate new rules governing OPO recertification by January 1, 2002. These new rules are to rely on outcome and process performance measures based on evidence of organ donor potential and other relevant factors, and recertification for OPOs shall not be required until they are promulgated. Finally, the bill provides for the filing and approval of a corrective action plan by an OPO that fails to meet the standards, a grace period to permit corrective action, an opportunity to appeal a decertification to the Secretary on substantive and procedural grounds and a four-year certification cycle.

Mr. President, the bill we are introducing today makes much needed improvements in the flawed process that HCFA currently uses to certify and assess OPO performance, and I urge all of my colleagues to join us as cosponsors.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Organ Procurement Organization Certification Act of 2000''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Organ procurement organizations play an important role in the effort to increase organ donation in the United States.

(2) The current process for the certification and recertification of organ procurement organizations conducted by the Department of Health and Human Services has created a level of uncertainty that is interfering with the effectiveness of organ procurement organizations in raising the level of organ donation.

(3) The General Accounting Office, the Institute of Medicine, and the Harvard School of Public Health have identified substantial limitations in the organ procurement organization certification and recertification process and have recommended changes in that process.

(4) The limitations in the recertification process include:

(A) An exclusive reliance on population-based measures of performance that do not account for the potential in the population for organ donation and do not permit consideration of other outcome and process standards that would more accurately reflect the relative capability and performance of each organ procurement organization.

(B) An immediate decertification of organ procurement organizations solely on the basis of the performance measures, without an appropriate opportunity to file and a grace period to pursue a corrective action plan.

(C) A lack of due process to appeal to the Secretary of Health and Human Services for recertification on either substantive or procedural grounds.

(5) The Secretary of Health and Human Services has the authority under section 1138(b)(1)(A)(i) of the Social Security Act (42 U.S.C. 1320b-8(b)(1)(A)(i)) to extend the period for recertification of an organ procurement organization from 2 to 4 years on the basis of its past practices in order to avoid the inappropriate disruption of the nation's organ system.

(6) The Secretary of Health and Human Services can use the extended period described in paragraph (5) for recertification of all organ procurement organizations to—

(A) develop improved performance measures that would reflect organ donor potential and interim outcomes, and to test these measures to ensure that they accurately measure performance differences among the organ procurement organizations; and

(B) improve the overall certification process by incorporating process as well as outcome performance measures, and developing equitable processes for corrective action plans and appeals.

SEC. 3. CERTIFICATION AND RECERTIFICATION OF ORGAN PROCUREMENT ORGANIZATIONS.

Section 371(b)(1) of the Public Health Service Act (42 U.S.C. 273(b)(1)) is amended:

(1) by redesignating subparagraphs (D) through (G) as subparagraphs (E) through (H), respectively;

(2) by realigning the margin of subparagraph (F) (as so redesignated) so as to align with subparagraph (E) (as so redesignated); and

(3) by inserting after subparagraph (C) the following:

''(D) notwithstanding any other provision of law, has met the other requirements of this section and has been certified or recertified by the Secretary within the previous 4-year period as meeting the performance standards to be a qualified organ procurement organization through a process that either—

''(i) granted certification or recertification within such 4-year period with such certification or recertification in effect as of January 1, 2000, and remaining in effect through the earlier of—

''(I) January 1, 2002; or

''(II) the completion of recertification under the requirements of clause (ii); or

''(ii) is defined through regulations that are promulgated by the Secretary by not later than January 1, 2002, that—

''(I) require recertifications of qualified organ procurement organizations not more frequently than once every 4 years;

''(II) rely on outcome and process performance measures that are based on empirical evidence of organ donor potential and other related factors in each service area of qualified organ procurement organizations;

''(III) use multiple outcome measures as part of the certification process;

''(IV) provide for the filing and approval of a corrective action plan by a qualified organ procurement organization that fails to meet the performance standards and a grace period of not less than 3 years during which such organization can implement the corrective action plan without risk of decertification; and

''(V) provide for a qualified organ procurement organization to appeal a decertification to the Secretary on substantive and procedural grounds;''.●

By Mr. FRIST (for himself and Mr. DODD):

S. 2236. A bill to establish programs to improve the health and safety of children receiving child care outside the home, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

DAY CARE HEALTH AND SAFETY IMPROVEMENT ACT OF 2000

Mr. FRIST. Mr. President, each day, more than 13 million children under the age of 6 spend some part of their day in child care. In my home state of Tennessee 264,000 children will attend day care, and half of all children younger than three will spend some or all of their day being cared for by someone other than their parents. With these large number of children receiving child care services, there has been some evidence to suggest that we need to work to make these settings safer while improving the health of children in child care settings.

The potential danger in child care settings has been evident in my home state of Tennessee. Tragically, within the span of 2 years, there have been 4 deaths in child care settings in Memphis, Tennessee. Overall, reports of abandoned, mistreated, and unnecessarily endangered children have been reported in the Tennessee press over the last few years. I salute the Memphis Commercial Appeal, for their in-depth reporting on day care health and safety issues which has helped bring this serious matter to public attention.

However, I would caution that this is not just a concern in Memphis or Tennessee; it is nationwide and it needs to be addressed. There is alarming evidence to suggest that more must be done to improve the health and safety of children in child care settings.

For example, a 1998 Consumer Product Safety Commission Study revealed that two-thirds of the 200 licensed child care settings investigated exhibited safety hazards, such as insufficient child safety gates, cribs with soft bedding, and unsafe playgrounds.

In 1997 alone, 31,000 children ages 4 and younger were treated in hospital emergency rooms for injuries sustained in child care or school settings. And, quite tragically, since 1990, more than 56 children have died in child care settings nationwide.

Child care health and safety issues are regulated at the state and local levels, which work diligently to ensure that child care settings are as safe as possible. I have worked closely with the Tennessee Department of Human

Services on how best to address the issue and quickly realized one of the main problems was the lack of resources that the state could draw upon to improve health and safety.

To help address this issue and protect our children, I have joined with Senator DODD, the recognized leader in Congress on child care issues, to introduce the ''Children's Day Care Health and Safety Improvement Act,'' which will establish a state block grant program, authorizing $200 million for states to carry out activities related to the improvement of the health and safety of children in child care settings.

These grants may be used for the following activities:

To train and educate child care providers to prevent injuries and illnesses and to promote health-related practices;

To improve and enforce child care provider licensing, regulation, and registration, by conducting more inspections of day care providers to ensure that they are carrying out state and local guidelines to ensure that our children are safe;

To rehabilitate child care facilities to meet health and safety standards, like the proper placement of fire exits and smoke detectors, the proper disposal of sewage and garbage, and ensuring that play ground equipment is safe;

To employ health consultants to give health and safety advice to child care providers, such as CPR training, first aid training, prevention of sudden infant death syndrome, and how to recognize the signs of child abuse and neglect;

To provide assistance to enhance child care providers' ability to serve children with disabilities;

To conduct criminal background checks on child care providers, to ensure that day care providers are credible and reliable as they care for our children;

To provide information to parents on what factors to consider in choosing a safe and healthy day care setting for their children. Parents must know that the setting they are choosing have a proven safety record; and

To improve the safety of transportation of children in child care.

I am pleased that Tennessee is carrying out many of the activities authorized under the ''Children's Day Care Health and Safety Act.'' Under this bill, Tennessee would receive an estimated $4.2 million to help expand health and safety activities.

Mr. President, as a father, I understand the parental bond. A parent's number one concern is the safety, protection and health of their children. Parents need to be reassured their children are safe when they rely on others to care for their children. I am hopeful that this legislation will give Tennessee, and all states, the needed resources to implement necessary reforms and activities which they determine will improve the health and safety conditions of child care providers as they care for our children.

I want to thank Senator DODD for joining me in this effort and for the work of his staff, Jeanne Ireland. I would also like to thank the American Academy of Pediatrics, the Children's Defense Fund and the National Association for the Education of Young children for their input and letters of support for this bill. I would also like to thank Governor Sundquist and members of the Tennessee Department of Human Services, especially, Ms. Deborah Neill, the Director of Child Care, Adult and Community Programs, for their input on this important and needed legislation. And finally, I would like to thank and acknowledge the assistance of the Mayor of Memphis, the Honorable W. W. Herenton and his staff, who have been of great help in developing this legislation.

Mr. President, I ask unanimous consent that the text of the bill and letters of support be printed in the RECORD.

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

S. 2236

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Children's Day Care Health and Safety Improvement Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) of the 21,000,000 children under age 6 in the United States, almost 13,000,000 spend some part of their day in child care;

(2) a review of State child care regulations in 47 States found that more than half of the States had inadequate standards or no standards for ⅔ of the safety topics reviewed;

(3) a research study conducted by the Consumer Product Safety Commission in 1998 found that ⅔ of the 200 licensed child care settings investigated in the study exhibited at least 1 of 8 safety hazards investigated, including insufficient child safety gates, cribs with soft bedding, and unsafe playground surfacing;

(4) compliance with recently published voluntary national safety standards developed by public health and pediatric experts was found to vary considerably by State, and the States ranged from a 20 percent to a 99 percent compliance rate;

(5) in 1997, approximately 31,000 children ages 4 and younger were treated in hospital emergency rooms for injuries in child care or school settings;

(6) the Consumer Product Safety Commission reports that at least 56 children have died in child care settings since 1990;

(7) the American Academy of Pediatrics identifies safe facilities, equipment, and transportation as elements of quality child care; and

(8) a research study of 133 child care centers revealed that 85 percent of the child care center directors believe that health consultation is important or very important for child care centers.

SEC. 3. DEFINITIONS.

In this Act:

(1) CHILD WITH A DISABILITY; INFANT OR TODDLER WITH A DISABILITY.—The terms ''child with a disability'' and ''infant or toddler with a disability'' have the meanings given the terms in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

(2) ELIGIBLE CHILD CARE PROVIDER.—The term ''eligible child care provider'' means a provider of child care services for compensation, including a provider of care for a school-age child during non-school hours, that—

(A) is licensed, regulated, registered, or otherwise legally operating, under State and local law; and

(B) satisfies the State and local requirements,

applicable to the child care services the provider provides.

(3) FAMILY CHILD CARE PROVIDER.—The term ''family child care provider'' means 1 individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in a private residence.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(5) STATE.—The term ''State'' means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $200,000,000 for fiscal year 2001 and such sums as may be necessary for each subsequent fiscal year.

SEC. 5. PROGRAMS.

The Secretary shall make allotments to eligible States under section 6. The Secretary shall make the allotments to enable the States to establish programs to improve the health and safety of children receiving child care outside the home, by preventing illnesses and injuries associated with that care and promoting the health and well-being of children receiving that care.

SEC. 6. AMOUNTS RESERVED; ALLOTMENTS.

(a) AMOUNTS RESERVED.—The Secretary shall reserve not more than ½ of 1 percent of the amount appropriated under section 4 for each fiscal year to make allotments to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands to be allotted in accordance with their respective needs.

(b) STATE ALLOTMENTS.—

(1) GENERAL RULE.—From the amounts appropriated under section 4 for each fiscal year and remaining after reservations are made under subsection (a), the Secretary shall allot to each State an amount equal to the sum of—

(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States; and

(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States.

(2) YOUNG CHILD FACTOR.—In this subsection, the term ''young child factor'' means the ratio of the number of children under 5 years of age in a State to the number of such children in all States, as provided by the most recent annual estimates of population in the States by the Census Bureau of the Department of Commerce.

(3) SCHOOL LUNCH FACTOR.—In this subsection, the term ''school lunch factor'' means the ratio of the number of children who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch

Act (42 U.S.C. 1751 et seq.) in the State to the number of such children in all States, as determined annually by the Department of Agriculture.

(4) ALLOTMENT PERCENTAGE.—

(A) IN GENERAL.—For purposes of this subsection, the allotment percentage for a State shall be determined by dividing the per capita income of all individuals in the United States, by the per capita income of all individuals in the State.

(B) LIMITATIONS.—If an allotment percentage determined under subparagraph (A) for a State—

(i) is more than 1.2 percent, the allotment percentage of the State shall be considered to be 1.2 percent; and

(ii) is less than 0.8 percent, the allotment percentage of the State shall be considered to be 0.8 percent.

(C) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

(i) determined at 2-year intervals;

(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning after the date such determination is made; and

(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce on the date such determination is made.

(c) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

(d) DEFINITION.—In this section, the term ''State'' includes only the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 7. STATE APPLICATIONS.

To be eligible to receive an allotment under section 6, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The application shall contain information assessing the needs of the State with regard to child care health and safety, the goals to be achieved through the program carried out by the State under this Act, and the measures to be used to assess the progress made by the State toward achieving the goals.

SEC. 8. USE OF FUNDS.

(a) IN GENERAL.—A State that receives an allotment under section 6 shall use the funds made available through the allotment to carry out 2 or more activities consisting of—

(1) providing training and education to eligible child care providers on preventing injuries and illnesses in children, and promoting health-related practices;

(2) strengthening licensing, regulation, or registration standards for eligible child care providers;

(3) assisting eligible child care providers in meeting licensing, regulation, or registration standards, including rehabilitating the facilities of the providers, in order to bring the facilities into compliance with the standards;

(4) enforcing licensing, regulation, or registration standards for eligible child care providers, including holding increased unannounced inspections of the facilities of those providers;

(5) providing health consultants to provide advice to eligible child care providers;

(6) assisting eligible child care providers in enhancing the ability of the providers to serve children with disabilities and infants and toddlers with disabilities;

(7) conducting criminal background checks for eligible child care providers and other individuals who have contact with children in the facilities of the providers;

(8) providing information to parents on what factors to consider in choosing a safe and healthy child care setting; or

(9) assisting in improving the safety of transportation practices for children enrolled in child care programs with eligible child care providers.

(b) SUPPLEMENT, NOT SUPPLANT.—Funds appropriated pursuant to the authority of this Act shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services for eligible individuals.

SEC. 9. REPORTS.

Each State that receives an allotment under section 6 shall annually prepare and submit to the Secretary a report that describes—

(1) the activities carried out with funds made available through the allotment; and

(2) the progress made by the State toward achieving the goals described in the application submitted by the State under section 7.

AMERICAN ACADEMY OF PEDIATRICS,
Washington, DC, March 8, 2000.

Hon. CHRISTOPHER DODD,
U.S. Senate, Washington, DC.
Hon. BILL FRIST,
U.S. Senate, Washington, DC.

DEAR SENATORS DODD AND FRIST: On behalf of the 55,000 members of the American Academy of Pediatrics, I would like to applaud you for introducing the ''Children's Day Care Health and Safety Improvement Act.''

The Academy and its members, along with many others, have been working for years attempting to ensure that all children receive high-quality child care and early education. Yet, the statistics about the health and safety of child care setting are very disturbing. Multiple studies have found that many child care arrangements not only fail to give children the type of intellectual stimulation and emotional support they need, but actually compromise the health and safety of the youngsters in their care.

One review of state child care regulations in 47 states found that more than half of the states' safety-related regulations had inadequate or no standards for 24 out of the 36 safety topics examined. Most notable were the inattention to playground safety, choking hazards, and firearms. Studies of child care settings themselves have also been disheartening. One four-state study found that only one in seven child care centers (14%) were rated as good quality. Another study found that 13 percent of regulated and 50 percent of nonregulated family child care providers offer care that is inadequate. The Consumer Product Safety Commission reports that about 31,000 children, 4 years old and younger, were treated in U.S. hospital emergency rooms for injuries at child care/school settings in 1997, and that the agency knows of at least 56 children who have died in child care setting since 1990.

By providing states with funds for activities specifically aimed at improving the health and safety of child care, your bill should help to reduce the incidence of preventable illness, injury, disability, and even death, for the millions of children who spend their days in out-of-home child care.

The ''Children's Day Care Health and Safety Improvement Act'' is much-needed legislation, and we look forward to working with you to support its enactment. Thank you for your continued dedication to improving children's lives.

Sincerely,

DONALD E. COOK,
President,

CHILDREN'S DEFENSE FUND,
Washington, DC, March 8, 2000.

Hon. BILL FRIST,
U.S. Senate, Washington, DC.

DEAR SENATOR FRIST: Given the importance of high quality child care to millions of young children and their families, the Children's Defense Fund welcomes the introduction of the Children's Day Care Health and Safety Improvement Act. The bill recognizes the wide range of activities that must be addressed in order to ensure the health and safety for children in child care. New resources to states targeted on these various activities will make a significant impact on their efforts to move forward.

We look forward to working with you towards the passage of this important bill. Thank you for standing up for children.

Sincerely yours,

MARIAN WRIGHT EDELMAN.

CHILDREN'S DEFENSE FUND,
Washington, DC, March 8, 2000.

Hon. CHRISTOPHER DODD,
U.S. Senate, Washington, DC.

DEAR SENATOR DODD: Given the importance of high quality child care to millions of young children and their families, the Children's Defense Fund welcomes the introduction of the Children's Day Care Health and Safety Improvement Act. The bill recognizes the wide range of activities that must be addressed in order to ensure the health and safety for children in child care. New resources to states targeted on these various activities will make a significant impact on their efforts to move forward.

We look forward to working with you towards the passage of this important bill. Thank you for standing up for children.

Sincerely yours,

MARIAN WRIGHT EDELMAN.

NATIONAL ASSOCIATION FOR THE EDUCATION OF YOUNG CHILDREN,
Washington, DC, March 9, 2000.

Hon. CHRISTOPHER DODD,
U.S. Senate, Washington, DC.
Hon. WILLIAM FRIST,
U.S. Senate, Washington, DC.

DEAR SENATORS DODD AND FRIST: The National Association for the Education of Young Children (NAEYC) is committed to ensuring excellence in early childhood education, and to working with health and other providers to support families and children's well being. We are pleased that you share our concerns, about the need to improve the health and safety of children in a variety of child care settings and support a federal partnership with states, communities, and providers in meeting that goal.

The Child Care Health and Safety Improvement Act that you will be introducing today seeks to strengthen state licensing and other regulatory standards and enforcement, linkages between child care providers and health services providers, and training to child care providers in injury prevention and health promotion. This legislation addresses many of our concerns and reflects NAEYC principles for ensuring that child care settings are healthy and safe learning environments.

As this bill moves forward, we would be happy to work to make further improvements in the legislation.

Sincerely,

ADELE ROBINSON,
Director of Policy Development.

Mr. DODD. Mr. President, I am pleased to join Senator FRIST in introducing The Children's Day Care Health and Safety Act, legislation that I believe will have a significant impact on the well-being of the 13 million children who spend some part of every day in child care.

Each morning, millions of parents drop their children off at a child care center, a neighbor's home, or their church's day care center, assuming—or at least hoping—that their children will be safe and well cared for. And, in the vast majority of circumstances that's the case. But, unfortunately, there is alarming evidence to suggest that, far too often, unsafe child care settings are compromising the health of our children.

In 1997 alone, 31,000 children ages 4 and younger were treated in hospital emergency rooms for injuries sustained in child care or school settings. Since 1990, more than 55 children have died while in child care settings.

Perhaps most tragically, many of these deaths and injuries were most likely preventable—if providers were knowledgeable about basic health and safety practices and if states did a better job of developing and enforcing strong health and safety regulations.

Almost all child care providers want to give good care to the children in their charge. Despite the fact that we pay child care providers abysmally—typically below poverty wages with no paid sick leave—individuals join this profession because they love children and want to help them grow and thrive. But, we do far too little to support providers in making sure that the environment they provide to our children is a safe and healthy one.

Many child care providers are unaware of the importance of removing soft bedding from cribs—which presents a suffocation hazard for infants and increases the likelihood of child dying from SIDS. Many child care providers are also unaware of the need to place window-blind cords out of reach. Consequently, one child every month strangles in the loop of a cord.

An investigation by the Consumer Product Safety Commission revealed that two-thirds of licensed child care settings surveyed exhibited these type of safety hazards, as well as other, such as insufficient child safety gates and unsafe playgrounds.

Some states have taken action to improve health and safety practices. For example, Connecticut requires child care centers to receive at least monthly visits from a nurse or pediatrician, who can advise providers on concerns ranging from the basics, like the importance of handwashing after diaper-changing, to more complex issues, such as how to accommodate the special needs of a child with a disability.

But, many states are hard-pressed simply to meet the enormous demand for child care from working families and families transitioning off welfare. With all the pressure to create child care slots and to help families find any kind of care, unfortunately, child care health and safety often becomes an afterthought.

A survey of state child care standards found that only one-third of states had minimally acceptable child care quality regulations. Two-thirds of states had regulations that didn't even address the basics—provider training, safe environments and appropriate ratios. And in many cases, even when there are good standards on the books, enforcement is lax.

Too often we view finding safe, high quality child care as a problem parents should struggle with on their own. It's time we recognize that unsafe child care is a public health crisis, not a personal problem.

That's why I'm so pleased to join Senator FRIST today in introducing legislation that would provide grants to the states to reduce child care health and safety hazards. Grants could be used for a broad range of activities that we know have the greatest impact on health and safety, such as training and educating providers on injury and illness prevention; improving health and safety standards; improving enforcement of standards, including increased surprise inspections; renovating child care centers and family day care homes; helping providers serve children with disabilities; and conducting criminal background checks on child care providers.

I am also pleased that this legislation has been endorsed by the American Academy of Pediatrics, the Children's Defense Fund, and the National Association for the Education of Young Children.

Sadly just as our children grow—the number of child care abuses and hazards has grown over the years, as well. This measure can help ensure that critically important safeguards are provided so that day care is a safe haven, not a hazard.

By Mr. CRAIG:

S. 2237. A bill to amend the Internal Revenue Code of 1986 to provide for the deductibility of premiums for any medigap insurance policy of Medicare+Choice plan which contains an outpatient prescription drug benefit, and to amend title XVIII of the Social Security Act to provide authority to expand existing medigap insurance policies; to the Committee on Finance.

SENIORS' SECURITY ACT OF 2000

• Mr. CRAIG. Mr. President, I rise today to introduce the ''Seniors' Security Act of 2000—a bill that will address the growing problem of prescription drug coverage for senior citizens.

As we are all aware, seniors' access to prescription drugs is an important issue. Currently, traditional fee-for service Medicare covers few drugs for seniors. At the same time, however, prescription drugs are an increasing component of seniors' health care. For these reasons, I believe that it is time Congress worked to increase American seniors' access to prescription drugs.

The Senior's Security Act of 2000 will increase seniors' access to prescription drugs in two ways. First, it will extend tax equity to seniors by allowing them to deduct the cost of health insurance that contains a qualified prescription drug benefit. We already provide such favorable tax treatment for employer-provided health insurance and are moving toward doing so for the self-employed. If we are truly concerned about seniors' access to prescription drugs, we should do the same for them.

In addition, SSA 2000 will also allow both current and future seniors to deduct the cost of long-term care insurance from their taxes and make long-term care insurance available through employer-provided flexible spending accounts (FSAs).

SSA 2000 also provides for the design by National Association of Insurance Commissioners (NAIC) of additional Medigap policies in order to make prescription drug coverage more accessible and affordable. This process follows that which produced the existing Medigap policies. SSA 2000 also directs the Medicare Payment Advisory Commission (MedPAC) to analyze and report on the salient issues in the design of prescription drug benefit policies. MedPAC is directed to issue their findings in a June 1, 2000 report to Congress and the NAIC in order to aid in designing new Medigap policies.

I believe SSA 2000 will make prescription drug coverage cheaper, both directly and indirectly. More than 18 million seniors have an income tax liability that can be reduced by this reform; by increasing the number of participants and making new Medigap policies a available, the bill will indirectly reduce the cost of coverage, as well. Unlike some other proposed reform measures in this area, it preserves and strengthens the private insurance market—it contains no mandates, no price controls, and preserve all existing Medigap policies—rather than jeopardizing or eliminating it.

This bill does not attempt to address the issue of prescription drug coverage for every senior; instead, it is the answer for a portion of the senior population who have been paying at least part of the costs for their health care and prescription drugs, but still need and deserve to have a reduction in their out-of-pocket expenses. The Seniors' Security Act of 2000 is the best way to provide relief to this group of seniors, while at the same time continuing to work towards solutions for those seniors who aren't as economically secure.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 2237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Seniors' Security Act of 2000''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. DEDUCTION FOR PREMIUMS FOR MEDIGAP INSURANCE POLICIES AND MEDICARE+CHOICE PLANS CONTAINING OUTPATIENT PRESCRIPTION DRUG BENEFITS AND FOR LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following:

"SEC. 222. PREMIUMS FOR MEDIGAP INSURANCE POLICIES AND MEDICARE+CHOICE PLANS CONTAINING OUTPATIENT PRESCRIPTION DRUG BENEFITS AND FOR LONG-TERM CARE INSURANCE.

''(a) DEDUCTION.—

''(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to 100 percent of the amount paid during the taxable year for—

''(A) any medicare supplemental policy (as defined in section 1882(g)(1) of the Social Security Act) which contains an outpatient prescription drug benefit with an annual actuarial value that is equal to or greater than $500,

''(B) any Medicare+Choice plan (as defined in section 1859(b)(1) of such Act) which contains an outpatient prescription drug benefit with an annual actuarial value that is equal to or greater than $500, and

''(C) any coverage limited to qualified long-term care services (as defined in section 7702B(c)) or any qualified long-term care insurance contract (as defined in section 7702B(b)).

''(2) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—In the case of any calendar year beginning after 2000, each of the dollar amounts in subparagraphs (A) and (B) of paragraph (1) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) an adjustment for changes in per capita expenditures under title XVIII of the Social Security Act for prescription drugs as determined under the most recent Health Care Financing Administration National Health Expenditure projection.

''(B) ROUNDING.—If any dollar amount after being increased under subparagraph (A) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.

''(b) LIMITATIONS.—

''(1) DEDUCTION NOT AVAILABLE TO INDIVIDUALS ELIGIBLE FOR EMPLOYER-SUBSIDIZED COVERAGE.—

''(A) IN GENERAL.—In any taxable year—

''(i) subsection (a) shall not apply with respect to any policy or coverage described in paragraph (1)(A) or (1)(B) of such subsection if in such taxable year the taxpayer is eligible to participate in any employer-subsidized plan for individuals age 65 or older which contains an outpatient prescription drug benefit described in such subsection, and

''(ii) subsection (a) shall not apply with respect to any policy or coverage described in paragraph (1)(C) of such subsection if in such taxable year the taxpayer is eligible to participate in any employer-subsidized plan which includes coverage for qualified long-term care services (as so defined) or any qualified long-term care insurance contract (as so defined).

''(B) EMPLOYER-SUBSIDIZED PLAN.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The term 'employer-subsidized plan' means any plan described in subparagraph (A)—

''(I) which is maintained by any employer (or former employer) of the taxpayer or of the spouse of the taxpayer, and

''(II) 50 percent or more of the cost of the premium of which (determined under section 4980B) is paid or incurred by the employer.

''(ii) EMPLOYER CONTRIBUTIONS TO CAFETERIA PLANS, FLEXIBLE SPENDING ARRANGEMENTS, AND MEDICAL SAVINGS ACCOUNTS.—Employer contributions to a cafeteria plan, a flexible spending or similar arrangement, or a medical savings account which are excluded from gross income under section 106 shall be treated for purposes of this subparagraph as paid by the employer.

''(C) AGGREGATION OF PLANS OF EMPLOYER.—A health plan which is not otherwise described in subparagraph (A) shall be treated as described in such subparagraph if such plan would be so described if all health plans of persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 were treated as one health plan.

''(D) SEPARATE APPLICATION TO HEALTH INSURANCE AND LONG-TERM CARE INSURANCE.—Subparagraphs (A) and (C) shall be applied separately with respect to—

''(i) plans which include coverage limited to qualified long-term care services or are qualified long-term care insurance contracts, and

''(ii) plans which do not include such coverage and are not such contracts.

''(E) DEDUCTION AVAILABLE WITH RESPECT TO POLICIES AND PLANS CONTAINING OUTPATIENT PRESCRIPTION DRUG COVERAGE IF DISCLOSURE REQUIREMENTS ARE MET.—Subsection (a) shall apply in any taxable year with respect to any policy or plan described in paragraph (1)(A) or (1)(B) of such subsection only if the issuer of such policy or the administrator of such plan discloses to the taxpayer that such policy or plan is intended to be a policy or plan so described.

''(2) DEDUCTION NOT AVAILABLE FOR PAYMENT OF PART B PREMIUMS.—Any amount paid as a premium under part B of title XVIII of the Social Security Act shall not be taken into account under subsection (a).

''(3) LIMITATION ON LONG-TERM CARE PREMIUMS.—In the case of a qualified long-term care insurance contract (as so defined), only eligible long-term care premiums (as defined in section 213(d)(10)) shall be taken into account under subsection (a)(2).

''(c) SPECIAL RULES.—For purposes of this section—

''(1) COORDINATION WITH MEDICAL DEDUCTION, ETC.—Any amount paid by a taxpayer for insurance to which subsection (a) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).

''(2) DEDUCTION NOT ALLOWED FOR SELF-EMPLOYMENT TAX PURPOSES.—The deduction allowable by reason of this section shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2.''

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 62 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (17) the following:

''(18) MEDICARE AND LONG-TERM CARE INSURANCE COSTS OF CERTAIN INDIVIDUALS.—The deduction allowed by section 222.''

(2) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

''Sec. 222. Premiums for medigap insurance policies and Medicare+Choice plans containing outpatient prescription drug benefits and for long-term care insurance.
''Sec. 223. Cross reference.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 3. DETERMINATION OF ANNUAL ACTUARIAL VALUE OF DRUG BENEFITS COVERED UNDER A MEDICARE+CHOICE PLAN AND A MEDIGAP POLICY.

(a) IN GENERAL.—For purposes of subparagraphs (A) and (B) of section 222(a)(1) of the Internal Revenue Code of 1986 (as added by section 2), the Secretary of Health and Human Services shall establish procedures for a Medicare+Choice organization offering a Medicare+Choice plan under part C of title XVIII of the Social Security Act (42 U.S.C. 1395w–21 et seq.) or an issuer of a medicare supplemental policy (as defined in section 1882(g)(1) of such Act (42 U.S.C. 1395ss(g)(1))) to demonstrate that the annual actuarial value of the outpatient prescription drug benefit offered under such plan or policy is equal to or greater than the amount described in section 222(a)(1) of the Internal Revenue Code of 1986 that is applicable for the year involved.

(b) REQUIREMENTS.—The procedures established pursuant to subsection (a)—

(1) shall be based on—

(A) a standardized set of utilization and price factors; and

(B) a standardized population that is representative of all medicare enrollees and calculated based on projected utilization if all enrollees have outpatient prescription drug coverage;

(2) shall apply the same principles and factors in comparing the value of the coverage of different outpatient prescription drug benefit packages; and

(3) shall not take into account the method of delivery or means of cost control or utilization used by the organization offering the plan or the issuer of the policy.

(c) CONSULTATION.—In establishing the procedures described in subsection (a), the Secretary of Health and Human Services shall consult with an independent actuary who is a member of the American Academy of Actuaries.

(d) UPDATE.—The Secretary shall periodically update the procedures established under subsection (a).

(e) DEMONSTRATION OF ACTUARIAL VALUE.—The actuarial value of the outpatient prescription drug benefit shall be set forth by the Medicare+Choice organization offering the Medicare+Choice plan or the issuer of the medicare supplemental policy in an actuarial report that has been prepared—

(1) by an individual who is a member of the American Academy of Actuaries;

(2) using generally accepted actuarial principles; and

(3) in conformance with the requirements of subsection (b).

SEC. 4. INCLUSION OF QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) CAFETERIA PLANS.—Section 125(f) of the Internal Revenue Code of 1986 (defining qualified benefits) is amended by inserting before the period at the end ''; except that such term shall include the payment of premiums for any qualified long-term care insurance contract (as defined in section 7702B)

to the extent the amount of such payment does not exceed the eligible long-term care premiums (as defined in section 213(d)(10)) for such contract''.

(b) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106 of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by striking subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 5. AUTHORITY TO PROVIDE FOR ADDITIONAL MEDIGAP INSURANCE POLICIES.

(a) IN GENERAL.—

(1) EXPANSION OF NUMBER OF BENEFIT PACKAGES.—Section 1882(p) of the Social Security Act (42 U.S.C. 1395ss(p)) is amended—

(A) in paragraph (2)(B), by striking '', and'' and inserting ''other than the medicare supplemental policies described in subsection (v); and''; and

(B) in paragraph (2)(C), by striking the period and inserting ''and the policies described in subsection (v).''.

(2) AUTHORITY TO PROVIDE FOR ADDITIONAL POLICIES.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following:

''(v) AUTHORITY TO PROVIDE FOR ADDITIONAL POLICIES.—

''(1) IN GENERAL.—The standards under subsection (p) may be modified (in the manner described in paragraph (1)(E) of such subsection (applying paragraph (3)(A) of such subsection as if the reference to 'this subsection' were a reference to 'the Seniors' Security Act of 2000')) to establish additional benefit packages consistent with the succeeding provisions of this subsection.

''(2) REQUIREMENTS FOR NEW PACKAGES THAT INCLUDE PRESCRIPTION DRUG COVERAGE.—In the case of any benefit package added under paragraph (1) that provides coverage for outpatient prescription drugs, such benefit package—

''(A) shall not provide first-dollar coverage of outpatient prescription drugs;

''(B) may provide a stop-loss coverage benefit for outpatient prescription drugs that limits the application of any beneficiary cost-sharing during a year after incurring a certain amount of out-of-pocket covered expenditures;

''(C) shall not include benefits for prescription drugs otherwise available under part A or B; and

''(D) shall be consistent with the requirements of this section and applicable law.

''(3) USE OF FORMULARIES.—In the case of any benefit package added under paragraph (1) that provides coverage for outpatient prescription drugs, the issuer of any policy containing such a benefit package may use formularies.

''(4) SPECIAL OPEN ENROLLMENT.—

''(A) ESTABLISHMENT.—If any benefit package is added under paragraph (1), the Secretary shall establish an applicable period in which any eligible beneficiary may enroll in any medicare supplemental policy containing such benefit package under the terms described in subparagraph (D).

''(B) ELIGIBLE BENEFICIARY DEFINED.—In this paragraph, the term 'eligible beneficiary' means a beneficiary under this title who is enrolled in a medicare supplemental policy as of the first day that any benefit package added under paragraph (1) is available in the State in which such beneficiary resides.

''(C) APPLICABLE PERIOD DEFINED.—In this paragraph, the term 'applicable period' means—

''(i) in the case of an eligible beneficiary who is enrolled in a medicare supplemental policy which has a benefit package classified as 'H', 'I', or 'J' under the standards established under subsection (p)(2), the 180-day period that begins on the day described in subparagraph (B); and

''(ii) in the case of an eligible beneficiary who is enrolled in a medicare supplemental policy which has a benefit package classified as 'A' through 'G' under the standards established under subsection (p)(2), the 63-day period that begins on the day described in subparagraph (B).

''(D) TERMS DESCRIBED.—The terms described under this subparagraph are terms which do not—

''(i) deny or condition the issuance or effectiveness of a medicare supplemental policy described in subparagraph (A) that is offered and is available for issuance to new enrollees by such issuer;

''(ii) discriminate in the pricing of such policy, because of health status, claims experience, receipt of health care, or medical condition; or

''(iii) impose an exclusion of benefits based on a preexisting condition under such policy.

''(5) ABILITY FOR ISSUER TO CANCEL CERTAIN POLICIES.—Notwithstanding subsection (q)(2), an issuer of a policy containing a benefit package added under paragraph (1) that provides coverage for outpatient prescription drugs may terminate such a policy in a market but only if—

''(A) the termination is—

''(i) done in accordance with State law in such market; and

''(ii) applied uniformly to individuals enrolled under such policy;

''(B) the issuer provides notice to each individual enrolled under such policy of such termination at least 90 days prior to the date of the termination of coverage under such policy; and

''(C) the issuer offers to each individual enrolled under such policy, for at least 180 days after providing the notice pursuant to subparagraph (B), the option to purchase all other medicare supplemental policies currently being offered by the issuer under the terms described in paragraph (4)(D).''.

(b) SALE OF NON-DUPLICATIVE MEDIGAP INSURANCE POLICIES AUTHORIZED.—Section 1882(d)(3) of the Social Security Act (42 U.S.C. 1395ss(d)(3)) is amended—

(1) in subparagraph (A), by adding at the end the following:

''(ix) Nothing in this subparagraph shall be construed as preventing the sale of more than 1 medicare supplemental policy to an individual, provided that the sale is of a medicare supplemental policy that does not duplicate any health benefits under a medicare supplemental policy owned by the individual.''; and

(2) in subparagraph (B)—

(A) in clause (ii)(I), by inserting '', unless a second policy is designed to compliment the coverage under the first policy'' before the comma at the end; and

(B) in clause (iii)—

(i) in subclause (I), by striking ''(II) and (III)'' and inserting ''(II), (III), and (IV)'';

(ii) by redesignating subclause (III) as subclause (IV); and

(iii) by inserting after subclause (II) the following:

''(III) If the statement required by clause (i) is obtained and indicates that the individual is enrolled in 1 or more medicare supplemental policies, the sale of another policy is not in violation of clause (i) if such other policy does not duplicate health benefits under any policy in which the individual is enrolled.''.

(c) NAIC TO CONSULT WITH MEDPAC IN REVISING MODEL STANDARDS.—

(1) IN GENERAL.—In revising the model regulation under section 1882(v) of the Social Security Act (42 U.S.C. 1395ss(v)) (as added by subsection (a)), the National Association of Insurance Commissioners (in this section referred to as the ''NAIC'') should—

(A) consult with the Medicare Payment Advisory Commission established under section 1805 of such Act (42 U.S.C. 1395b–6) (in this subsection referred to as ''MedPAC''); and

(B) consider the MedPAC report transmitted to NAIC in accordance with paragraph (2)(B)(ii).

(2) MEDPAC ANALYSIS AND REPORT.—

(A) ANALYSIS.—MedPAC shall conduct an analysis of the following issues:

(i) The conditions necessary to create a well-functioning, voluntary medicare supplemental insurance market that provides coverage for outpatient prescription drugs.

(ii) The scope of outpatient prescription drug coverage for medicare beneficiaries, including individuals enrolled in Medicare+Choice plans.

(iii) The implications of a medicare supplemental policy that would require issuers of medicare supplemental policies to provide outpatient prescription drug coverage and a stop-loss benefit instead of providing coverage for other benefits available through existing medicare supplemental policies.

(iv) The portion of out-of-pocket spending of medicare beneficiaries on health care expenses attributable to outpatient prescription drugs.

(v) The availability of private health insurance policies that cover outpatient prescription drugs to beneficiaries that are not entitled to benefits under the medicare program.

(vi) The scope of outpatient prescription drug coverage provided by employers to medicare beneficiaries.

(vii) The impact of outpatient prescription drugs on the overall health of medicare beneficiaries.

(viii) The effect of providing coverage for outpatient prescription drugs on the amount of funds expended by the medicare program.

(ix) Whether modifications of benefit packages of existing medicare supplemental policies that provide coverage for outpatient prescription drugs or the creation of new benefit packages that provide coverage for outpatient prescription drugs would allow payment for these policies to be integrated with a Federal contribution.

(x) Such other issues relating to outpatient prescription drugs that would assist Congress in improving the medicare program.

(B) REPORT TO CONGRESS.—

(i) IN GENERAL.—Not later than June 1, 2000, MedPAC shall submit to Congress a report containing a detailed analysis of the issues described in subparagraph (A) together with recommendations for such legislation and administrative actions as MedPAC considers appropriate.

(ii) TRANSMISSION TO NAIC.—At the same time MedPAC submits the report to Congress under clause (i), MedPAC shall transmit such report to the NAIC.●

By Mr. BAUCUS:

S. 2238. A bill to designate 3 counties in the State of Montana as High Intensity Drug Trafficking Areas and authorize funding for drug control activities in those areas; to the Committee on the Judiciary.

ADMITTING MONTANA TO THE ROCKY MOUNTAIN HIDTA

Mr. BAUCUS. Mr. President, I rise today to introduce critical legislation in the fight against methamphetamine use in rural America.

Methamphetamine, also known as ''meth'' is a powerful and addictive drug. Considered by many youths to be

a casual, soft-core drug with few lasting effects, meth can actually cause more long-term damage to the body than cocaine or crack.

I recently invited General Barry McCaffrey, our drug czar, along with Dr. Don Vereen, his deputy, to Montana to focus attention on the problem of meth use. Their visit was well-received by residents of our state, and much-needed. The fact is, there are a good many talented Montanans working on the meth problem, but they have few resources with which to wage the battle. Moreover, their efforts are often fragmented, not coordinated to the extent they could be, particularly among the treatment, prevention, and law enforcement communities.

To make their job easier, Montana has petitioned to be considered part of the Rocky Mountain High Intensity Drug Trafficking Area (HIDTA). Although the Rocky Mountain HIDTA authorities have stated their willingness to include Montana in its organization, they lack the resources to make that happen.

The bill I am introducing today would authorize funding to make Montana's admission to the Rocky Mountain HIDTA a reality. Here's why that's necessary.

In 1998, the number of juveniles charged with drug-related or violent crimes in the Yellowstone County Youth Court rose by 30 percent. In Lame Deer—the community of the Northern Cheyenne Indian Reservation—kids as young as 8 years old have been seen for meth addiction. Last November in our state, a meth lab blew up in Great Falls, leading to a half dozen arrests. Meth use in Montana has doubled in the past few years. Cases are growing and the states law enforcement can no longer fight the problem.

Mr. President, the DEA reported an increase of meth lab seizures in Montana of 900% from 1993 to 1998. And according to the Office of National Drug Control Policy, based on methamphetamine admission rates per 100,000 persons, Montana is one of eight states with a ''serious methamphetamine problem.''

The meth problem is particularly severe on Montana's Indian reservations, of which our state has seven. Life is hard there. In some reservation towns, over half of the working age adults are unemployed. Because meth is cheap and relatively easy to make, these lower-income individuals are a natural target for meth peddlers. Without viable employment options, too often these young people turn to drugs.

And that's the case throughout Montana, not just on the reservations. In 1998, Montana ranked 47th in the nation in per-capita personal income, 50th in personal income from wages and salaries, and second in the nation for the number of people who work two or more jobs.

Since poverty and drug use often go hand in hand, it came as little surprise to me when a recent report showed a dramatic uptick in the incidence of drug abuse in rural America.

The report, commissioned by the Drug Enforcement Administration and funded by the National Institute on Drug Abuse, focused primarily on 13- and 14-year-olds. It showed that eighth graders in rural America are 83 percent more likely to use crack cocaine than their urban counterparts. They are 50 percent more likely to use cocaine, 34 percent more likely to smoke marijuana, 29 percent more likely to drink alcohol. Even more shocking, the report showed that rural eighth graders were 104 percent more likely to use amphetamines, including methamphetamine. Let me clarify, Mr. President. That is double the rate of urban eighth graders.

The bill I am proposing today would provide Montana the resources to put forth a coordinated effort in the fight against meth in Montana. By admitting Yellowstone, Cascade and Missoula counties to the Rocky Mountain HIDTA, Montana can focus its efforts on the three largest problem areas for meth use. It would increase law enforcement and forensic personnel in Montana; coordinate efforts to exchange information among law enforcement agencies; and engage in a public information campaign to educate the public about the dangers of meth use.

Mr. President, the time has come to fight this scourge. Montana is under seige by meth, and we must do all we can to stop it—for the good of our state and those around us.

By Mr. ALLARD (for himself, Mr. CAMPBELL, Mr. HATCH, Mr. BENNETT, and Mr. BINGAMAN):

S. 2239. A bill to authorize the Bureau of Reclamation to provide cost sharing for the endangered fish recovery implementation programs for the Upper Colorado River and San Juan River basins; to the Committee on Energy and Natural Resources.

COST SHARING FOR ENDANGERED FISH RECOVERY IMPLEMENTATION PROGRAMS

Mr. ALLARD. Mr. President, today I am introducing legislation to authorize the Bureau of Reclamation to provide cost sharing for the endangered fish recovery implementation programs for the Upper Colorado River and San Juan River basins.

This legislation is the product of years of meetings between water districts, power users, state and federal government and environmental groups. It authorizes federal and non-federal funding of an Upper Basin Recovery Program for endangered species in the Colorado River Basin and the San Juan River Basin. The goal of the program is to recover the Colorado pikeminnow, humpback chub, razorback sucker and bonytail chub while continuing to meet future water supply needs in the Upper Basin states of Colorado, Utah, Wyoming and New Mexico.

To date, more than $20 million has been spent for capital projects to recover the endangered fish. Failure to recover the endangered species could result in limitations on current and future water diversions and use in the Upper Basin states. The legislation provides Congress and the Upper Basin stakeholders a finite Recovery Program under an authorized spending cap.

The legislation authorizes $100 million for capital construction, operations and maintenance to implement other aspects of the program that include fish ladders, hatchery facilities, removal of non-native species and habitat restoration. The cost sharing program authorizes $46 million of federal funds to the Bureau of Reclamation and the remaining $54 million will be generated from state contributions not to exceed $17 million; contributions from power revenues up to $17 million and the remaining $20 million from replacement power credit and capital cost of water.

The States of Colorado, New Mexico, Utah and Wyoming all support the program. Other supporters include: the Colorado River Energy Distributors Association, the Upper Colorado River Endangered Fish Recovery Implementation Program, the Environmental Defense Fund, The Nature Conservancy, Northern Colorado Water Conservancy District, Colorado River Water Conservation District, Southern Ute Indian Tribe and Colorado Water Congress.

It is critical to affirm the federal government's commitment to the implementation of the Recovery Programs. The bill reflects compromise on all sides of the issue and recognizes that protection of endangered species can coincide with water development and water use. The participants want to move ahead with this program and are willing to help share in the costs. I urge my Senate colleagues to support this important legislation.

By Mr. CRAPO:

S. 2241. A bill to amend title XVII of the Social Security Act to adjust wages and wage-related costs for certain items and services furnished in geographically reclassified hospitals; to the Committee on Finance.

• Mr. CRAPO. Mr. President, I rise today to introduce the Medicare Wage-Index Reclassification Act of 2000. This bill will amend the Social Security Act to redirect additional Medicare reimbursements to rural hospitals. Currently, hospitals throughout the country are losing Medicare reimbursements, which results in severe implications for surrounding communities.

As you know, in an attempt to keep Medicare from consuming its limited reserves, Congress enacted the Balanced Budget Act of 1997 (BBA), which made sweeping changes in the manner that health care providers are reimbursed for services rendered to Medicare beneficiaries. These were the most significant modifications in the history of the program.

All of the problems with the BBA—whether hospitals, nursing facilities, home health agencies, or skilled nursing facilities—are especially acute in rural states, where Medicare payments are a bigger percentage of hospital revenues and profit margins are generally much lower. These facilities were already managed at a highly efficient level and had ''cut the fat out of the system.'' Therefore, the cuts implemented in the BBA hit the rural communities in Idaho and throughout the United States in a very significant and serious way.

In the 1st session, the Senate Finance Committee did a tremendous job of bringing forth legislation that adjusted Medicare payments to health care providers hurt by cuts ordered in the BBA. While this was a meaningful step, the Senate must continue to address the inequities in the system.

My bill would expand wage-index reclassification by requiring the Secretary of Health and Human Services to deem a hospital that has been reclassified for purposes of its inpatient wage-index to also reclassify for purposes of other services which are provider-based and for which payments are adjusted using a wage-index. In other words, this legislation would require the Secretary to use a hospital's reclassification wage-index to adjust payments for hospital outpatient, skilled nursing facility, home health, and other services, providing those entities are provider-based. This change should have been made in BBA when Congress required that prospective payment systems be established for these other services. As such, this change would address an issue that has been left unaddressed for several years.

It makes sense that, if a hospital has been granted reclassification by the Medicare Geographic Classification Review Board for certain inpatient services, it also be granted wage-index reclassification for outpatient and other services. It is estimated that this provision would help approximately 400 hospitals, 90 percent which are rural. Furthermore, this provision would be budget neutral.

I know my colleagues in the Senate share my commitment of promoting access to health care services in rural areas. Expanding wage-index geographic reclassification will allow hospitals to recoup lost funds and use those funds to address patients' needs in an appropriate, effective, and meaningful way. I encourage my colleagues to co-sponsor the Medicare Wage-Index Reclassification Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Wage-Index Reclassification Act of 2000''.

SEC. 2. HOSPITAL GEOGRAPHIC RECLASSIFICATION FOR LABOR COSTS FOR ALL ITEMS AND SERVICES REIMBURSED UNDER PROSPECTIVE PAYMENT SYSTEMS.

(a) IN GENERAL.—Section 1886(d)(10) of the Social Security Act (42 U.S.C. 1395ww(d)(10)) is amended by adding at the end the following new subparagraph:

''(G) APPLICATION OF HOSPITAL GEOGRAPHIC RECLASSIFICATION FOR INPATIENT SERVICES TO ALL HOSPITAL-FURNISHED ITEMS AND SERVICES REIMBURSED UNDER PROSPECTIVE PAYMENT SYSTEM.—

''(i) IN GENERAL.—In the case of a hospital with an application approved by the Medicare Geographic Classification Review Board under subparagraph (C)(i)(II) to change the hospital's geographic classification for a fiscal year for purposes of the factor used to adjust the DRG prospective payment rate for area differences in hospital wage levels that applies to such hospital under paragraph (3)(E), the change in the hospital's geographic classification for such purposes shall apply for purposes of adjustments to payments for variations in costs which are attributable to wages and wage-related costs for all PPS-reimbursed items and services.

''(ii) PPS-REIMBURSED ITEMS AND SERVICES DEFINED.—For purposes of clause (i), the term 'PPS-reimbursed items and services' means, for cost reporting periods beginning during the fiscal year for which such change has been approved, items and services furnished by the hospital, or by an entity or department of the hospital which is provider-based (as determined by the Secretary), for which payments—

''(I) are made under the prospective payment system for hospital outpatient department services under section 1833(t); and

''(II) are adjusted for variations in costs which are attributable to wages and wage-related costs.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished on or after October 1, 2001.●

By Mr. THOMAS:

S. 2242. A bill to amend the Federal Activities Inventory Reform Act of 1998 to improve the process for identifying the functions of the Federal Government that are not inherently governmental functions, for determining the appropriate organizations for the performance of such functions on the basis of competition, and for other purposes; to the Committee on Governmental Affairs.

THE FAIR ACT AMENDMENTS OF 2000

Mr. THOMAS. Mr. President, I rise today to introduce legislation to improve the implementation of legislation that Congress passed in 1998, the Federal Activities Inventory Reform Act.

It has been 45 years, since President Dwight D. Eisenhower issued Bureau of the Budget Bulletin 55–4, proclaiming, ''It is the policy of the Government to rely on the private sector to supply the products and services the Government needs.''

Why is it, then, the Federal government has identified some one million positions on its payroll that are commercial in nature? As the author of the FAIR Act, I had hoped that my legislation would have put into place a process, albeit 45 years later, to substantively implement Ike's policy.

Despite almost a half-century of policy that ''the Federal government should not start or carry on any activity to provide a commercial product or service if the product or service can be procured from the private sector'' more than 100 agencies have released FAIR Act inventories identifying some one million commercial Federal positions. Of these, 440,000 are in civilian agencies and more than 65 percent have been exempted from potential outsourcing. In the Department of Defense, 504,000 non-uniformed positions are considered commercial, but 196,000 or 39 percent are exempt from outsourcing.

The first year experience with the FAIR Act raises fundamental questions. If it has been the Federal Government's policy for 45 years to rely on the private sector for commercially available goods and services, how did we get to the point where despite claims of ''reinventing government,'' ''the smallest Federal workforce since the Kennedy Administration'' and other political rhetoric, we have one million Federal employees engaged in commercial activities? How is it that of those one million positions, roughly half will not even be studied to determine if government or private sector performance provides the best value to the taxpayers?

The FAIR Act was intended to shed sunshine on the Federal Government's commercial activities. Its purpose was to tell the American people what its government does and put in place a process to determine how to best get the job done. Unfortunately, implementation of the law has fallen short of these expectations.

The law requires agencies to inventory activities and positions that are not inherently governmental. Inventories are published so that interested parties, both public and private, can challenge inclusions or omissions from the list. However, the Office of Management and Budget (OMB) has overstepped its authority by creating a series of ''reason codes'' that enable agencies to declare activities commercial but exempt from potential outsourcing, and then declaring such reason code designations outside the challenge process. As a result, 482,000 positions, roughly half the government's entire FAIR inventory, has been declared commercial, but exempt from potential outsourcing, public-private competition, or challenge. That is wrong, inconsistent with the law and down right un-FAIR.

Manipulation of the process has also cast a long shadow on the sunshine Congress was seeking. Take for example the Department of Energy. Of 11,765 commercial positions on its inventory, just 618 are ''commercial competitive.'' Within the agency's Bonneville Power Administration (BPA), 1,263 of the agency's 2,267 commercial positions were classified as ''management'' and of these 1,259 were considered ''commercial, in-house core,'' exempt from

further review. Unfortunately, DoE is not alone in gaming the system. The U.S. Army Corps of Engineers, which has 4,500 employees, has inventoried all its positions in just two categories.

These practices, too, are un-FAIR, particularly for federal employees. How can BPA or Corps of Engineers' employees tell if their positions are slated for potential outsourcing? How is the private sector to determine if the positions the Corps has on its inventory involve management of campgrounds, integration of their computer systems, designing a dam, mapping a flood plain, or painting the walls of an office building if all these activities are aggregated into two broad categories? These actions fail to shed sunshine and render the FAIR Act challenge process moot.

The FAIR Act also requires a ''review'' of commercial activities that survive the inventory and challenge process ''within a reasonable time.'' The Act's legislative history clearly demonstrates Congress intended for such a review to be either direct outsourcing or a public-private competition similar to that envisioned in OMB Circular A–76. To date, OMB has not issued guidance on how it will implement such reviews, nor has it established a timetable.

Due to OMB's dismal performance thus far, it is clear that Congress will have to pass a package of FAIR Act amendments to make sure the job is done right. Today I introduce legislation to do just that.

This legislation is largely technical in nature but the major provisions would improve the accuracy and usefulness of the inventories, make sure Federal employees are notified when their jobs appear on the inventories, fortify the review process, require a report on the portability of federal employees' pension benefits, ban federal agencies from performing any commercial activity for other federal agencies or state and local governments unless a cost comparison is conducted and prohibits the conversion of any activity on a FAIR Act inventory to Federal Prison Industries.

I look forward to working with Chairman THOMPSON and Ranking Member LIEBERMAN of the Government Affairs Committee to see that this common sense legislation is enacted into law this year.

By Ms. LANDRIEU (for herself, Ms. SNOWE, Mr. KERRY, Mr. CLELAND, Mrs. MURRAY, Ms. MIKULSKI, Mr. ABRAHAM, and Mr. JEFFORDS):

S. 2243. A bill to reauthorize certain programs of the Small Business Administration, and for other purposes; to the Committee on Small Business.

NATIONAL WOMEN'S BUSINESS COUNCIL REAUTHORIZATION ACT OF 2000

Ms. LANDRIEU. Mr. President, today I, along with Senators SNOWE, KERRY, CLELAND, MURRAY, MIKULSKI, ABRAHAM, and JEFFORDS, am introducing the National Women's Business Council Re-authorization Act of 2000. This legislation would ensure that one of our most valued resources may continue its work in support of women's business ownership. The bi-partisan National Women's Business Council has provided important advice and counsel to the Congress since it was established in 1988. At that time, there were 2.4 million women business owners documented; today, there are over 9 million women who own and operate businesses in every sector, from home based services to construction trades to high tech giants. Women are changing the face of our economy at an unprecedented rate, and the Council has been our eyes and ears as we anticipate the needs of this burgeoning entrepreneurial sector. The 15 appointees to the Council, all prominent business women, have been hard at work during the last three years. Some of their accomplishments include: hosting Summit '98, a national economic forum that produced a Master Plan of initiatives and recommendations to sustain and grow the entrepreneurial economy; preparing a Best Practices Guide for Contracting with Woman, and issuing a comprehensive statistical study of 11 years of federal contracting with women owned businesses; co-hosting a series of highly regarded policy forums with the Federal Reserve in 10 cities, including New Orleans, Louisiana, on capital access issues facing entrepreneurs and working to secure the collection of data on women-owned businesses by the Bureau of the Census, and funding new research on a range of issues concerning women's business development.

Recently, the Council has stepped up efforts to increase access to credit for women-owned businesses. This spring, the Council will release a report in collaboration with the Milken Institute, which will identify model programs that have been successful in increasing the flow of credit to small, women owned businesses, especially those in the retail, service or high tech sectors. The Council is also working to increase investments in women-led firms by launching Springboard 2000, a national series of women's venture capital forums. Building on the momentum of its highly successful Silicon Valley event in January, the Council will host at least two more forums showcasing women-led businesses before private, corporate and venture capital investors. As my colleague Senator KERRY has said so often, the equity markets are the last frontier for women entrepreneurs. The Council's venture capital fairs provide women entrepreneurs with much needed access to capital so that they can launch and grow their high tech businesses.

The Council is leading the effort to increase access to competitive contracting opportunities by working with federal agencies and women's business organizations. Later this year, the Council will release an extensive report on the characteristics and experiences of the over 5,000 women business owners who have been successful in receiving federal contracts. We eagerly look forward to reviewing their findings.

Under the chairmanship of Kay Koplovitz, the Council has indeed taken a bold new approach in its advocacy of the fastest growing business sector. As a result of the Council's work this year, we will know more than ever about women's business enterprise, their economic trends, the characteristics of their owners and their public and private sector needs. The Council has been a powerful resource for policy makers by providing valuable data, information and recommendations which are essential if we are to assist our communities in sustaining the unparalleled number of new businesses launched in the last 7 years.

It is for these reasons and more that I am introducing legislation to re-authorize the Council for another three years. It is imperative that the National Women's Business Council continues its great work and expands its activities to support initiatives that are creating the infrastructure for women's entrepreneurship at the state and local level.

By Mr. WYDEN (for himself and Mr. BAUCUS):

S. 2244. A bill to increase participation in employee stock purchase plans and individual retirement plans so that American workers may share in the growth in the United States economy attributable to international trade agreements; to the Committee on Finance.

WORKING FAMILIES TRADE BONUS ACT

Mr. WYDEN. Mr. President, many working Americans fell like they've been left on the sidelines in the high-stakes game of international trade. As U.S. companies expand overseas, corporate profits soar. Workers standby watching for some tangible benefits for their own pocketbooks. A May 1999 Los Angeles Times story captured Americans' skepticism toward trade. The story found just over half the public in March 1994 believed that treaties such as NAFTA would create U.S. jobs, with only 32% fearing jobs loss. But by December 1998, the attitudes had flip-flopped. A Wall Street Journal/NBC News poll found that 58% of Americans believed that trade had reduced U.S. jobs and wages.

Nowhere has Americans' growing alienation from the world trading system been more evident than at the November 1999 World Trade Organization (WTO) Ministerial meeting. The nightly news was filled with the pictures of workers protesting the WTO in the streets of Seattle. This sense of alienation will continue to grow unless workers themselves start to see more direct benefits from trade.

The legislation I am pleased to introduce today with Senator BAUCUS is an effort to narrow America's dividend divide in world trade. Our bill, The Working Families Trade Bonus Act, says

that when companies win from world trade, workers should win, too. The bill would do this by encouraging companies to give their workers added Trade Bonus stock options—which workers at *Fortune* magazine's top 100 U.S. companies identified as one of the key reasons they work for the company. And for the millions of working Americans who don't have stock plans—farmers, self-employed and small business people—the bill would allow them to double the maximum allowable annual IRA contribution.

The bill specifically targets workers who are often excluded by company stock option plans—those at the lower end of company pay scales. The Trade Bonus program prohibits a company from discriminating in favor of highly compensated employees and requires that all employees be allowed to purchase the maximum amount of stock allowed by law at the lowest price allowed by law. The program would not allow companies to substitute stock options for regular compensation. Together, these safeguards assure that all workers are included in the trade winner's circle.

Proponents of free trade, like Senator BAUCUS and myself, have done a lot of talking about its benefits. Manufactured goods are the centerpiece of our nation's export—accounting for nearly two-thirds of total U.S. exports of goods and services. Exports support about one in every five American factory jobs. These jobs pay about 15 percent more on average than non-export-related jobs, require more skills and are less prone to economic downturns than those accounted for fully one-third of our nation's economic growth, and since 1950, international trade flows have grown twice as fast as the economy. Yet, most workers have few good things to say about free trade because they've never seen any direct benefits from it. It's time to turn the rhetoric about free trade into real benefits for workers. It's time to widen the winner's circle to make sure that American workers share directly in the rewards of free trade.

Our legislation would require the Secretary of Commerce to determine annually, beginning with 1998, whether international trade has contributed to an increase in U.S. GDP. This determination would be included in the President's budget for the subsequent fiscal year. For every year in which the Secretary makes a determination that trade has contributed to an increase in the U.S. GDP, employers would be encouraged to contribute additional compensation up to $2,000 per worker per year to employee stock purchase plans. These additional contributions to an employee's stock purchase plan—the Trade Bonus—would not be subject to capital gains tax. For workers who are not eligible for an employee stock purchase plan Trade Bonus, the bill allows them to double the allowable annual amount of their IRA contribution—to a maximum of $4,000.

For employers with 100 or fewer employees that do not have employee stock purchase plans, the bill would give them a significant incentive to create them; the bill offers a one-time tax credit to help offset all the administrative fees directly related to establishing an employee stock purchase plan. It would also provide limited tax credits for three subsequent years for costs directly related to IRS compliance and employee education about the Trade Bonus program. The language of this section is drawn from previous legislation and assures that the tax credit applies only to the actual cost of creating the employee stock purchase plan and not to services that may be related to retirement planning, such as tax preparation, accounting, legal or brokerage services.

The bill sets out guidelines for employers establishing or expanding an employee stock purchase plan under the Trade Bonus program, including that employees be eligible for the maximum amount of $2,000 at the lowest price allowed by law; that employers make the plan available to the widest range of employees without discrimination in favor of highly compensated employees; that employers ensure that the trade bonus is in addition to compensation an employee would normally receive (and that safeguards be in place to do so); and that it does not result in lack of diversification of an employee's assets.

Here's how the Working Families Trade Bonus Act would work. As under current law, employee stock purchase plans offer stock to participants at a discount. The current minimum purchase price is the lesser of 85% of the value of the stock on the date of the grant of the options (usually the beginning of the purchase period) or 85% of the value of the stock when the option is exercised—usually the end of the purchase period. This means that, in the period during which the stock has appreciated, the employee can get the benefit of the appreciation and, in a period during which the stock has depreciated, the employee might still be able to buy employer stock at a discounted price, or, if the plan provides, could decline to purchase the stock.

For example, let's say the President announces in the budget for FY 2001 that international trade contributed to growth in US GDP in 1999. Fleet of Foot Shoes, an athletic shoe manufacturer in Florence, Oregon, decides to award its workers the full $2,000 trade bonus on February 1, 2000. If a share of Fleet of Foot stock is worth $100 on the date of the grant of the option and $200 when the option is exercised, say December 2001, the employees' purchase price can be as low as $85. This means the employee can purchase stock worth $200 for only $85, so the employee is able to purchase more than 40 shares of stock for the price of only 20 shares. Alternatively, if the stock is worth $50 when the option is exercised, the employee is able to purchase stock worth $50 for only $42.50.

Here is how the tax benefit would work. Under current law, employees who hold qualified stock at least two years from the date of grant of the option and one year from the purchase of the stock are entitled to a capital gains tax break until the point they sell the stock. If an employee chooses to sell stock purchased through the Trade Bonus and the purchase price was less than the fair market value on the date the option was granted, then the difference between the purchase price and the fair market value will be taxed as ordinary income in the year the stock is sold. Under my proposal, the remainder of the gain that would otherwise be taxed as a capital gain in the same year would not be taxed. So, using the Trade Bonus, if an employee pays $85 to buy a share of stock whose fair market value is $100, holds onto the share for more than the required two years and then sells it for $150, the $15 discount on the original purchase price would be taxed as ordinary income, but the employee would not pay capital gains tax on the $50 increase in the value of the share of stock.

About one-half of all American adults own stock today, and stocks are now the largest asset families own, exceeding even home equity. Fortune's January 2000 survey found 36 of the 58 publicly held companies on the top 100 list offer options to all employees. According to a 1998 survey of Oregon technology companies, almost two-thirds of Oregon's technology companies offer stock options. In today's tight employment market where companies compete to attract and retain the best employees, stock purchase plans are becoming increasingly common. The National Center for Employee Ownership estimates that seven and a half million Americans work for companies that make stock options available, and that employees own nine percent of total corporate equity in the United States. A recent Federal Reserve study found that one-third of the firms it surveyed offer stock options to employees other than executives.

Our legislation will build upon this trend. The Working Families Trade Bonus Opportunity Act will give workers the chance to share directly in the benefits of free trade. This legislation will help put real money into the pockets of working Americans, and help move stock options out of the corner office and onto the shop floor. I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 2244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Working Families Trade Bonus Act''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in

this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) exports represent a growing share of United States production, and exports have accounted for more than 10 percent of the United States gross domestic product in recent years,

(2) export growth represented more than 36 percent of overall United States growth in gross domestic product between 1987 and 1997,

(3) international trade flows in the United States have grown twice as fast as the economy since 1950, and, in real terms, the growth rate for international trade has averaged about 6.5 percent a year,

(4) between 1987 and 1997, more than 5,500,000 United States jobs have been created by international trade,

(5) the globalization of the United States economy demands that appropriate domestic policy measures be undertaken to assure American workers enjoy the benefits of globalization rather than be undermined by it, and

(6) when the domestic economy and United States companies achieve growth and profits from international trade, workers ought to share in the benefits.

(b) PURPOSE.—It is the purpose of this Act to assist American workers in benefiting directly when international trade produces domestic economic growth.

TITLE I—TRADE BONUS

SEC. 101. DETERMINATION AND ANNOUNCEMENT OF TRADE BONUS.

(a) DETERMINATION.—

(1) IN GENERAL.—The Secretary of Commerce or the Secretary's delegate shall, for each calendar year after 1998, determine whether international trade of the United States contributed to an increase in the gross domestic product of the United States for such calendar year.

(2) TIME FOR DETERMINATION; SUBMISSION.—The Secretary shall make and submit to the President the determination under paragraph (1) as soon as practicable after the close of a calendar year, but in no event later than June 1 of the next calendar year. Such determination shall be made on the basis of the most recent available data as of the time of the determination.

(b) INCLUSION IN BUDGET.—The President shall include the determination under subsection (a) with the supplemental summary of the budget for the fiscal year beginning in the calendar year following the calendar year for which the determination was made.

TITLE II—PROVISIONS TO ENSURE WORKERS SHARE IN TRADE BONUS

SEC. 201. UNITED STATES POLICY ON INTERNATIONAL TRADE BONUS.

(a) GENERAL POLICY OF THE UNITED STATES.—It is the policy of the United States that if there is an increase in the portion of the gross domestic product of the United States for any calendar year which is attributable to international trade of the United States—

(1) workers ought to share in the benefits of the increase through—

(A) the establishment of employee stock purchase plans by employers that have not already done so,

(B) the expansion of employee stock purchase plans of employers that have already established such plans, and

(C) the opportunity to make additional contributions to individual retirement plans if the workers are unable to participate in employee stock purchase plans,

(2) employers should contribute additional compensation to such employee stock purchase plans in an amount up to $2,000 per employee, and

(3) workers should contribute additional amounts up to $2,000 to individual retirement plans.

(b) GUIDELINES.—It is the policy of the United States that any employer establishing or expanding an employee stock purchase plan under the policy stated under subsection (a) should—

(1) provide that the amount of additional stock each employee is able to purchase in any year there is a trade bonus is the amount determined by the employer but not in excess of $2,000,

(2) make the plan available to the widest range of employees without discriminating in favor of highly compensated employees,

(3) allow for the purchase of the maximum amount of stock allowed by law at the lowest price allowed by law, and

(4) ensure that the establishment or expansion of such plan—

(A) provides employees with compensation that is in addition to the compensation they would normally receive, and

(B) does not result in a lack of diversification of an employee's assets, particularly such employee's retirement assets.

SEC. 202. ELIMINATION OF CAPITAL GAINS TAX ON GAIN FROM STOCK ACQUIRED THROUGH EMPLOYEE STOCK PURCHASE PLAN.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end the following new section:

"SEC. 1203. EXCLUSION FOR GAIN FROM STOCK ACQUIRED THROUGH EMPLOYEE STOCK PURCHASE PLAN.

''(a) GENERAL RULE.—Gross income of an employee shall not include gain from the sale or exchange of stock—

''(1) which was acquired by the employee pursuant to an exercise of a trade bonus stock option granted under an employee stock purchase plan (as defined in section 423(b)), and

''(2) with respect to which the requirements of section 423(a) have been met before the sale or exchange.

''(b) TRADE BONUS STOCK OPTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'trade bonus stock option' means an option which—

''(A) is granted under an employee stock purchase plan (as defined in section 423(b)) for a plan year beginning in a calendar year following a calendar year for which a trade bonus percentage has been determined under section 101 of the Working Families Trade Bonus Act, and

''(B) the employer designates, at such time and in such manner as the Secretary may prescribe, as a trade bonus stock option.

''(2) ANNUAL LIMITATION.—Options may not be designated as trade bonus stock options with respect to an employee for any plan year to the extent that the fair market value of the stock which may be purchased with such options (determined as of the time the options are granted) exceeds $2,000.''

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (9) of section 1(h) (relating to maximum capital gains rate) is amended by striking ''and section 1202 gain'' and inserting ''section 1202 gain, and gain excluded from gross income under section 1203(a)''.

(2) Section 172(d)(2)(B) (relating to modifications with respect to net operating loss deduction) is amended by striking ''section 1202'' and inserting ''sections 1202 and 1203''.

(3) Section 642(c)(4) (relating to adjustments) is amended by inserting ''or 1203(a)'' after ''section 1202(a)'' and by inserting ''or 1203'' after ''section 1202''.

(4) Section 643(a)(3) (defining distributable net income) is amended by striking ''section 1202'' and inserting ''sections 1202 and 1203''.

(5) Section 691(c)(4) (relating to coordination with capital gain provisions) is amended by inserting ''1203,'' after ''1202,''.

(6) The second sentence of section 871(a)(2) (relating to capital gains of aliens present in the United States 183 days or more) is amended by inserting ''or 1203'' after ''section 1202''.

(7) The table of sections of part I of subchapter P of chapter 1 is amended by adding at the end the following:

''Sec. 1203. Exclusion for gain from stock acquired through employee stock purchase plan.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to stock acquired on and after the date of the enactment of this Act.

SEC. 203. TRADE BONUS CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end the following new paragraph:

''(5) ADDITIONAL CONTRIBUTIONS IN TRADE BONUS YEARS.—

''(A) IN GENERAL.—If there is a determination under section 101 of the Working Families Trade Bonus Act that there is a trade bonus for any calendar year, then, in the case of an eligible individual, the dollar amount in effect under paragraph (1)(A) for taxable years beginning in the subsequent calendar year shall be increased by $2,000.

''(B) ELIGIBLE INDIVIDUAL.—For purposes of subparagraph (A), the term 'eligible individual' means, with respect to any taxable year, any individual other than an individual who is eligible to receive a trade bonus stock option (as defined in section 1203(b)) for a plan year beginning in the taxable year.''

(b) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) is amended by striking ''in excess of $2,000 on behalf of any individual'' and inserting ''on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)''.

(2) Section 408(b)(2)(B) is amended by striking ''$2,000'' and inserting ''the dollar amount in effect under section 219(b)(1)(A)''.

(3) Section 408(b) is amended by striking ''$2,000'' in the matter following paragraph (4) and inserting ''the dollar amount in effect under section 219(b)(1)(A)''.

(4) Section 408(j) is amended by striking ''$2,000''.

(5) Section 408(p)(8) is amended by striking ''$2,000'' and inserting ''the dollar amount in effect under section 219(b)(1)(A)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 204. CREDIT FOR SMALL EMPLOYER STOCK PURCHASE PLAN START-UP COSTS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45D. SMALL EMPLOYER STOCK PURCHASE PLAN CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible employer, the small employer stock purchase plan credit determined under this section for any taxable year is an amount equal to the qualified start-up costs paid or incurred by the taxpayer during the taxable year.

''(b) LIMITS ON START-UP COSTS.—In the case of qualified start-up costs not paid or incurred directly for the establishment of a qualified stock purchase plan, the amount of

the credit determined under subsection (a) for any taxable year shall not exceed the lesser of 50 percent of such costs or—

''(1) $2,000 for the first taxable year ending after the date the employer established the qualified employer plan to which such costs relate,

''(2) $1,000 for each of the second and third such taxable years, and

''(3) zero for each taxable year thereafter.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE EMPLOYER.—

''(A) IN GENERAL.—The term 'eligible employer' means, with respect to any year, an employer which has 100 or fewer employees who received at least $5,000 of compensation from the employer for the preceding year.

''(B) REQUIREMENT FOR NEW QUALIFIED EMPLOYER PLANS.—Such term shall not include an employer if, during the 3-taxable year period immediately preceding the 1st taxable year for which the credit under this section is otherwise allowable for a qualified stock purchase plan of the employer, the employer and each member of any controlled group including the employer (or any predecessor of either) established or maintained an employee stock purchase plan with respect to which contributions were made, or benefits were accrued, for substantially the same employees as are in the qualified stock purchase plan.

''(2) QUALIFIED START-UP COSTS.—The term 'qualified start-up costs' means any ordinary and necessary expenses of an eligible employer which are paid or incurred in connection with—

''(A) the establishment or maintenance of a qualified stock purchase plan in which employees are eligible to participate, and

''(B) providing educational information to employees regarding participation in such plan and the benefits of participating in the plan.

Such term does not include services related to retirement planning, including tax preparation, accounting, legal, or brokerage services.

''(3) QUALIFIED STOCK PURCHASE PLAN.—

''(A) IN GENERAL.—The term 'qualified stock purchase plan' means an employee stock purchase plan which—

''(i) allows an employer to designate options as trade bonus stock options for purposes of section 1203,

''(ii) limits the amount of options which may be so designated for any employee to not more than $2,000 per year, and

''(iii) does not discriminate in favor of highly compensated employees (within the meaning of section 414(q)).

''(B) EMPLOYEE STOCK PURCHASE PLAN.—The term 'employee stock purchase plan' has the meaning given such term by section 423(b).

''(d) SPECIAL RULES.—

''(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (n) or (o) of section 414, shall be treated as one person. All qualified stock purchase plans of an employer shall be treated as a single qualified stock purchase plan.

''(2) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowable under this chapter for any qualified start-up costs for which a credit is determined under subsection (a).

''(3) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.''

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (defining current year business credit) is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following new paragraph:

''(13) in the case of an eligible employer (as defined in section 45D(c)), the small employer stock purchase plan credit determined under section 45D(a).''

(c) PORTION OF CREDIT REFUNDABLE.—Section 38(c) (relating to limitation based on amount of tax) is amended by adding at the end the following new paragraph:

''(4) PORTION OF SMALL EMPLOYER PENSION PLAN CREDIT REFUNDABLE.—

''(A) IN GENERAL.—In the case of the small employer stock purchase plan credit under subsection (b)(13), the aggregate credits allowed under subpart C shall be increased by the lesser of—

''(i) the credit which would be allowed without regard to this paragraph and the limitation under paragraph (1), or

''(ii) the amount by which the aggregate amount of credits allowed by this section (without regard to this paragraph) would increase if the limitation under paragraph (1) were increased by the taxpayer's applicable payroll taxes for the taxable year.

''(B) TREATMENT OF CREDIT.—The amount of the credit allowed under this paragraph shall not be treated as a credit allowed under this subpart and shall reduce the amount of the credit allowed under this section for the taxable year.

''(C) APPLICABLE PAYROLL TAXES.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable payroll taxes' means, with respect to any taxpayer for any taxable year—

''(I) the amount of the taxes imposed by sections 3111 and 3221(a) on compensation paid by the taxpayer during the taxable year,

''(II) 50 percent of the taxes imposed by section 1401 on the self-employment income of the taxpayer during the taxable year, and

''(III) 50 percent of the taxes imposed by section 3211(a)(1) on amounts received by the taxpayer during the calendar year in which the taxable year begins.

''(ii) AGREEMENTS REGARDING FOREIGN AFFILIATES.—Section 24(d)(3)(C) shall apply for purposes of clause (i).''

(d) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45D. Small employer stock purchase plan credit.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in connection with qualified stock purchase plans established after the date of the enactment of this Act.

By Mr. GRASSLEY:

S. 2245. A bill to amend the Harmonized Tariff Schedule of the United States to modify the article description with respect to certain handwoven fabrics; to the Committee on Finance.

HARMONIZED TARIFF SCHEDULE LEGISLATION

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN HAND-WOVEN FABRICS.

(a) IN GENERAL.—Subheadings 5111.11.30 and 5111.19.20 of the Harmonized Tariff Schedule of the United States are amended by striking '', with a loom width of less than 76 cm'' each place it appears and inserting ''yarns of different colors''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 30th day after the date of enactment of this Act.

By Mr. BOND (for himself and Mr. GRASSLEY):

S. 2246. A bill to amend the Internal Revenue Code of 1986 to clarify that certain small businesses are permitted to use the cash method of accounting even if they use merchandise or inventory; to the Committee on Finance.

SMALL BUSINESS ACCOUNTING METHOD CLARIFICATION ACT OF 1999

Mr. BOND. Mr. President, I rise today to introduce a bill that addresses an issue of growing concern to small businesses across the nation—tax accounting methods. And I am pleased to be joined in this effort by my colleague from Iowa, Senator GRASSLEY.

While this topic may lack the notoriety of some other tax issues currently in the spotlight like the estate tax or alternative minimum tax, it goes to the heart of a business' daily operations—reflecting its income and expenses. And because it is such a fundamental issue, one may ask: ''What's the big deal?'' Hasn't this been settled long ago?'' Regrettably, recent efforts by the Treasury Department and Internal Revenue Service (IRS) have muddied what many small business owners have long seen as a settled issue.

To many small business owners, tax accounting simply means that they record cash receipts when they come in and the cash they pay when they write a check for a business expense. The difference is income, which is subject to taxes. In its simplest form, this is known as the ''cash receipts and disbursements'' method of accounting—or the ''cash method'' for short. It is easy to understand, it is simple to undertake in daily business operations, and for the vast majority of small enterprises, it matches their income with the related expenses in a given year. Coincidentally, it's also the method of accounting used by the Federal Government to keep track of the $1.7 trillion in tax revenues it collects each year as well as all of its expenditures for salaries and expenses, procurement, and the cost of various government programs.

Unfortunately, the IRS has taken a different view in recent years with respect to small businesses on the cash method. In too many cases, the IRS contends that a small business should report its income when all events have occurred to establish the business' right to receipt and the amount can reasonably be determined. Similar principles are applied to determine when a business may recognize an expense. This method of accounting is known as ''accrual accounting.'' The reality of accrual accounting for a small business is that it may be

deemed to have income well before the cash is actually received and an expense long after the cash is actually paid. As a result, accrual accounting can create taxable income for a small business that has yet to receive the cash necessary to pay the taxes.

While the IRS argues that the accrual method of accounting produces a more accurate reflection of ''economic income,'' it also produces a major headache for small enterprise. Few entrepreneurs have the time or experience to undertake accrual accounting, which forces them to hire costly accountants and tax preparers. By some estimates, accounting fees can increase as much as 50% when accrual accounting is required, excluding the cost of high-tech computerized accounting systems that some businesses must install. For the brave few that try to handle the accounting on their own, the accrual method often leads to major mistakes, resulting in tax audits and additional costs for professional help to sort the whole mess out—not to mention the interest and penalties that the IRS may impose as a result of the mistake.

To make matters even worse, the IRS recently began focusing on small service providers who use some merchandise in the performance of their service. In an e-mail sent to practitioners in my State of Missouri and in Kansas, the IRS' local district office took special aim at the construction industry asserting that ''[t]axpayers in the construction industry who are on the cash method of accounting may be using an improper method. The cash method is permissible only if materials are not an income producing factor.'' For these lucky service providers, the IRS now asserts that the use of merchandise requires the business to undertake an additional and even more onerous form of bookkeeping—inventory accounting.

Let's be clear about the kind of taxpayer at issue here. It's the home builder who by necessity must purchase wood, nails, dry wall, and host of other items to provide the service of constructing a house. Similarly, it's a painting contractor who will often purchase the paint when she renders the service of painting the interior of a house. These service providers generally purchase materials to undertake a specific project and at its end, little or no merchandise remains. They may even arrange for the products to be delivered directly to their client. In either case, the IRS insists that inventory accounting is now required.

Mr. President, if we thought that accrual accounting is complicated and burdensome, imagining in having to keep track of all the boards, nails, and paint used in the home builder's and painter's jobs each year. And the IRS doesn't stop at inventory accounting for these service providers. Instead, they use it as the first step to imposing overall accrual accounting—a one-two punch for the small service provider when it comes to compliance burdens.

Even more troubling is the cost of an audit for these unsuspecting service providers who have never known they were required to use inventories or accrual accounting. According to a survey of practitioners by the Padgett Business Services Foundation, audits of businesses on the issue of merchandise used in the performance of services resulted in tax deficiencies from $2,000 to $14,000, with an average of $7,200. That's a pretty steep price to pay for an accounting method error that the IRS has for years never enforced.

In many cases, like retailing, inventory accounting makes sense. Purchasing or manufacturing products and subsequently selling them is the heart of a retail business, and keeping track of those products is a necessary reality. But for a service provider with incidental merchandise, like a roofing contractor, inventory accounting is nothing short of an unnecessary government-imposed compliance cost.

The bill I'm introducing today, the Small Business Tax Accounting Simplification Act of 2000, addresses both of these issues. First, it establishes a clear threshold for when small businesses may use the cash method of accounting. Simply put, if a business has an average of $5 million in annual gross receipts or less during the preceding three years, it may use the cash method. Plain and simple—no complicated formula; no guessing if you made the right assumptions and arrived at the right answer. If the business exceeds the threshold, it may still seek to establish, as under current law, that the cash method clearly reflects its income.

Some may argue that this provision is unnecessary because section 448(b) and (c) already provide a $5 million gross receipts test with respect to accrual accounting. That's a reasonable position since many in Congress back in 1986 intended section 448 to provide relief for small business taxpayers using the cash method. Unfortunately, the IRS has twisted this section to support its quest to force as many small businesses as possible into costly accrual accounting. The IRS construes section 448 as merely a $5 million ceiling above which a business can never use the cash method. My bill corrects this misinterpretation once and for all—if a business has average gross receipts of $5 million or less, it is free to use cash accounting.

Second, for small service providers, the Small Business Tax Accounting Simplification Act, creates a straightforward threshold for inventory accounting. If the amount paid for merchandise by a small service provider is less than 50% of its gross receipts, based on its prior year's figures, no inventory accounting would be required. Above that level, the taxpayer would look more like a retail business and inventory accounting may make sense.

These two thresholds set forth in my bill are common sense answers to an increasing burden for small businesses in this country. In addition, it sends a clear signal to the IRS: stop wasting scarce resources forcing small businesses to adopt complex and costly accounting methods when the benefit to the Treasury is simply a matter of timing. Whether a small business uses the cash or accrual method or inventory accounting or not, in the end, the government will still collect the same amount of taxes—maybe not all this year, but very likely early in the next year. What small business can go very long without collecting what it is owed or paying its bills?

To date, the Treasury Department's answer has been to suggest a $1 million threshold under which a small business could escape accrual accounting and presumably inventories. While it is a step in the right direction, it simply doesn't go far enough. Even ignoring inflation, if a million dollar threshold were sufficient, why would Congress have tried to enact a $5 million threshold 14 years ago? My bill completes the job that the Treasury Department has been unable or unwilling to do.

Mr. President, the legislation I introduce today is substantially similar to the bill introduced in the other body by my good friend and fellow Missourian, JIM TALENT (H.R. 2273). With the strong support he has built among his colleagues in the other chamber and in the small business community, I expect to continue the momentum in the Senate and achieve some much needed relief from unnecessary compliance burdens and costs for America's small businesses.

The call for tax simplification has been growing increasingly loud in recent years, and the bill I offer today provides an excellent opportunity for us to advance the ball well down the field. This is not a partisan issue; it's a small business issue. And I urge my colleagues on both sides of the aisle to join me in this common sense legislation for the benefit of America's small enterprises, which contribute so greatly to this country's economic engine.

Mr. President, I ask unanimous consent to print in the RECORD a copy of the bill and a description of its provisions.

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

S. 2246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Tax Accounting Simplification Act of 2000''.

SEC. 2. CLARIFICATION OF CASH ACCOUNTING RULES FOR SMALL BUSINESS.

Section 446 of the Internal Revenue Code of 1986 (relating to general rule for methods of accounting) is amended by adding at the end the following new subsection:

''(g) SMALL BUSINESS TAXPAYERS PERMITTED TO USE CASH ACCOUNTING METHOD WITHOUT LIMITATION.—Notwithstanding any other provision of law, a taxpayer shall not

be required to use an accrual method of accounting for any taxable year, if the average annual gross receipts of such taxpayer (or any predecessor) for the 3-year-period ending with the preceding taxable year does not exceed $5,000,000. The rules of paragraphs (2) and (3) of section 448(c) shall apply for purposes of the preceding sentence. In the case of a C corporation or a partnership which has a C corporation as a partner, the first sentence of this subsection shall apply only if such C corporation or partnership meets the requirements of section 448(b)(3).''.

(b) CLARIFICATION OF INVENTORY RULES FOR SMALL BUSINESS.—Section 471 of the Internal Revenue Code of 1986 (relating to general rule for inventories) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) SMALL BUSINESS SERVICE PROVIDERS NOT REQUIRED TO USE INVENTORIES.—A taxpayer shall not be required to use inventories under this section for a taxable year if the amounts paid for merchandise sold during the preceding taxable year were less than 50 percent of the gross receipts received during such preceding taxable year. For purposes of this subsection, gross receipts for any taxable year shall be reduced by returns and allowances made during such year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SMALL BUSINESS TAX ACCOUNTING SIMPLIFICATION ACT OF 2000—DESCRIPTION OF PROVISIONS

The bill amends section 446 of the Internal Revenue Code to provide a clear threshold for small businesses to use the cash receipts and disbursements method of accounting, instead of accrual accounting. To qualify, the business must have $5 million or less in average annual gross receipts based on the preceding three years.

The bill also amends section 471 of the Internal Revenue Code to provide a small service provider exception to the inventory accounting rules. Under this provision, if the amount spent on merchandise by a service provider is less than 50% of its gross receipts, inventory accounting under section 471 would not be required. This 50% test is based on the service provider's purchases and gross receipts in the preceding taxable year.

Both provisions of the bill would be effective beginning on the date of enactment.

ADDITIONAL COSPONSORS

S. 353

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 353, a bill to provide for class action reform, and for other purposes.

S. 577

At the request of Mr. HATCH, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 577, a bill to provide for injunctive relief in Federal district court to enforce State laws relating to the interstate transportation of intoxicating liquor.

S. 1452

At the request of Mr. SHELBY, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 1452, a bill to modernize the requirements under the National Manufactured Housing Construction and Safety Standards of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes.

S. 1464

At the request of Mr. HAGEL, the names of the Senator from Ohio (Mr. VOINOVICH), and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 1464, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish certain requirements regarding the Food Quality Protection Act of 1996, and for other purposes.

S. 1571

At the request of Mr. JEFFORDS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1571, a bill to amend title 38, United States Code, to provide for permanent eligibility of former members of the Selected Reserve for veterans housing loans.

S. 1572

At the request of Mr. ROTH, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1572, a bill to provide that children's sleepwear shall be manufactured in accordance with stricter flammability standards.

S. 1588

At the request of Mr. BAUCUS, the names of the Senator from Virginia (Mr. ROBB), and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 1588, a bill to authorize the awarding of grants to Indian tribes and tribal organizations, and to facilitate the recruitment of temporary employees to improve Native American participation in and assist in the conduct of the 2000 decennial census of population, and for other purposes.

S. 1755

At the request of Mr. BROWNBACK, the names of the Senator from Mississippi (Mr. LOTT), the Senator from Washington (Mr. GORTON), the Senator from Maine (Ms. SNOWE), the Senator from Missouri (Mr. ASHCROFT), the Senator from Michigan (Mr. ABRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 1755, a bill to amend the Communications Act of 1934 to regulate interstate commerce in the use of mobile telephones.

At the request of Mr. DORGAN, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1755, supra.

S. 1762

At the request of Mr. COVERDELL, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 1762, a bill to amend the Watershed Protection and Flood Prevention Act to authorize the Secretary of Agriculture to provide cost share assistance for the rehabilitation of structural measures constructed as part of water resources projects previously funded by the Secretary under such Act or related laws.

S. 1855

At the request of Mr. MURKOWSKI, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1855, a bill to establish age limitations for airmen.

S. 1883

At the request of Mr. BINGAMAN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1883, a bill to amend title 5, United States Code, to eliminate an inequity on the applicability of early retirement eligibility requirements to military reserve technicians.

S. 1900

At the request of Mr. LAUTENBERG, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1900, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued by Amtrak, and for other purposes.

S. 1933

At the request of Mr. THOMPSON, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 1933, a bill to amend the Internal Revenue Code of 1986 to permit the consolidation of life insurance companies with other companies.

S. 1941

At the request of Mr. DODD, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1941, a bill to amend the Federal Fire Prevention and Control Act of 1974 to authorize the Director of the Federal Emergency Management Agency to provide assistance to fire departments and fire prevention organizations for the purpose of protecting the public and firefighting personnel against fire and fire-related hazards.

S. 1962

At the request of Mr. ASHCROFT, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1962, a bill to amend the Congressional Budget Act of 1974 to protect Social Security and Medicare surpluses through strengthened budgetary enforcement mechanisms.

S. 2001

At the request of Mr. GRAMS, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 2001, a bill to protect the Social Security and Medicare surpluses by requiring a sequester to eliminate any deficit.

S. 2003

At the request of Mr. JOHNSON, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2003, a bill to restore health care coverage to retired members of the uniformed services.

S. 2035

At the request of Mr. SPECTER, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 2035, a bill to amend title 49, United States Code, to clarify the application of the Act popularly known as the ''Death on the High Seas Act'' to aviation incidents.

S. 2074

At the request of Mr. ASHCROFT, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2074, a bill to amend title II of the Social Security Act to eliminate the social security earnings test for individuals who have attained retirement age.

S. 2093

At the request of Mr. DOMENICI, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 2093, a bill to amend the Transportation Equity Act for the 21st Century to ensure that full obligation authority is provided for the Indian reservation roads program.

S. 2097

At the request of Mr. GRAMM, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2097, a bill to authorize loan guarantees in order to facilitate access to local television broadcast signals in unserved and underserved areas, and for other purposes.

S. CON. RES. 34

At the request of Mr. SPECTER, the names of the Senator from Virginia (Mr. WARNER) and the Senator from Georgia (Mr. COVERDELL) were added as cosponsors of S. Con. Res. 34, a concurrent resolution relating to the observance of ''In Memory'' Day.

S. CON. RES. 76

At the request of Mr. LEAHY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Con. Res. 76, a concurrent resolution expressing the sense of Congress regarding a peaceful resolution of the conflict in the state of Chiapas, Mexico and for other purposes.

S. CON. RES. 88

At the request of Mr. SCHUMER, the name of the Senator from Nevada (Mr. BRYAN) was added as a cosponsor of S. Con. Res. 88, a concurrent resolution expressing the sense of Congress concerning drawdowns of the Strategic Petroleum Reserve.

S.J. RES. 39

At the request of Mr. CAMPBELL, the names of the Senator from South Dakota (Mr. DASCHLE), the Senator from Missouri (Mr. ASHCROFT), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S.J. Res. 39, a joint resolution recognizing the 50th anniversary of the Korean War and the service by members of the Armed Forces during such war, and for other purposes.

S. RES. 87

At the request of Mr. DURBIN, the names of the Senator from California (Mrs. BOXER) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. Res. 87, a resolution commemorating the 60th Anniversary of the International Visitors Program.

S. RES. 106

At the request of Mr. DOMENICI, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. Res. 106, a resolution to express the sense of the Senate regarding English plus other languages.

S. RES. 247

At the request of Mr. CAMPBELL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Res. 247, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

S. RES. 257

At the request of Mr. CRAIG, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. Res. 257, a resolution expressing the sense of the Senate regarding the responsibility of the United States to ensure that the Panama Canal will remain open and secure to vessels of all nations.

S. RES. 258

At the request of Mr. CRAIG, the names of the Senator from Florida (Mr. MACK), the Senator from Louisiana (Mr. BREAUX), the Senator from Virginia (Mr. ROBB), the Senator from Minnesota (Mr. WELLSTONE), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Utah (Mr. HATCH), the Senator from Ohio (Mr. VOINOVICH), the Senator from Missouri (Mr. BOND), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. Res. 258, a resolution designating the week beginning March 12, 2000 as ''National Safe Place Week.''

SENATE CONCURRENT RESOLUTION 93—EXPRESSING THE SUPPORT OF CONGRESS FOR ACTIVITIES TO INCREASE PUBLIC AWARENESS OF MULTIPLE SCLEROSIS

Mr. REED submitted the following resolution, which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 93

Whereas multiple sclerosis is a chronic and often disabling disease of the central nervous system which often first appears in people between the ages of 20 and 40, with lifelong physical and emotional effects;

Whereas multiple sclerosis is twice as common in women as in men;

Whereas an estimated 250,000 to 350,000 individuals suffer from multiple sclerosis nationally;

Whereas symptoms of multiple sclerosis can be mild, such as numbness in the limbs, or severe, such as paralysis or loss of vision;

Whereas the progress, severity, and specific symptoms of multiple sclerosis in any one person cannot yet be predicted;

Whereas the annual cost to each affected individual averages $34,000, and the total cost can exceed $2,000,000 over an individual's lifetime;

Whereas the annual cost of treating all people who suffer from multiple sclerosis in the United States is nearly $9,000,000,000;

Whereas the cause of multiple sclerosis remains unknown, but genetic factors are believed to play a role in determining a person's risk for developing multiple sclerosis;

Whereas many of the symptoms of multiple sclerosis can be treated with medications and rehabilitative therapy;

Whereas new treatments exist that can slow the course of the disease, and reduce its severity;

Whereas medical experts recommend that all people newly diagnosed with relapse-remitting multiple sclerosis begin disease-modifying therapy;

Whereas finding the genes responsible for susceptibility to multiple sclerosis may lead to the development of new and more effective ways to treat the disease;

Whereas increased funding for the National Institutes of Health would provide the opportunity for research and the creation of programs to increase awareness, prevention, and education; and

Whereas Congress as an institution, and Members of Congress as individuals, are in unique positions to help raise public awareness about the detection and treatment of multiple sclerosis and to support the fight against multiple sclerosis: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) all Americans should take an active role in the fight to end the devastating effects of multiple sclerosis on individuals, their families, and the economy;

(2) the role played by national and community organizations and health care professionals in promoting the importance of continued funding for research, and in providing information about and access to the best medical treatment and support services for people with multiple sclerosis should be recognized and applauded; and

(3) the Federal Government has a responsibility to—

(A) continue to fund research so that the causes of, and improved treatment for, multiple sclerosis may be discovered;

(B) continue to consider ways to improve access to, and the quality of, health care services for people with multiple sclerosis;

(C) endeavor to raise public awareness about the symptoms of multiple sclerosis; and

(D) endeavor to raise health professional's awareness about diagnosis of multiple sclerosis and the best course of treatment for people with the disease.

● Mr. REED. Mr. President, today I introduce a Resolution which would express the support of Congress for activities that will raise public awareness of multiple sclerosis.

Multiple sclerosis (MS) is a chronic, often disabling disease of the central nervous system. Symptoms can range from mild numbness in the limbs to paralysis and blindness. Most people with MS are diagnosed between the ages of 20 and 40, but the unpredictable physical and emotional effects of this debilitating disease can be lifelong. The progress, severity and specific symptoms of MS in any one person cannot yet be predicted, but advances in research and treatment are giving hope to those affected by the disease. It is known that MS afflicts twice as many women as men, however, once an individual is diagnosed with MS their symptoms can be effectively managed and complications avoided through regular medical care.

Nationally, it is estimated that between 250,000 and 350,000 individuals

suffer from MS, which is approximately 1 out of every 1,000 people. In Rhode Island, the rate is slightly higher—1.5 out of every 1,000. Over 3,000 individuals and their families in my home state are affected by this disease.

It is my hope that through this resolution we can bring greater attention to the devastating affects of this disease, while also building support for additional research. It is through more intensive research efforts by agencies such as the National Institutes of Health that we will better understand some of the potential causes of this disease, as well as develop more effective methods of treatment, and maybe someday prevention. Indeed, it is only with greater resources that we can build public awareness about MS and enhance our scientific understanding of this mysterious illness.

I would like to take this opportunity to express my sincere gratitude to the National Multiple Sclerosis Society as well as the Rhode Island Chapter of the Multiple Sclerosis Society for their encouragement and assistance in developing this important Resolution. It is through their grassroots efforts that individuals suffering from MS can get information about their disease as well as learn more about resources available in their communities, research being conducted, and support services for family members. Their support is essential to those who have been afflicted with MS, and I hope that through this resolution the Congress can assist in bolstering these important efforts.

In closing, I encourage my colleagues to join me in supporting this important Resolution to raise awareness and encourage people to become more educated about this debilitating disease.●

SENATE CONCURRENT RESOLUTION 94—PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE

Mr. LOTT submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 94

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, March 9, 2000, or Friday, March 10, 2000, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, March 20, 2000, or until such time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate, after consultation with the Minority Leader of the Senate, shall notify the Members of the Senate to reassemble whenever, in their opinion, the public interest shall warrant it.

SENATE CONCURRENT RESOLUTION 95—COMMEMORATING THE TWELFTH ANNIVERSARY OF THE HALABJA MASSACRE

Mr. LOTT (for himself, Mr. HELMS, Mr. BROWNBACK, Mr. KERREY, and Mr. SHELBY) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 95

Whereas on March 16, 1988, Saddam Hussein attacked the Iraqi Kurdish city of Halabja with chemical weapons, including nerve gas, VX, and mustard gas;

Whereas more than 5,000 men, women, and children were murdered in Halabja by Saddam Hussein's chemical warfare, in gross violation of international law;

Whereas the attack on Halabja was part of a systemic, genocidal attack on the Kurds of Iraq known as the ''Anfal Campaign'';

Whereas the Anfal Campaign resulted in the death of more than 180,000 Iraqi Kurdish men, women, and children;

Whereas, despite the passage of 12 years, there has been no successful attempt by the United States, the United Nations, or other bodies of the international community to bring the perpetrators of the Halabja massacre to justice;

Whereas the Senate and the House of Representatives have repeatedly noted the atrocities committed by the Saddam Hussein regime;

Whereas the Senate and the House of Representatives have on 16 separate occasions called upon successive Administrations to work toward the creation of an International Tribunal to prosecute the war crimes of the Saddam Hussein regime;

Whereas in successive fiscal years monies have been authorized to create a record of the human rights violations of the Saddam Hussein regime and to pursue the creation of an international tribunal and the indictment of Saddam Hussein and members of his regime;

Whereas the Saddam Hussein regime continues the brutal repression of the people of Iraq, including the denial of basic human, political, and civil rights to Sunni, Shiite, and Kurdish Iraqis, as well as other minority groups;

Whereas the Secretary General of the United Nations has documented annually the failure of the Saddam Hussein regime to deliver basic necessities to the Iraqi people despite ample supplies of food in Baghdad warehouses;

Whereas the Saddam Hussein regime has at its disposal more than $12,000,000,000 per annum (at current oil prices) to expend on all categories of human needs;

Whereas, notwithstanding a complete lack of restriction on the purchase of food by the Government of Iraq, infant mortality rates in areas controlled by Saddam Hussein remain above pre-war levels, in stark contrast to rates in United Nations-controlled Kurdish areas, which are below pre-war levels; and

Whereas it is unconscionable that after the passage of 12 years the brutal Saddam Hussein dictatorship has gone unpunished for the murder of hundreds of thousands of innocent Iraqis, the use of banned chemical weapons on the people of Iraqi Kurdistan, and innumerable other human rights violations: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) commemorates the suffering of the people of Halabja and all the victims of the Anfal Campaign;

(2) condemns the Saddam Hussein regime for its continued brutality towards the Iraqi people;

(3) strongly urges the President to act forcefully within the United Nations and the United Nations Security Council to constitute an international tribunal for Iraq;

(4) calls upon the President to move rapidly to efficiently use funds appropriated by Congress to create a record of the crimes of the Saddam Hussein regime;

(5) recognizes that Saddam Hussein's record of brutality and belligerency threaten both the people of Iraq and the entire Persian Gulf region; and

(6) reiterates that it should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime, as set forth in Public Law 105–338.

SENATE RESOLUTION 267—EXECUTIVE RESOLUTION DIRECTING THE RETURN OF CERTAIN TREATIES TO THE PRESIDENT

Mr. HELMS, from the Committee on Foreign Relations, reported the following original resolution; which was placed on the Executive Calendar:

S. RES. 267

Resolved, That the Secretary of the Senate shall return to the President of the United States the following treaties:

(1) The Optional Protocol of Signature Concerning the Compulsory Settlement of Disputes. (Ex. N, 861 (Treaty Doc. 86–14)).

(2) The International Convention on Civil Liability for Oil Pollution Damage done in Brussels at the International Legal Conference on Marine Pollution Damage, signed on November 29, 1969 (Ex. G, 91–2 (Treaty Doc. 91–17)).

(3)(A) The International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (Supplementary to the International Convention on Civil Liability for Oil Pollution Damage of 1969), done at Brussels, December 18, 1971.

(B) Certain Amendments to the International Convention for the Prevention of Pollution of the Sea by Oil of 1954, relating to Tanker Tank Size and Arrangement and the Protection of the Great Barrier Reef. (Ex. K, 92–2 (Treaty Doc. 92–23)).

(4) The Trademark Registration Treaty, done at Vienna on June 12, 1973 (Ex. H, 94–1 (Treaty Doc. 94–8)).

(5) The Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms and the Protocol Thereto, together referred to as the ''SALT II Treaty'', both signed at Vienna, Austria, on June 18, 1979, and related documents (Ex. Y, 96–1 (Treaty Doc. 96–25)).

(6) The Convention with Denmark for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on June 17, 1980 (Ex. Q, 96–2 (Treaty Doc. 96–52)).

(7) The Convention on the Recognition of Studies, Diplomas and Degrees Concerning Higher Education in the States Belonging to the Europe Region, signed on behalf of the United States on December 21, 1979 (Ex. V, 96–2 (Treaty Doc. 96–57)).

(8) The Protocol Amending the Convention of August 16, 1916, for the Protection of Migratory Birds in Canada and the United States of America, signed at Ottawa January 30, 1979 (Ex. W, 96–2 (Treaty Doc. 96–58)).

(9) The Supplementary Convention on Extradition Between the United States of

America and the Kingdom of Sweden, signed at Washington on May 27, 1981 (Treaty Doc. 97–15).

(10) The Protocol, signed at Washington on August 23, 1983, together with an exchange of letters, Amending the Convention Between the Government of the United States of America and the Government of the Kingdom of Denmark for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on June 17, 1980 (Treaty Doc. 98–12).

(11) The Consular Convention Between the United States of America and the Republic of South Africa, signed at Pretoria on October 28, 1982 (Treaty Doc. 98–14).

(12) The Protocol signed at Washington on October 12, 1984, Amending the Interim Convention on Conservation of North Pacific Fur Seals Between the United States, Canada, Japan, and the Soviet Union (Treaty Doc. 99–5).

(13)(A) The Protocol of 1984 to Amend the International Convention on Civil Liability for Oil Pollution Damage, 1969 (Civil Liability Convention).

(B) The Protocol of 1984 to Amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 (Fund Convention) (Treaty Doc. 99–12).

(14) The Treaty Between the United States of America and the Republic of Haiti Concerning the Reciprocal Encouragement and Protection of Investment, with Protocol, signed at Washington, December 13, 1983 (Treaty Doc. 99–16).

(15) The Consular Convention Between the United States of America and the Socialist Federal Republic of Yugoslavia, signed at Belgrade June 6, 1988 (Treaty Doc. 101–3).

(16) The Treaty on the International Registration of Audiovisual Works. (Treaty Doc. 101–8).

(17) The Treaty Between the Government of the United States of America and the Federal Republic of Nigeria on Mutual Legal Assistance in Criminal Matters, signed at Washington on September 13, 1989 (Treaty Doc. 102–26).

(18) The Protocol Amending the Convention Between the United States of America and Canada with Respect to Taxes on Income and on Capital signed at Washington on September 26, 1980, as amended by the Protocols signed on June 14, 1983, and March 28, 1984, signed at Washington August 31, 1994 (Treaty Doc. 103–28).

SENATE RESOLUTION 268—DESIGNATING JULY 17 THROUGH JULY 23 AS ''NATIONAL FRAGILE X AWARENESS WEEK''

Mr. EDWARDS (for himself, Mr. HAGEL, Mr. ROBB, Mrs. BOXER, and Mr. KERREY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 268

Whereas Fragile X is the most common inherited cause of mental retardation, affecting people of every race, income level, and nationality;

Whereas 1 in every 260 women is a carrier of the Fragile X defect;

Whereas 1 in every 4,000 children is born with the Fragile X defect, and typically requires a lifetime of special care at a cost of over $2,000,000;

Whereas Fragile X remains frequently undetected due to its recent discovery and the lack of awareness about the disease, even within the medical community;

Whereas the genetic defect causing Fragile X has been discovered, and is easily identified by testing;

Whereas inquiry into Fragile X is a powerful research model for neuropsychiatric disorders, such as autism, schizophrenia, pervasive developmental disorders, and other forms of X-linked mental retardation;

Whereas individuals with Fragile X can provide a homogeneous research population for advancing the understanding of neuropsychiatric disorders;

Whereas with concerted research efforts, a cure for Fragile X may be developed;

Whereas Fragile X research, both basic and applied, has been vastly underfunded despite the prevalence of the disorder, the potential for the development of a cure, the established benefits of available treatments and intervention, and the significance that Fragile X research has for related disorders; and

Whereas the Senate as an institution and Members of Congress as individuals are in unique positions to help raise public awareness about the need for increased funding for research and early diagnosis and treatment for the disorder known as Fragile X: Now, therefore, be it

Resolved, That the Senate—

(1) designates July 17 through July 23 as National Fragile X Awareness Week; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe National Fragile X Awareness Week with appropriate recognition and activities.

Mr. EDWARDS. Mr. President, I rise today with my colleague, Senator HAGEL, submit the National Fragile X Awareness Week Resolution. This measure will establish July 17 through July 23 as National Fragile X Awareness Week.

Fragile X is the leading known cause of mental retardation. Despite the devastating impact of the disease, the disorder is relatively unknown to many, even in the medical community, largely due to its fairly recent discovery.

Today, one in 2,000 males and one in 4,000 females have the gene defect. One in every 260 women is a carrier. Current studies estimate that as many as 90,000 Americans suffer from Fragile X, yet up to 80 to 90 percent of them are undiagnosed. It does not effect one racial or ethnic group more than another, and it is found in every socioeconomic group.

Scientists have only known exactly what causes Fragile X since 1991. The disorder results from a defect in a single gene. Other diseases caused by single gene defects include cystic fibrosis and muscular dystrophy. In fact, the incidence of Fragile X is similar to that of cystic fibrosis.

Fragile X occurs when a specific gene, which should hold a string of molecules that repeat six to fifty times, over-expands, causing the gene to hold anywhere from 200 to 1,000 copies of the same sequence, repeating over and over, much like a record skipping out of control. The result of this error is that instructions needed for the creation of a specific protein in the brain are lost. Consequently, the Fragile X protein is either low or absent in the affected person. The lower the level of the protein, the more severe the resulting disabilities.

People with Fragile X have effects ranging from mild learning disabilities to severe mental retardation. Behavioral problems associated with Fragile X include aggression, anxiety, and seizures. The effects on both the victims of the disorder and their families are profound, taking a huge emotional and financial toll. People with Fragile X have a normal life expectancy but usually incur special costs that on average add up to over $2 million over their lifetime. Because it is inherited, many families have more than one child with Fragile X.

Recent advances in Fragile X research now make it possible to test definitively for the disorder through DNA analysis. Yet many doctors are still not familiar with Fragile X, and subtle symptoms in early childhood can make it difficult to detect.

Today, in our country, thousands of children have Fragile X, but their parents have never heard of the disease. These parents know something is wrong, but they cannot give the problem a name, and neither can any doctor they have consulted. They may know their child has mental retardation, but they do not know why. They do not know that if they have more children, those children may also be at risk. They do not know there are treatments for the problem. They do not know that someone is working on a cure.

the same holds true for many adults in our society. They are living in group homes and in institutions around the country. They have been cared for during entire lifetimes by devoted family members. Yet they have never had a diagnosis beyond ''mental retardation.''

The need to raise the profile of Fragile X across our nation is clear. The impact of the current lack of understanding of this disorder is that all too often it is years before the diagnosis is made. As a result, early intervention and treatment are delayed—treatment that could help to mitigate the effects of the disorder.

We also hope that by raising awareness we can communicate the good news about Fragile X. Now that scientists have identified the missing protein that causes the disorder, there is hope for a cure. And because Fragile X is the only single-gene disease known to directly impact human intelligence, understanding the disease can give us insight into human intelligence and learning and into dealing with other single gene defects. Understanding Fragile X may also unlock some of the mysteries of autism, schizophrenia, and other neurological disorders. But we need to fund research efforts into this devastating disease.

Mr. President, this resolution seeks to raise awareness in both the general population and the medical community about the presence and effects of Fragile X. By doing so, we hope to promote earlier diagnosis of the disease, more effective treatment, and support for research that will one day lead to a cure.

SENATE RESOLUTION 269—EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO UNITED STATES RELATIONS WITH THE RUSSIAN FEDERATION, GIVEN THE RUSSIAN FEDERATION'S CONDUCT IN CHECHNYA, AND FOR OTHER PURPOSES

Mr. HELMS submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 269

Whereas the Senate of the United States unanimously passed Senate Resolution 262 on February 24th, 2000, to condemn the indiscriminate use of force by the Government of the Russian Federation against the people of Chechnya, to prompt peace negotiations between the Government of the Russian Federation and the Government of Chechnya led by elected President Aslan Maskhadov, and to prompt the Government of the Russian Federation to immediately grant international organizations full and unimpeded access in Chechnya and the surrounding regions so that they can provide much needed humanitarian assistance and investigate alleged atrocities and war crimes;

Whereas the Committee on Foreign Relations of the Senate received credible evidence and testimony reporting that Russian forces in Chechnya caused the deaths of countless thousands of innocent civilians; caused the displacement of well over 250,000 innocents; forcibly relocated refugee populations; and have committed widespread atrocities, including summary executions, torture, and rape;

Whereas the Government of the Russian Federation has repeatedly violated the principles of the freedom of the press by subjecting journalists, such as Radio Free Liberty/Radio Europe correspondent Andrei Babitsky, who oppose or question its policies to censorship, intimidation, harassment, incarceration, and violence;

Whereas the Government of the Russian Federation continues its military campaign in Chechnya, including the use of indiscriminate force, causing further dislocation of people from their homes, the deaths of noncombatants and widespread suffering;

Whereas this war contributes to ethnic hatred and religious intolerance within the Russian Federation, jeopardizes prospects for the establishment of democracy in the Russian Federation, undercuts the ability of the international community to trust the Russian Federation as a signatory to international agreements, generates political instability within the Russian Federation, and is a threat to the peace in the region; and

Whereas the Senate expresses its concern over the war and humanitarian tragedy in Chechnya, and its desire for a peaceful and durable settlement to the conflict: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the indifference of most Western governments, including that of the United States, toward this conflict has encouraged the Government of the Russian Federation to intensify and expand its military campaign in Chechnya, further contributing to the suffering of the Chechen people;

(2) the Acting President of the Russian Federation, Vladimir Putin, is directly responsible for the conduct of Russian troops in and around Chechnya and accountable for war crimes and atrocities committed by them against the Chechen people;

(3) the Acting President of the Russian Federation should—

(A) immediately cease the military operations in Chechnya and initiate negotiations toward a just peace with the leadership of the Chechen government, including President Aslan Maskhadov;

(B) grant international missions immediate full and unimpeded access into Chechnya and surrounding regions so that they can monitor and report on the situation there and investigate alleged atrocities and war crimes;

(C) allow international humanitarian agencies immediate full and unimpeded access to Chechen civilians, including those in refugee, detention and so-called ''filtration camps'' or any other facility where citizens of Chechnya are detained; and

(D) investigate fully the atrocities committed in Chechnya, including those alleged in Alkhan-Yurt and Grozny, and initiate prosecutions against officers and soldiers accused of those atrocities;

(4) the President of the United States should—

(A) affirm respect for human rights, democratic rule of law, and international accountability as a foundation of United States foreign policy;

(B) affirm respect for human rights, democratic rule of law, and international accountability as a precondition to United States-Russian cooperation;

(C) reevaluate United States foreign policy toward the Russian Federation given its conduct in Chechnya, remilitarization, and questionable commitment to democracy;

(D) support societal forces in the Russian Federation fighting to preserve democracy there, including empowering human rights activists and promoting programs designed to strengthen the independent media, trade unions, political parties, civil society, and the democratic rule of law;

(E) promote peace negotiations between the Government of the Russian Federation and the leadership of the Chechen government, including President Aslan Maskhadov, through third-party mediation by the Organization for Security and Cooperation in Europe (OSCE), the United Nations, or other appropriate parties;

(F) endorse the call of the United Nations High Commissioner for Human Rights for an investigation of alleged war crimes committed by the Russian military in Chechnya; and

(G) take tangible steps to demonstrate to the Government of the Russian Federation that the United States strongly condemns its conduct in Chechnya and its unwillingness to find a just political solution to the conflict in Chechnya, including—

(i) a refusal to participate in bilateral summit meetings with the Government of the Russian Federation;

(ii) a call for the suspension of the Russian Federation from the forum of G–7 plus 1 state; and

(iii) a suspension of financial assistance to the Russian Federation provided through the International Monetary Fund, the World Bank, the Export-Import Bank of the United States, and the Overseas Private Investment Corporation; and

(5) the President of the United States should not reverse the actions taken under paragraph (4)(G) until the Government of the Russian Federation has—

(A) ceased its military operations in Chechnya and initiated negotiations toward a just peace with the leadership of the Chechen government led by President Aslan Maskhadov;

(B) provided full and unimpeded access into and around Chechnya to international missions to monitor and report on the situation there and to investigate alleged atrocities and war crimes;

(C) granted international humanitarian agencies immediate full and unimpeded access to Chechen civilians, including those in refugee, detention, and so-called ''filtration camps'' or any other facility where citizens of Chechnya are detained; and

(D) investigated fully the atrocities committed in Chechnya including those alleged in Alkhan-Yurt and Grozny, and initiated prosecutions against officers and soldiers accused of those atrocities.

SENATE RESOLUTION 270—DESIGNATING THE WEEK BEGINNING MARCH 11, 2000, AS ''NATIONAL GIRL SCOUT WEEK''

Mr. HATCH, from the Committee on the Judiciary, reported the following original resolution; which was placed on the calendar:

S. RES. 270

Whereas March 12, 2000, is the 88th anniversary of the founding of the Girl Scouts of the United States of America;

Whereas on March 16, 1950, the Girl Scouts of the United States of America became the first national organization for girls to be granted a Federal charter by Congress;

Whereas through annual reports required to be submitted to Congress by its charter, the Girl Scouts of the United States of America regularly informs Congress of its progress and program initiatives;

Whereas the Girl Scouts of the United States of America is dedicated to inspiring girls and young women with the highest ideals of character, conduct, and service to others so that they may become model citizens in their communities;

Whereas the Girl Scouts of the United States of America offers girls aged 5 through 17 a variety of opportunities to develop strong values and life skills and provides a wide range of activities to meet girls' interests and needs;

Whereas the Girl Scouts of the United States of America has a membership of nearly 3,000,000 girls and over 900,000 adult volunteers, and is one of the preeminent organizations in the United States committed to girls growing strong in mind, body, and spirit; and

Whereas by fostering in girls and young women the qualities on which the strength of the United States depends, the Girl Scouts of the United States of America, for 88 years, has significantly contributed to the advancement of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning March 11, 2000, as ''National Girl Scout Week''; and

(2) requests the President to issue a proclamation designating the week beginning March 11, 2000, as ''National Girl Scout Week'' and calling on the people of the United States to observe the day with appropriate ceremonies and activities.

SENATE RESOLUTION 271—REGARDING THE HUMAN RIGHTS SITUATION IN THE PEOPLE'S REPUBLIC OF CHINA

By Mr. WELLSTONE (for himself, Mr. TORRICELLI, Mr. LEAHY, Mr. FEINGOLD, and Mr. BROWNBACK) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 271

Whereas the annual meeting of the United Nations Commission on Human Rights in Geneva, Switzerland, provides a forum for discussing human rights and expressing international support for improved human rights performance;

Whereas in 1999, the Senate passed Senate Resolution 45 urging the United States to introduce and make all necessary efforts to pass a resolution condemning human rights practices of the Government of the People's Republic of China at the annual meeting of the United Nations Commission on Human Rights in Geneva, Switzerland;

Whereas the United States thereafter introduced a resolution condemning human rights practices of the Government of the People's Republic of China at the annual meeting of the United Nations Commission on Human Rights in Geneva, Switzerland;

Whereas this resolution was kept off the agenda of the full Commission by a ''no-action'' motion of the Government of the People's Republic of China, had no cosponsors, and received little support from European and other industrialized nations and did not pass;

Whereas, according to the Department of State and international human rights organizations, the human rights record of the Government of the People's Republic of China has deteriorated sharply over the past year and authorities of the People's Republic of China continue to commit widespread and well-documented human rights abuses in China;

Whereas such abuses stem from an intolerance of dissent and fear of civil unrest on the part of authorities in the People's Republic of China and from a failure to adequately enforce laws in the People's Republic of China that protect basic freedoms;

Whereas such abuses violate internationally accepted norms of conduct enshrined by the Universal Declaration of Human Rights;

Whereas the People's Republic of China has signed the International Covenant on Civil and Political Rights, but has yet to take the necessary steps to make it legally binding;

Whereas authorities in the People's Republic of China have recently escalated efforts to extinguish expressions of protest or criticism and have detained scores of citizens associated with attempts to organize a legal democratic opposition, as well as religious leaders, academics, and members of minority groups;

Whereas these efforts underscore that the Government of the People's Republic of China continues to commit serious human rights abuses that must be condemned; and

Whereas the United States will again introduce a resolution condemning human rights practices of the Government of the People's Republic of China at the annual meeting of the United Nations Commission on Human Rights in Geneva, Switzerland, on March 20, 2000: Now, therefore, be it

Resolved, That (a) the Senate supports the decision of the Administration to introduce a resolution at the 56th Session of the United Nations Human Rights Commission in Geneva, Switzerland, calling upon the People's Republic of China to end its human rights abuses.

(b) It is the sense of the Senate that the United States should make every effort necessary to pass such a resolution, including through initiating high level contact between the Administration and representatives of the European Union and other governments, and ensuring that the resolution be placed on the full United Nations Human Rights Commission's agenda by aggressively enlisting support for the resolution and soliciting cosponsorship of it by other governments.

Mr. WELLSTONE. Mr. President, today I am offering a resolution in support of the President's decision to introduce a China resolution at the annual meeting of the UN Human Rights Commission in Geneva on March 20th and urging the President to make every effort necessary to pass it. This important resolution calls on China to end its human rights abuses.

The President must ensure that this resolution be placed on the agenda of the full Human Rights Commission. He must enlist support for this resolution by other governments, especially by the European Union, and get them to cosponsor it. Year after year China has used a parliamentary tactic known as a ''no-action'' motion so that resolutions condemning its human rights abuses are struck down before they are even placed on the agenda of the full Commission. We must not allow this to happen this year.

Last year the Senate passed a resolution urging the United States to introduce a resolution condemning China's human rights practices at the 1999 Geneva meeting. Although the administration introduced a resolution, it was kept off the agenda of the full Commission by a ''no-action'' motion of China. It had no co-sponsors and received little support from European and other industrialized nations. The resolution did not pass because it didn't even come up.

This year the President announced in January his decision to again introduce a resolution in Geneva condemning China's human rights practices. According to the Administration the goal of the resolution is to ''shine an international spotlight directly on China's human rights practices'' through ''international action.'' But, as of today, there has been little international action. The resolution still has no co-sponsors.

When President Clinton formally delinked trade and human rights in 1994, he pledged, on the record, that the US would ''step up its efforts, in cooperation with other states, to insist that the United Nations Human Rights Commission pass a resolution dealing with the serious human rights abuses in China.'' While the U.S. has claimed an intention at least to speak out on human rights, the substance of US-China relations—trade, military contacts, high level summits—go foward while Chinese leaders continue to crack down on dissidents throughout the country of over one billion.

The Chinese government continues to commit widespread abuses and has taken actions that flagrantly violate the commitment it has made to respect internationally-recognized human rights. Just this week Mary Richardson, the UN High Commissioner for Human Rights, announced that she is deeply concerned about the deterioration in China's human rights practices. Mr. Shen Guofang, China's Deputy Representative at the United Nations said, ''China now has the best human rights situation in its history.'' This is unbelievable. Is the current system the best China has to offer its own citizens? If this is so, this issue will remain a point of contention between China and the international community.

In January, China convicted two of the last leaders of the Chinese Democracy Party. These disgraceful arrests were part of a further crackdown by the government on efforts to form the country's first opposition party. The arrests worked—they effectively obliterated the Party. But those fighting for democracy in China have not forgotten those they have lost, and they continue to fight.

Chinese authorities blocked the delivery of foreign donations to help the families of people killed in the crackdown on the Tiananmen student democracy movement. Mr. Lu Wenhe, a Chinese citizen who has lived in the US for twenty years, was detained in Beijing on his way to meet a woman whose 17-year-old son was shot dead by soldiers in 1989. Mr. Lu was forced to sign over his check to an officer of the Shanghai State Security Bureau. Donors stopped payment on the check but Chinese authorities continued to harass Mr. Lu's parents in Shanghai to come up with the money or risk losing their apartment and car.

And China continues to limit freedom of information. In January Chinese authorities arrested a scholar from Pennsylvania. Mr. Song, a librarian at Dickinson College and a scholar of China's cultural revolution, was formally charged with ''the purchase and illegal provision of intelligence to foreigners.'' He was held for over four months. The ''intelligence'' that he is charged with possessing were documents that were already published as part of a collection of historical materials relating to the Cultural Revolution. Nothing could better illustrate the Chinese authorities' determination to suppress history or thought than the arrest of a scholar engaged in historical research.

Since September, Beijing has arrested thousands of practitioners of Falun Gong and Zhong Gong, both popular spiritual movements, whose threats to the regime are that they are not under the Party's control. President Zemin announced in January that crushing the Falum Gong movement was one of the ''three major political struggles'' of 1999.

The Department of State's 1999 Country Reports on Human Rights Practices details an extraordinary amount of human rights violations. In October a Falum Gong practitioner in Shandong died from being beaten while in police custody. The official media reported she had died from a heart attack. According to Chinese authorities, two others who died in police custody jumped from a moving train. In March the Western press reported a 1997 case in which police executed four farmers in rural China over a monetary dispute.

The arrested dissidents and their courageous supporters deserve our full backing, and the administration's, in their historic struggle to bring democracy to China. In light of China's still deteriorating human rights record, I urge the administration to make all efforts necessary to pass its resolution in Geneva. Past experience has demonstrated that, when the United States has applied sustained pressure, the Chinese authorities have responded in ways that signal their willingness to engage on the issue of human rights. This pressure needs to be exercised now.

By ensuring that this resolution be placed on the agenda of the full Human Rights Commission, and enlisting support of the resolution and soliciting cosponsors of it by other governments, the United States can truly ''shine an international spotlight directly on China's human rights practices'' through ''international action,'' and not just pay it lip service. The US must demonstrate its true commitment to securing China's adherence to human rights standards.

It is time for the United States to provide the leadership on which the people of China depend. We must take action to get this important resolution passed. The UN Human Rights Commission is the major international body which oversees the human rights conditions of all states. Getting this resolution placed on the agenda of the full Human Rights Commission will foster substantive debate on human rights in China and Tibet.

As Americans, we must take action and lead the international effort to condemn the human rights situation in China and Tibet. I hope my colleagues will join me in passing this resolution.

SENATE RESOLUTION 272—EXPRESSING THE SENSE OF THE SENATE THAT THE UNITED STATES SHOULD REMAIN ACTIVELY ENGAGED IN SOUTHEASTERN EUROPE TO PROMOTE LONG-TERM PEACE, STABILITY, AND PROSPERITY; CONTINUE TO VIGOROUSLY OPPOSE THE BRUTAL REGIME OF SLOBODAN MILOSEVIC WHILE SUPPORTING THE EFFORTS OF THE DEMOCRATIC OPPOSITION; AND FULLY IMPLEMENT THE STABILITY PACT

Mr. VOINOVICH submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 272

Whereas the North Atlantic Treaty Organization's (NATO's) March 24, 1999 through June 10, 1999 bombing of the Federal Republic of Yugoslavia focused the attention of the international community on southeastern Europe;

Whereas the international community, in particular the United States and the European Union, made a commitment at the conclusion of the bombing campaign to integrate southeastern Europe into the broader European community;

Whereas there is an historic opportunity for the international community to help the people of southeastern Europe break the cycle of violence, retribution, and revenge and move towards respect for minority rights, establishment of the rule of law, and the further development of democratic governments;

Whereas the Stability Pact was established in July 1999 with the goal of promoting cooperation among the countries of southeastern Europe, with a focus on long-term political stability and peace, security, democratization, and economic reconstruction and development;

Whereas the effective implementation of the Stability Pact is important to the long-term peace and stability in the region;

Whereas the people and Government of the Former Yugoslav Republic of Macedonia have a positive record of respect for minority rights, the rule of law, and democratic traditions since independence;

Whereas the people of Croatia have recently elected leaders that respect minority rights, the rule of law, and democratic traditions;

Whereas positive developments in the Former Yugoslav Republic of Macedonia and the Republic of Croatia will clearly indicate to the people of Serbia that economic progress and integration into the international community is only possible if Milosevic is removed from power; and

Whereas the Republic of Slovenia continues to serve as a model for the region as it moves closer to European Union and NATO membership: Now, therefore, be it

Resolved, That the Senate—

(1) welcomes the tide of democratic change in southeastern Europe, particularly the free and fair elections in Croatia, and the regional cooperation taking place under the umbrella of the Stability Pact;

(2) recognizes that in this trend, the regime of Slobodan Milosevic is ever more an anomaly, the only government in the region not democratically elected, and an obstacle to peace and neighborly relations in the region;

(3) expresses its sense that the United States cannot have normal relations with Belgrade as long as the Milosevic regime is in power;

(4) views Slobodan Milosevic as a brutal indicted war criminal, responsible for immeasurable bloodshed, ethnic hatred, and human rights abuses in southeastern Europe in recent years;

(5) considers international sanctions an essential tool to isolate the Milosevic regime and promote democracy, and urges the Administration to intensify, focus, and expand those sanctions that most effectively target the regime and its key supporters;

(6) supports strongly the efforts of the Serbian people to establish a democratic government and endorses their call for early, free, and fair elections;

(7) looks forward to establishing a normal relationship with a new democratic government in Serbia, which will permit an end to Belgrade's isolation and the opportunity to restore the historically friendly relations between the Serbian and American people;

(8) expresses the readiness of the Senate, once there is a democratic government in Serbia, to review conditions for Serbia's full reintegration into the international community;

(9) expresses its readiness to assist a future democratic government in Serbia to build a democratic, peaceful, and prosperous society, based on the same principle of respect for international obligations, as set out by the Organization for Security and Cooperation in Europe (OSCE) and the United Nations, which guide the relations of the United States with other countries in southeastern Europe;

(10) calls upon the United States and other Western democracies to publicly announce and demonstrate to the Serbian people the magnitude of assistance they could expect after democratization; and

(11) recognizes the progress in democratic and market reform made by Montenegro, which can serve as a model for Serbia, and urges a peaceful resolution of political differences over the abrogation of Montenegro's rights under the federal constitution.

SENATE RESOLUTION 273—DESIGNATING THE WEEK BEGINNING MARCH 11, 2000, AS ''NATIONAL GIRL SCOUT WEEK''

Mrs. HUTCHISON (for herself, Ms. MIKULSKI, Mr. HATCH, Ms. SNOWE, Mr. WARNER, Mr. BUNNING, Mr. BOND, Mr. ASHCROFT, Mr. SMITH of Oregon, Mr. HELMS, Mr. MURKOWSKI, Mr. CRAIG, Mr. DOMENICI, and Ms. COLLINS) submitted the following resolution; which was considered and agreed to:

S. RES. 273

Whereas March 12, 2000, is the 88th anniversary of the founding of the Girl Scouts of the United States of America;

Whereas on March 16, 1950, the Girl Scouts of the United States of America became the first national organization for girls to be granted a Federal charter by Congress;

Whereas through annual reports required to be submitted to Congress by its charter, the Girl Scouts of the United States of America regularly informs Congress of its progress and program initiatives;

Whereas the Girl Scouts of the United States of America is dedicated to inspiring girls and young women with the highest ideals of character, conduct, and service to others so that they may become model citizens in their communities;

Whereas the Girl Scouts of the United States of America offers girls aged 5 through 17 a variety of opportunities to develop strong values and life skills and provides a wide range of activities to meet girls' interests and needs;

Whereas the Girl Scouts of the United States of America has a membership of nearly 3,000,000 girls and over 900,000 adult volunteers, and is one of the preeminent organizations in the United States committed to girls growing strong in mind, body, and spirit; and

Whereas by fostering in girls and young women the qualities on which the strength of the United States depends, the Girl Scouts of the United States of America, for 88 years, has significantly contributed to the advancement of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning March 11, 2000, as ''National Girl Scout Week''; and

(2) requests the President to issue a proclamation designating the week beginning March 11, 2000, as ''National Girl Scout Week'' and calling on the people of the United States to observe the day with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED

RECOGNIZING THE PLIGHT OF THE TIBETAN PEOPLE AND CALLING FOR SERIOUS NEGOTIATION BETWEEN CHINA AND THE DALAI LAMA

MACK AMENDMENT NO. 2884

Mr. GRAMS (for Mr. MACK) proposed an amendment to the resolution (S. Res. 60) recognizing the plight of the Tibetan people on the fortieth anniversary of Tibet's attempt to restore its independence and calling for serious negotiations between China and the Dalai Lama to achieve a peaceful solution to the situation in Tibet; as follows:

On page 3, strike lines 2 through 16 and insert the following:

(1) March 10, 2000 should be recognized as the Tibetan Day of Commemoration in solemn remembrance of those Tibetans who sacrificed, suffered, and died during the Lhasa uprising, and in affirmation of the inherent rights of the Tibetan people to determine their own future; and

(2) March 10, 2000 should serve as an occasion to renew calls by the President, Congress, and other United States Government officials on the Government of the People's Republic of China to enter into serious negotiations with the Dalai Lama or his representatives until such a time as a peaceful solution, satisfactory to both sides, is achieved.

In the preamble, strike all the whereas clauses and insert the following:

Whereas during the period of 1949–1950, the newly established communist govenment of the People's Republic of China sent an army to invade Tibet;

Whereas the Tibetan army was ill equipped and outnumbered, and the People's Liberation Army overwhelmed Tibetan defenses;

Whereas, on May 23, 1951, a delegation sent from the capital city of Lhasa to Peking to negotiate with the Government of the People's Republic of China was forced under duress to accept a Chinese-drafted 17-point agreement that incorporated Tibet into China but promised to preserve Tibetan political, cultural, and religious institutions;

Whereas during the period of 1951–1959, the failure of the Government of the People's Republic of China to uphold guarantees to autonomy contained in the 17-Point Agreement and the imposition of socialist reforms resulted in widespread oppression and brutality;

Whereas on March 10, 1959, the people of Lhasa, fearing for the life of the Dalai Lama, surrounded his palace, organized a permanent guard, and called for the withdrawal of the Chinese from Tibet and the restoration of Tibet's independence;

Whereas on March 17, 1959, the Dalai Lama escaped in disguise during the night after two mortar shells exploded within the walls of his palace and, before crossing the Indian border into exile two weeks later, repudiated the 17-Point Agreement;

Whereas during the ''Lhasa uprising'' begun on March 10, 1959, Chinese statistics estimate 87,000 Tibetans were killed, arrested, or deported to labor camps, and only a small percentage of the thousands who attempted to escape to India survived Chinese military attacks, malnutrition, cold, and disease;

Whereas for the past forty years, the Dalai Lama has worked in exile to find ways to allow Tibetans to determine the future status of Tibet and was awarded the Nobel Peace Prize for his efforts in 1989;

Whereas it is the policy of the United States to support substantive dialogue between the Government of the People's Republic of China and the Dalai Lama or his representatives;

Whereas the State Department's 1999 Country Report on Human Rights Practices finds that ''Chinese government authorities continued to commit serious human rights abuses in Tibet, including instances of torture, arbitrary arrest, detention without public trial, and lengthy detention of Tibetan nationalists for peacefully expressing their political or religious views.'';

Whereas President Jiang Zemin pointed out in a press conference with President Clinton on June 27, 1997, that if the Dalai Lama recognizes that Tibet is an inalienable part of China and Taiwan is a province of China, then the door to negotiate is open;

Whereas all efforts by the U.S. and private parties to enable the Dalai Lama to find a negotiated solution have failed;

Whereas the Dalai Lama has specifically stated that he is not seeking independence and is committed to finding a negotiated solution within the framework enunciated by Deng Xiaoping in 1979; and

Whereas China has signed but failed to ratify the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights: Now, therefore, be it

Amend the title of the resolution to read as follows: ''Recognizing the plight of the Tibetan people on the forty-first anniversary of Tibet's 1959 Lhasa uprising and calling for serious negotiations between China and the Dalai Lama to achieve a peaceful solution to the situation in Tibet.''.

NOTICE OF HEARINGS

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources. The purpose of this hearing is to receive testimony on the status of monuments and memorials in and around Washington, D.C.

The hearing will take place on Thursday, March 23 at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole or Kevin Clark of the Committee staff.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources. The purpose of this hearing is to receive testimony on the incinerator component at the proposed Advanced Waste Treatment Facility at the Idaho National Engineering and Environmental Laboratory and its potential impact on the adjacent Yellowstone and Grand Teton National Parks.

The hearing will take place on Tuesday, March 28 at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole or Kevin Clark of the Committee staff.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place Thursday, March 30, 2000 at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this oversight hearing is to receive testimony on the October 1999 announcement by President Clinton to review approximately 40 million acres of national forest lands for increased protection.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Mark Rey.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 9, 2000, at 9:30 a.m., in open session to receive testimony on the Department of Energy's fiscal year 2001 budget request for atomic energy defense activities in review of the Defense authorization request for fiscal year 2001 and Future Years Defense Programs.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to

meet during the session of the Senate on Thursday, March 9, 2000, to conduct a hearing on ''The Final Report of The International Financial Institution Advisory Commission.''

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

COMMITTEE ON THE JUDICIARY

Mr. SMITH of new Hampshire. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, March 9, 2000, at 10:00 a.m., in SD226.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Thursday, March 9, 2000, at 10:00 a.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor and Pensions be authorized to meet in executive session for the consideration of S. 2, the Educational Opportunities Act, during the session of the Senate on March 9, 2000.

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

COMMITTEE ON FINANCE

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, March 9, 2000, to hear testimony regarding Penalty and Interest Provisions in the Internal Revenue Code.

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

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 9, 2000, at 2:00 pm to hold a SD–419.

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

SUBCOMMITTEE ON CLEAN AIR, WETLANDS, PRIVATE PROPERTY, AND NUCLEAR SAFETY

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety be authorized to meet during the session of the Senate on Thursday, March 9, 9:00 a.m., to conduct an oversight hearing on the Nuclear Regulatory Commission.

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

SUBCOMMITTEE ON PERSONNEL

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 9, 2000, at 2:30 p.m., in open session to receive testimony on active and reserve military and civilian personnel programs in review of the Defense Authorization Request for fiscal year 2001 and the Future Years Defense program.

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

SUBCOMMITTEE ON INTELLIGENCE

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 9, 2000, at 9:30 a.m. and 2:00 p.m. to hold closed hearings on intelligence matters.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING, AND THE DISTRICT OF COLUMBIA

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Governmental Affairs Committee Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia be permitted to meet on Thursday, March 9, 2000, at 10:00 a.m. for a hearing on Managing Human Capital in the Twenty-first Century.

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

UNANIMOUS-CONSENT AGREEMENT—H.R. 5

Mr. GRAMS. Mr. President, I ask unanimous consent that on Tuesday, March 21, at 2:15 p.m., the Senate begin consideration of Calendar No. 439, H.R. 5, and it be considered under the following time agreement:

Two hours on the bill to be equally divided in the usual form between the two managers;

One amendment to be offered by the chairman and ranking member of the Finance Committee making a correction to the House bill, limited to 10 minutes of debate to be equally divided;

One amendment to be offered by Senator BOB KERREY of Nebraska regarding Social Security reform, and limited to 1 hour to be equally divided in the usual form;

Also, one amendment to be offered by Senator GREGG regarding Social Security reform and limited to 1 hour to be equally divided in the usual form.

I further ask unanimous consent that no other amendments or motions be in order, other than motions to table, and following the disposition of the above described amendments and the use or yielding back of time, the Senate proceed to vote on passage of the bill, as amended, if amended, without intervening action or debate.

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

Mr. GRAMS. Mr. President, I ask unanimous consent that the two amendments described in the agreement be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT NO.—

(Purpose: To amend title II of the Social Security Act to improve the annual report of the social security trustees, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. SOCIAL SECURITY REPORTING IMPROVEMENTS.

(a) FINDINGS.—Congress makes the following findings:

(1) The Social Security Advisory Board, the Technical Panel on Assumptions and Methods of the Social Security Advisory Board (in this section referred to as the ''Panel''), and the Office of the Chief Actuary of the Social Security Administration should be commended for their professional, nonpartisan work to project the future financial operations of the social security program established under title II of the Social Security Act.

(2) The Panel reported its recommendations in November 1999.

(3) The Panel recommended a series of changes to current projections of the financial operations of the social security program which would, if adopted, increase existing estimates of the program's unfunded liabilities.

(4) The Panel further recommended the use of standards of comparison that emphasize program sustainability, such as showing the program's projected annual income rates, cost rates, and balances with an emphasis that is equal to 75-year program solvency.

(5) The Panel further recommended that reform proposals be evaluated using standards of comparison that include the proposal's impact on the Federal unified budget, as well as a recognition of the funding shortfalls present under current law.

(6) The Panel made several other recommendations that are worthy of consideration, involving issues that include, but are not limited to, workforce participation, poverty rates among the elderly, and assumptions regarding equity investment returns.

(7) Adoption of the Panel's recommendations would assist in developing a fiscally responsible reform solution that avoids passing hidden costs to future taxpayers.

(b) EXPANSION OF ANNUAL REPORT OF THE TRUSTEES OF THE SOCIAL SECURITY TRUST FUNDS AND OTHER REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Section 201(c) of the Social Security Act (42 U.S.C. 401(c)) is amended by inserting before the penultimate sentence the following: ''Such report also shall include the information described in subsection (n).''.

(2) ADDITIONAL CONTENTS OF BOARD OF TRUSTEES' REPORT.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following:

''(n) For purposes of subsection (c), the information described in this subsection is the information (including changes to information that, as of the date of enactment of this subsection, is required to be included in the report required under subsection (c)), recommended in the November 1999 report of the Technical Panel on Assumptions and Methods of the Social Security Advisory Board under the headings 'Presentation Issues' and 'Methodology', that the Board of Trustees determines is practicable and appropriate to the purposes of such report. The presentational and informational recommendations referred to in the preceding

sentence include, but are not limited to, the following:

''(1) Presenting measures of the long-term sustainability of the old-age, survivors, and disability insurance program established under this title with an emphasis equal to actuarial solvency, by highlighting the program's projected annual income rates, cost rates, and annual balances throughout the 75-year valuation window used by the Board of Trustees.

''(2) Presenting a clear and explicit projection of such program's unfunded liabilities.

''(3) Presenting benefit levels and tax rates throughout the long-range valuation period that reflect the estimates included in the report of the Board of Trustees of the Trust Funds regarding the percentage of benefits that can be funded under currently projected program revenues, and the percentage that taxes would need to be increased in order to fund promised benefits.''.

(3) ANNUAL REPORT FROM THE COMMISSIONER OF SOCIAL SECURITY.—Section 704 of the Social Security Act (42 U.S.C. 904) is amended by adding at the end the following new subsection:

''Annual Report to Congress

''(f) The Commissioner shall submit an annual report to Congress that includes the following:

''(1) An evaluation, determined in conjunction with the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget, on the effects upon national savings levels and on the fiscal operations of the Federal Government of enacted provisions of law relating to the Federal old-age, survivors, and disability insurance benefits program established under title II.

''(2) Estimates of average lifetime values of benefits for different age, income, and gender cohorts, respectively, for recipients of old-age, survivors, and disability insurance benefits under such program, that are consistent with the estimates of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and Federal Disability Insurance Trust Fund of the percentage of benefits that can be funded under such enacted provisions of law.''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to reports made for calendar years beginning after the date of enactment of this Act.

(c) SENSE OF CONGRESS REGARDING SOCIAL SECURITY REFORM LEGISLATION.—It is the sense of Congress that Congress and the President should not miss a critical opportunity to enact comprehensive bipartisan social security reform legislation that meets the standard of 75-year actuarial solvency and also addresses the following issues:

(1) The permanent sustainability of the social security program.

(2) The long-term impact of reform upon the fiscal operations of the Federal Government as a whole.

(3) The need for a clear and explicit presentation of the anticipated reduction in the social security program's unfunded liabilities.

(4) Ensured continued solvency under alternative assumptions regarding mortality, fertility, rates of return, and other appropriate economic and demographic assumptions.

(5) The total amount of retirement income provided under proposed reform in comparison to a standard that explicitly recognizes the benefit reductions or tax increases that enacted provisions of law relating to the social security program would require, according to the estimates in the most recent report of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and Federal Disability Insurance Trust Fund.

(6) The long-term impact of the current projections of insolvency and of alternative reform proposals upon workforce participation, poverty among the elderly, national savings levels, and other issues identified by the Panel.

(d) SENSE OF CONGRESS REGARDING IMPLEMENTATION OF RECOMMENDATIONS.—It is the sense of Congress that the recommendations of the Panel should be implemented to the extent deemed reasonable by the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, in consultation with the agencies and offices that have research, estimating, and reporting responsibilities pertinent to the social security program.

___

AMENDMENT NO.—

(Purpose: To redesignate the term for the age at which an individuals is eligible for old-age benefits)

At the end add the following:

SEC. ___. REDESIGNATION OF TERM FOR AGE AT WHICH AN INDIVIDUAL IS ELIGIBLE FOR OLD-AGE BENEFITS.

(a) IN GENERAL.—Title II of the Social Security Act (42 U.S.C. 401 et seq.) is amended—

(1) by striking ''retirement age'' each place it appears and inserting ''the age of eligibility for old-age benefits'';

(2) by striking ''early retirement age'' each place it appears and inserting ''the age of early eligibility for old-age benefits''; and

(3) by striking ''delayed retirement'' each place it appears and inserting ''delayed exercise of eligibility for old-age benefits''.

(b) CONFORMING AMENDMENT.—Section 202(q)(9) of the Social Security Act (42 U.S.C. 402(q)(9)) is amended by striking ''early retirement'' and inserting ''early eligibility for old-age benefits''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

Mr. GRAMS. Mr. President, it is the leader's understanding that these are the amendments that will be offered on Tuesday, unless technical changes are required which would be cleared by the Finance chairman and ranking member.

GREEK INDEPENDENCE DAY: A NATIONAL DAY OF CELEBRATION OF GREEK AND AMERICAN DEMOCRACY

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 435, S. Res. 251.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 251) designating March 25, 2000, as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRAMS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 251) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 251

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was invested in the people;

Whereas the Founding Fathers of the United States of America drew heavily upon the political experience and philosophy of ancient Greece in forming our representative democracy;

Whereas the founders of the modern Greek state modeled their government after that of the United States in an effort to best imitate their ancient democracy;

Whereas Greece is one of the only 3 nations in the world, beyond the former British Empire, that has been allied with the United States in every major international conflict this century;

Whereas the heroism displayed in the historic World War II Battle of Crete epitomized Greece's sacrifice for freedom and democracy as it presented the Axis land war with its first major setback and set off a chain of events which significantly affected the outcome of World War II;

Whereas President Clinton, during his visit to Greece on November 20, 1999, referred to modern day Greece as ''a beacon of democracy, a regional leader for stability, prosperity and freedom, helping to complete the democratic revolution that ancient Greece began'';

Whereas these and other ideals have forged a close bond between our 2 nations and their peoples;

Whereas March 25, 2000, marks the 179th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire; and

Whereas it is proper and desirable to celebrate with the Greek people and to reaffirm the democratic principles from which our 2 great nations were born: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 25, 2000, as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy''; and

(2) requests the President to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

NATIONAL GIRL SCOUT WEEK

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Senate Resolution 273, submitted earlier by Senator HUTCHISON of Texas.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 273) designating the week beginning March 11, 2000, as ''National Girl Scout Week.''

There being no objection, the Senate proceeded to consider the resolution.

Mrs. HUTCHISON. Mr. President, this year commemorates the 88th anniversary of the founding of this outstanding organization and designates the week of March 11, 2000 as National

Girl Scout week. I am joined in supporting this resolution by Senator MIKULSKI and Senator HATCH.

On March 16, 1950, the Girl Scouts of the United States of America became the first national organization for girls to be granted a Federal charter by Congress.

The Girl Scout Organization has long been dedicated to inspiring girls and young women with the highest ideals of character, conduct, and service to others to that they may become model citizens in their communities. It is not easy growing up, particularly in today's society. The Girl Scouts is one organization that has consistently guided young women in their formative years.

For 88 years, the Girl Scout movement has provided valuable leadership skills for countless girls and young women across the nation. Today, overall membership in the Girl Scouts is the highest it has been in 26 years, with 2.7 million girls and over 850,000 adult volunteers. I am proud to say that I, too, was a Girl Scout.

I am pleased to be joined by Senator MIKULSKI in support of this legislation which designates the week beginning March 11, 2000, as ''National Girl Scout Week.'' I ask our colleagues to join us.

Mr. GRAMS. Mr. President, I proudly rise today to pay tribute to the Girl Scouts of the U.S.A. on the occasion of the 88th anniversary of its founding. To honor an organization that gives back so much to our communities, Congress has established March 12–18 as National Girl Scout Week.

Created in 1912 by Juliette Gordon Law, the first Girl Scout group consisted of only 18 girls. Since then, the Girl Scouts have evolved into the largest voluntary organization for girls in the world. Nearly 3.5 million active members strive toward excellence in character, conduct, patriotism and service—attributes that are vital to a young person's development. The Girl Scouts have given direction to over 40 million American women throughout its rich 86-year history.

Girl Scouting empowers young women from every background with the tools they will need to be the outstanding leaders of the future. For example, we all know about those famous Girl Scout cookies. I have certainly enjoyed my fair share. Through their annual cookie sales, girls learn valuable life lessons in goal setting, money management, and community involvement.

Of course, there is much more to scouting than the sale of cookies, such as the organization's long tradition of serving others without the expectation of reward. Girls are encouraged to incorporate service into their lives, whether it takes the form of common, everyday acts around the house or community service work outside the home. Instilled with compassion for others, Girl Scouts head into the world as caring, valuable members of society.

Additionally, I take this opportunity to commend the 850,000 adult volunteers who serve as leaders for the Girl Scouts. Their devotion to providing opportunities for girls to meet their potential is unparalleled. In my home state of Minnesota, nearly 20,000 volunteers devote their time and energy to over 60,000 Girl Scouts. Clearly, without these dedicated volunteers, the Girl Scouts would not provide the effective leadership it offers today.

For 88 years, the members and adult volunteers of the Girl Scouts of the U.S.A. have worked tirelessly for the betterment of this nation. I congratulate them on their achievements and wish for them a prosperous future as the Girl Scouts continue to nurture the lives of America's young women.

Mr. GRAMS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 273) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 273

Whereas March 12, 2000, is the 88th anniversary of the founding of the Girl Scouts of the United States of America;

Whereas on March 16, 1950, the Girl Scouts of the United States of America became the first national organization for girls to be granted a Federal charter by Congress;

Whereas through annual reports required to be submitted to Congress by its charter, the Girl Scouts of the United States of America regularly informs Congress of its progress and program initiatives;

Whereas the Girl Scouts of the United States of America is dedicated to inspiring girls and young women with the highest ideals of character, conduct, and service to others so that they may become model citizens in their communities;

Whereas the Girl Scouts of the United States of America offers girls aged 5 through 17 a variety of opportunities to develop strong values and life skills and provides a wide range of activities to meet girls' interests and needs;

Whereas the Girl Scouts of the United States of America has a membership of nearly 3,000,000 girls and over 900,000 adult volunteers, and is one of the preeminent organizations in the United States committed to girls growing strong in mind, body, and spirit; and

Whereas by fostering in girls and young women the qualities on which the strength of the United States depends, the Girl Scouts of the United States of America, for 88 years, has significantly contributed to the advancement of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning March 11, 2000, as ''National Girl Scout Week''; and

(2) requests the President to issue a proclamation designating the week beginning March 11, 2000, as ''National Girl Scout Week'' and calling on the people of the United States to observe the day with appropriate ceremonies and activities.

RESOLUTION INDEFINITELY POSTPONED—S. RES. 270

Mr. GRAMS. Mr. President, I ask unanimous consent that Senate Resolution 270 be indefinitely postponed.

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

NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT AMENDMENTS

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate new proceed to the consideration of Calendar No. 440, S. 1653.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1653) to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act.

There being no objection, the Senate proceeded to consider the bill.

Mr. SMITH of New Hampshire. Mr. President, I am pleased that the Senate today has unanimously passed S. 1653, a bill to reauthorize and amend the National Fish and Wildlife Foundation. The Committee on Environment and Public Works, which I chair, reported this bill, again unanimously, last month. At that time, I noted how important it was to get the local communities and businesses involved in protecting the environment.

The Foundation was created in 1984 because Congress saw the need to create a private, nonprofit organization that could build public-private partnerships and consensus, where previously there had only been acrimony and, many times, contentious litigation. It was also envisioned that the Foundation would serve as an important tool in our effort to make a difference on the ground in communities throughout the United States. In its 16 years of existence the Foundation has more than lived up to our original expectations.

We have long known that the Federal government does not have all the financial resources necessary to solve the numerous environmental problems that exist in our country. We also know that local communities care and know more about their natural environment than the agencies in Washington, D.C. More often than not local communities recognize problems before they become environmental disasters that require significant amounts of money to resolve, if they can even be resolved. In order to ensure that the funds are available to local communities the Foundation has established something called ''challenge grants.''

''Challenge grants'' are a mixture of federal and non-federal funds directed to on-the-ground conservation projects. They are called ''challenge grants'' because any grant awarded is expected to be matched by non-federal dollars. During this time of fiscal constraint, it is important to use all available resources to help us protect the environment. Local communities, states, individuals, nonprofit organizations and

businesses can apply to the Foundation for a ''challenge grant'' for a specific project in one of five major areas: conservation education, wetlands and private lands, neotropical bird conservation, fisheries conservation and management, and wildlife and habitat management.

Since 1984, the Foundation has raised over $305 million in private donations using $135 million in Federal funds as leverage. Last year alone, they raised more than $50 million using $17 million of federal seed money. With these funds, the Foundation has financed more than 3,500 conservation projects throughout the United States and in 35 other countries. This is an extremely impressive record. Moreover, all of the Foundation's operating costs are covered by private donations, which means that federal and private dollars given for conservation are spent only on conservation.

The Foundation's 1999 annual report was just released, and I encourage all my colleagues to take a look at the number of partnerships that the Foundation has forged with, and the range of innovative projects that they have spearheaded. The organizations that the Foundation works with are a virtual who's who in the business world. Let me take a few minutes to discuss some of the projects they are currently working on.

The Foundation has pioneered some notable conservation programs, including implementing the North American Waterfowl Management plan, Partners in Flight for neotropical birds, Bring Back the Natives Program, the Exxon Save the Tiger Fund, and the establishment of the Conservation Plan for Sterling Forest in New York and New Jersey, to name a few.

The Shell Oil Company has pledged $5 million to the Foundation over the next five years to create the Shell Marine Habitat Program, a matching grant program. The Shell Marine Habitat Program supports problem-solving habitat restoration projects, practical research, education programs and innovative partnerships to preserve the Gulf of Mexico and Gulf coast marine environments. Funding is focused on efforts to reduce hypoxia and red and brown tides, and to protect barrier islands, coral reefs and other marine habitats. Last year alone $3.4 million were spent on these efforts, $3.15 million of which was from Shell and other private donors. More importantly, this project is receiving a significant amount of local support. A day-long effort last year to restore saltmarsh habitat had over 1,500 volunteers who planted 57,000 plants. It is these kinds of efforts that will make a significant difference to the health of the Gulf of Mexico.

Another fine example is the Budweiser Outdoor Programs. For six weeks last fall, a percentage of all bottles and cans of Budweiser sold was allocated for conservation purposes. The Foundation partnership with Budweiser resulted in more than a quarter of a million dollars that will help conserve vital elk and deer habitat, enhance wetlands and sustain healthy upland game bird populations in the Rocky Mountains.

In New Hampshire the Foundation worked closely with local organizations to purchase a 60-acre conservation easement along the entire shoreline of Clarksville Pond. Clarksville Pond is a beautiful area located in the heart of the Northern Forest. The owners of this land own a small campground that they needed to make some improvements which they could not afford. The sale of a permanent public access conservation easement was one way the property owners could raise the necessary funds without selling their land, and losing their livelihood. This is a win-win situation for everyone involved. The property owners were able to keep their land, the public was granted permanent access to the pond, and this beautiful area will remain undeveloped.

As I said, the National Fish and Wildlife Foundation has more than fulfilled the hopes of its original sponsors. It has helped to bring cooperative solutions to some difficult natural resource issues and is becoming widely recognized for its innovative approach to solving environmental problems. I strongly support the Foundation's work and want it to continue its important conservation efforts.

Mr. President, this legislation is quite simple. It makes three key changes to current law. First, the bill would expand the Foundation's governing Board of Directors from 15 members to 25 members. This will allow a greater number of individuals with a strong interest in conservation to actively participate in, and contribute to, the Foundation's activities.

The bill's second key feature would expand the Foundation's jurisdiction. Currently, the Foundation is only authorized to work with the Fish and Wildlife Service and the National Oceanic and Atmospheric Administration. S. 1653 would authorize them to work with all agencies within the Department of the Interior and the Department of Commerce. Mr. President, it is my view that the Foundation has an excellent track record, and all the agencies within the Departments of the Interior and Commerce should benefit from their knowledge and experience.

Finally, the bill would reauthorize appropriations to the Department of the Interior and the Department of Commerce through 2004.

Mr. President, last year this bill passed the Senate by unanimous consent, but unfortunately the House was unable to duplicate our efforts. I believe that this legislation will produce real conservation benefits and I thank my colleagues for once again giving the bill their support.

Mr. BAUCUS. Mr. President, I rise to strongly support the passage of S. 1653, the National Fish and Wildlife Foundation Establishment Act Amendments, a bipartisan bill that will encourage cooperative approaches to wildlife conservation.

By way of background, in 1984, with broad bipartisan support, Congress created the National Fish and Wildlife Foundation, a nonprofit corporation with the mission of conserving our nation's fish, wildlife, plant, and other natural resources.

Over the past 15 years, the Foundation has established a solid track record. It has achieved on-the-ground results. it has also stretched federal dollars and built public-private partnerships essential to conservation efforts. All told, the Foundation has provided more than 3,500 grants to over 940 private local organizations, state and country governments, tribes, federal and interstate agencies, and colleges and universities in all 50 states.

By requiring grantees to match Foundation grants with non-federal funds, the $135 million in federal funds invested by the Foundation have been leveraged to deliver more than $440 million to natural resource conservation efforts. Significantly, these funds are used to help build public-private partnerships among individual landowners, government and tribal agencies, conservation organizations, and business. The result is the development of consensus, locally-driven solutions to the challenges involved in protecting and managing fish, wildlife, plants, and other natural resources.

In my home state of Montana, where fishing, hunting, and the enjoyment of our natural resources are deeply ingrained into our way of life, the Foundation has made important contributions to conservation efforts. These contributions include supporting environmental education, habitat restoration and protection, resource management, and the development of conservation policy.

In 2000, the Foundation will support nine important projects in Montana, for a total $821,700. These projects include restoring arctic grayling within their historic range in the upper Missouri River basin; improving trout passage through the Milltown Dam to assist fluvial westslope cutthroat and bull trout moving upstream to spawn; supporting the Interagency Grizzly Bear Committee; supporting a comprehensive K thru 12 environmental education program for 300 Bitterroot Valley students; and partnerships with private landowners to conserve Montana's shortgrass prairie habitat and the bird species it supports.

Let me describe one of these efforts in a little more detail. In Northwest Montana, westslope cutthroat and bull trout have declined throughout their historic range over the last 100 years, in part because of barriers that limit their spawning migrations.

To address this problem, the Montana Department of Fish, Wildlife and Parks, working with the Blackfoot Chapter of Trout Unlimited will capture, tag, and transport mature

westslope cutthroat and bull trout around Milltown Dam near Missoula and release them upstream of the dam so the fish can continue their spawning migration in the upper Clark Fork watershed (including the Blackfork River and its tributaries, and the Rock Creek drainage). Radio transmitters will be implanted in the fish to monitor their spawning sites and success.

This is just one example. Over the years, the Foundation has funded 187 projects and delivered a total of almost $13 million to conservation projects in Montana.

Mr. President, even with these accomplishments, the need to conserve the nation's natural resources remains. Today, in too many areas of the country, the health and sustainability of fish, wildlife, and plants, and the habitats on which they depend, are threatened. Bitter disputes continue to arise among interests when solutions to difficult natural resource problems are sought. Tight budgets often severely limit the ability of governments and private entities to adequately address conservation challenges. Because of all these factors, the Foundation, which promotes conservation by building partnerships and consensus, is as important today as it was in 1984.

The bill we are considering, the National Fish and Wildlife Foundation Establishment Act Amendments, will increase the Foundation's ability to carry out its mission. First and foremost, the legislation authorizes federal appropriations through 2004 to support the Foundation's work. The legislation also strengthens the Foundation by increasing the size of its board of directors and allowing board members to be removed for nonperformance. Finally, the bill broadens the Foundation's authority by allowing it to work with all agencies within the Departments of Interior and Commerce.

The legislation is nearly identical to legislation the Senate passed last year.

Mr. President, the National Fish and Wildlife Foundation has provided valuable assistance to this nation's natural resource conservation efforts over the past 15 years. If the legislation we are considering today is enacted, I have no doubt that the Foundation will continue its solid record of accomplishment. I urge my colleagues to support this important legislation.

Mr. GRAMS. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1653) was read a third time and passed, as follows:

S. 1653

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Fish and Wildlife Foundation Establishment Act Amendments of 1999''.

SEC. 2. PURPOSES.

Section 2(b) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701(b)) is amended by striking paragraph (1) and inserting the following:

''(1) to encourage, accept, and administer private gifts of property for the benefit of, or in connection with, the activities and services of the Department of the Interior and the Department of Commerce to further the conservation and management of fish, wildlife, plants, and other natural resources;''.

SEC. 3. BOARD OF DIRECTORS OF THE FOUNDATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—Section 3 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702) is amended by striking subsection (a) and inserting the following:

''(a) ESTABLISHMENT AND MEMBERSHIP.—

''(1) IN GENERAL.—The Foundation shall have a governing Board of Directors (referred to in this Act as the 'Board'), which shall consist of 25 Directors appointed in accordance with subsection (b), each of whom shall be a United States citizen.

''(2) REPRESENTATION OF DIVERSE POINTS OF VIEW.—To the maximum extent practicable, the membership of the Board shall represent diverse points of view relating to conservation and management of fish, wildlife, plants, and other natural resources.

''(3) NOT FEDERAL EMPLOYEES.—Appointment as a Director of the Foundation shall not constitute employment by, or the holding of an office of, the United States for the purpose of any Federal law.''.

(b) APPOINTMENT AND TERMS.—Section 3 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702) is amended by striking subsection (b) and inserting the following:

''(b) APPOINTMENT AND TERMS.—

''(1) AGENCY HEADS.—The Director of the United States Fish and Wildlife Service and the Under Secretary of Commerce for Oceans and Atmosphere shall be Directors of the Foundation.

''(2) APPOINTMENTS BY THE SECRETARY OF THE INTERIOR.—

''(A) IN GENERAL.—Subject to subparagraph (B), after consulting with the Secretary of Commerce and considering the recommendations submitted by the Board, the Secretary of the Interior shall appoint 23 Directors who meet the criteria established by subsection (a), of whom—

''(i) at least 6 shall be educated or experienced in fish, wildlife, or other natural resource conservation;

''(ii) at least 4 shall be educated or experienced in the principles of fish, wildlife, or other natural resource management; and

''(iii) at least 4 shall be educated or experienced in ocean and coastal resource conservation.

''(B) TRANSITION PROVISION.—

''(i) CONTINUATION OF TERMS.—The 15 Directors serving on the Board as of the date of enactment of this paragraph shall continue to serve until the expiration of their terms.

''(ii) NEW DIRECTORS.—The Secretary of the Interior shall appoint 8 new Directors. To the maximum extent practicable, those appointments shall be made not later than 45 calendar days after the date of enactment of this paragraph.

''(3) TERMS.—

''(A) IN GENERAL.—Subject to subparagraph (B), each Director (other than a Director described in paragraph (1)) shall be appointed for a term of 6 years.

''(B) INITIAL APPOINTMENTS TO NEW MEMBER POSITIONS.—Of the Directors appointed by the Secretary of the Interior under paragraph (2)(B)(ii), the Secretary shall appoint—

''(i) 2 Directors for a term of 2 years;

''(ii) 3 Directors for a term of 4 years; and

''(iii) 3 Directors for a term of 6 years.

''(4) VACANCIES.—

''(A) IN GENERAL.—The Secretary of the Interior shall fill a vacancy on the Board. To the maximum extent practicable, a vacancy shall be filled not later than 45 calendar days after the occurrence of the vacancy.

''(B) TERM OF APPOINTMENTS TO FILL UNEXPIRED TERMS.—An individual appointed to fill a vacancy that occurs before the expiration of the term of a Director shall be appointed for the remainder of the term.

''(5) REAPPOINTMENT.—An individual (other than an individual described in paragraph (1)) shall not serve more than 2 consecutive terms as a Director, excluding any term of less than 6 years.

''(6) REQUEST FOR REMOVAL.—The Executive Committee of the Board may submit to the Secretary a letter describing the nonperformance of a Director and requesting the removal of the Director from the Board.

''(7) CONSULTATION BEFORE REMOVAL.—Before removing any Director from the Board, the Secretary shall consult with the Secretary of Commerce.''.

(c) TECHNICAL AMENDMENTS.—

(1) Section 4(c)(5) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(c)(5)) is amended by striking ''Directors of the Board'' and inserting ''Directors of the Foundation''.

(2) Section 6 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3705) is amended—

(A) by striking ''Secretary'' and inserting ''Secretary of the Interior or the Secretary of Commerce''; and

(B) by inserting ''or the Department of Commerce'' after ''Department of the Interior''.

SEC. 4. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.

(a) PRINCIPAL OFFICE OF THE FOUNDATION.—Section 4(a)(3) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(a)(3)) is amended by inserting after ''the District of Columbia'' the following: ''or in a county in the State of Maryland or Virginia that borders on the District of Columbia''.

(b) INVESTMENT AND DEPOSIT OF FEDERAL FUNDS.—Section 4(c) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(c)) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (7) through (11), respectively; and

(2) by inserting after paragraph (2) the following:

''(3) to invest any funds provided to the Foundation by the Federal Government in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States;

''(4) to deposit any funds provided to the Foundation by the Federal Government into accounts that are insured by an agency or instrumentality of the United States;

''(5) to make use of any interest or investment income that accrues as a consequence of actions taken under paragraph (3) or (4) to carry out the purposes of the Foundation;

''(6) to use Federal funds to make payments under cooperative agreements entered into with willing private landowners to provide substantial long-term benefits for the restoration or enhancement of fish, wildlife, plants, and other natural resources on private land;''.

(c) AGENCY APPROVAL OF ACQUISITIONS OF PROPERTY.—Section 4(e)(1) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(e)(1)) is amended by striking subparagraph (B) and inserting the following:

''(B) the Foundation notifies the Federal agency that administers the program under

which the funds were provided of the proposed acquisition, and the agency does not object in writing to the proposed acquisition within 60 calendar days after the date of the notification.''.

(d) REPEAL.—Section 304 of Public Law 102–440 (16 U.S.C. 3703 note) is repealed.

(e) AGENCY APPROVAL OF CONVEYANCES AND GRANTS.—Section 4(e)(3)(B) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(e)(3)(B)) is amended by striking clause (ii) and inserting the following:

''(ii) the Foundation notifies the Federal agency that administers the Federal program under which the funds were provided of the proposed conveyance or provision of Federal funds, and the agency does not object in writing to the proposed conveyance or provision of Federal funds within 60 calendar days after the date of the notification.''.

(f) RECONVEYANCE OF REAL PROPERTY.—Section 4(e) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(e)) is amended by striking paragraph (5) and inserting the following:

''(5) RECONVEYANCE OF REAL PROPERTY.—The Foundation shall convey at not less than fair market value any real property acquired by the Foundation in whole or in part with Federal funds if the Foundation notifies the Federal agency that administers the Federal program under which the funds were provided, and the agency does not disagree within 60 calendar days after the date of the notification, that—

''(A) the property is no longer valuable for the purpose of conservation or management of fish, wildlife, plants, and other natural resources; and

''(B) the purposes of the Foundation would be better served by use of the proceeds of the conveyance for other authorized activities of the Foundation.''.

(g) EXPENDITURES FOR PRINTING SERVICES OR CAPITAL EQUIPMENT.—Section 4 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703) is amended by adding at the end the following:

''(h) EXPENDITURES FOR PRINTING SERVICES OR CAPITAL EQUIPMENT.—The Foundation shall not make any expenditure of Federal funds in connection with any 1 transaction for printing services or capital equipment that is greater than $10,000 unless the expenditure is approved by the Federal agency that administers the Federal program under which the funds were provided.''.

SEC. 5. FUNDING.

Section 10 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709) is amended to read as follows:

''SEC. 10. FUNDING.

''(a) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this Act for each of fiscal years 2000 through 2004—

''(A) $30,000,000 to the Department of the Interior; and

''(B) $10,000,000 to the Department of Commerce.

''(2) REQUIREMENT OF ADVANCE PAYMENT.—The amount made available for a fiscal year under paragraph (1) shall be provided to the Foundation in an advance payment of the entire amount on October 1, or as soon as practicable thereafter, of the fiscal year.

''(3) USE OF APPROPRIATED FUNDS.—Subject to paragraph (4), amounts made available under paragraph (1) shall be provided to the Foundation for use for matching, on a 1-to-1 basis, contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local government agencies.

''(4) PROHIBITION ON USE FOR ADMINISTRATIVE EXPENSES.—No Federal funds made available under paragraph (1) shall be used by the Foundation for administrative expenses of the Foundation, including for salaries, travel and transportation expenses, and other overhead expenses.

''(b) ADDITIONAL AUTHORIZATION.—

''(1) IN GENERAL.—In addition to the amounts authorized to be appropriated under subsection (a), the Foundation may accept Federal funds from a Federal agency under any other Federal law for use by the Foundation to further the conservation and management of fish, wildlife, plants, and other natural resources in accordance with the requirements of this Act.

''(2) USE OF FUNDS ACCEPTED FROM FEDERAL AGENCIES.—Federal funds provided to the Foundation under paragraph (1) shall be used by the Foundation for matching, in whole or in part, contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local government agencies.

''(c) PROHIBITION ON USE OF GRANT AMOUNTS FOR LITIGATION AND LOBBYING EXPENSES.—Amounts provided as a grant by the Foundation shall not be used for—

''(1) any expense related to litigation; or

''(2) any activity the purpose of which is to influence legislation pending before Congress.''.

SEC. 6. LIMITATION ON AUTHORITY.

The National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.) is amended by adding at the end the following:

''SEC. 11. LIMITATION ON AUTHORITY.

''Nothing in this Act authorizes the Foundation to perform any function the authority for which is provided to the National Park Foundation by Public Law 90–209 (16 U.S.C. 19e et seq.).''.

NATIONAL SAFE PLACE WEEK

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 447, Senate Resolution No. 258.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 258) designating the week beginning March 12, 2000, as ''National Safe Place Week.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRAMS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this resolution be printed in the RECORD.

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

The resolution (S. Res. 258) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 258

Whereas today's youth are vital to the preservation of our country and will be the future bearers of the bright torch of democracy;

Whereas youth need a safe haven from various negative influences such as child abuse, substance abuse and crime, and they need to have resources readily available to assist them when faced with circumstances that compromise their safety;

Whereas the United States needs increased members of community volunteers acting as positive influences on the Nation's youth;

Whereas the Safe Place program is committed to protecting our Nation's most valuable asset, our youth, by offering short term ''safe places'' at neighborhood locations where trained volunteers are available to counsel and advise youth seeking assistance and guidance;

Whereas Safe Place combines the efforts of the private sector and non-profit organizations uniting to reach youth in the early stages of crisis;

Whereas Safe Place provides a direct means to assist programs in meeting performance standards relative to outreach/community relations, as set forth in the Federal Runaway and Homeless Youth Act guidelines;

Whereas the Safe Place placard displayed at businesses within communities stands as a beacon of safety and refuge to at-risk youth;

Whereas over 300 communities in 33 States and more than 6,800 business locations have established Safe Place programs;

Whereas over 35,000 young people have gone to Safe Place locations to get help when faced with crisis situations;

Whereas through the efforts of Safe Place coordinators across the country each year more than one-half million students learn that Safe Place is a resource if abusive or neglectful situations exist; and

Whereas increased awareness of the program's existence will encourage communities to establish Safe Places for the Nation's youth throughout the country: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims the week of March 12 through March 18, 2000, as ''National Safe Place Week''; and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups to promote awareness of and volunteer involvement in the Safe Place programs, and to observe the week with appropriate ceremonies and activities.

TIBETAN DAY OF COMMEMORATION

Mr. GRAMS. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Resolution 60 and the Senate then proceed to its immediate consideration.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 60) recognizing the plight of the Tibetan people on the 40th anniversary of Tibet's attempt to restore its independence and calling for serious negotiations between China and the Dalai Lama to achieve a peaceful solution to the situation in Tibet.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MACK. Mr. President, S. Res. 60, makes March 10, 2000 the Tibetan Day of Commemoration. This marks the forty-first anniversary of the 1959 Lhasa uprising over the course of which over 87,000 Tibetans were killed, arrested, or deported to labor camps by the People's Liberation Army. So tomorrow, we honor the memory of the

more than 87,000 Tibetans who struggled for the preservation of Tibet. We also honor the 6 million Tibetans today who keep alive the hope of freedom in Tibet and the tens of thousands of exiles who hope to return home.

The Dalai Lama of Tibet has issued a statement for this anniversary which I would ask unanimous consent appear in the record immediately following my remarks. My distinguished colleague from California, Senator FEINSTEIN, has also issued a statement in favor of this resolution and commemorating the 41st anniversary of the Lhasa uprising.

From 1949, when the new communist government in Beijing sent an army to invade Tibet, through to the present, Tibet has been a victim of PLA tyranny, oppression, and cultural genocide. Unfortunately, there has been no respite from persecution over the past year and Tibetans in the world today are facing the very real and unfortunate threat of seeing their homeland and culture obliterated. According to the most recent State Department Report on Human Rights, ''Chinese government authorities continued to commit serious human rights abuses in Tibet, including instances of torture, arbitrary arrest, detention without public trial, and lengthy detention of Tibetan nationalists for peacefully expressing their political or religious views.'' Things continue to get worse in Tibet, and this resolution recognizes their ongoing struggle with the PRC.

President Clinton has demonstrated an interest in Tibet and has spoken to President Jiang Zemin both privately and publicly, urging him to begin serious negotiations with the Dalai Lama. I urge President Clinton in the final months of his administration to match his rhetoric with actions and do what he can to get negotiations started between the Dalai Lama and the People's Republic of China.

I am pleased that we have acted today to formally recognize the continual denial of basic rights to the people of Tibet and to encourage a peaceful resolution between China and the Dalai Lama, or his representatives, as an entire body. We can agree unanimously and in a bipartisan manner that there should be a peaceful resolution to this situation and that this Senate can stand united in our support for the Tibetan people, the preservation of their culture, and the right for them to negotiate peacefully for an end to over 50 years of brutal rule by the PRC.

Mr. President, I ask unanimous consent that a statement of the Dalai Lama be printed in the RECORD.

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

STATEMENT OF HIS HOLINESS THE DALAI LAMA ON THE OCCASION OF THE 41ST ANNIVERSARY OF THE TIBETAN NATIONAL UPRISING MARCH 10, 2000

My sincere greetings to my fellow countrymen in Tibet as well as in exile and to our friends and supporters all over the world on the occasion of the 41st anniversary of the Tibetan National Uprising Day of 1959.

We are at the beginning of the 21st century. If we look at the events that took place in the 20th century mankind made tremendous progress in improving our material well-being. At the same time, there was massive destruction, both in terms of human lives and physical structures as peoples and nations sought recourse to confrontation instead of dialogue to resolve bilateral and multilateral problems. The 20th century was therefore in a way a century of war and bloodshed. I believe that we have learned valuable lessons through these experiences. It is clear that any solution resulting from violence or confrontation is not lasting. I firmly believe that it is only through peaceful means that we can develop better understanding between ourselves. We must make this new century a century of peace and dialogue.

We commemorate this March 10th anniversary at a time when the state of affairs of our freedom struggle is complex and multifarious, yet the spirit of resistance of our people inside Tibet continues to increase. It is also encouraging to note that worldwide support for our cause is increasing. Unfortunately, on the part of Beijing there is an evident lack of political will and courage to address the issue of Tibet sensibly and pragmatically through dialogue.

Right from the beginning, ever since the time of our exile, we have believed in hoping for the best but preparing for the worst. In this same spirit, we have tried our best to reach out to the Chinese government to bring about a process of dialogue and reconciliation for many years. We have also been building bridges with our overseas Chinese brothers and sisters, including those in Taiwan, and to enhance significantly mutual understanding, respect and solidarity. At the same time we have continued with our work of strengthening the base of our exiled community by creating awareness about the true nature of the Tibetan struggle, preserving Tibetan values, promoting nonviolence, augmenting democracy and expanding the network of our supporters throughout the world.

It is with great sadness I report that the human rights situation in Tibet today has taken a critical turn in recent years. The ''strike hard'' and ''patriotic re-education'' campaigns against Tibetan religion and patriotism have intensified with each passing year. In some spheres of life we are witnessing the return of an atmosphere of intimidation, coercion and fear, reminiscent of the days of the Cultural Revolution. In 1999 alone there have been six known cases of deaths resulting from torture and abuse. Authorities have expelled a total of 1,432 monks and nuns from their monasteries and nunneries for refusing to either oppose Tibetan freedom or to denounce me. There are 615 known and documented Tibetan political prisoners in Tibet. Since 1996, a total of 11,409 monks and nuns have been expelled from their places of worship and study. It is obvious that there has been little change with regard to China's ruthless political objective in Tibet since the early sixties when the late Panchen Lama, who personally witnessed Communist China's occupation of Tibet from the 50s to the beginning of the 60s, wrote his famous 70,000 character petition. Even today the present young reincarnate Panchen Lama is under virtual house arrest, making him the youngest political prisoner in the world. I am deeply concerned about this.

The most alarming trend in Tibet is the flood of Chinese settlers who continue to come to Tibet to take advantage of Tibet's opening to market capitalism. This along with the widespread disease of prostitution, gambling and karaoke bars, which the authorities quietly encourage, is undermining the traditional social norms and moral values of the Tibetan people. These, more than brute force, are successful in reducing the Tibetans to a minority in their own country and alienating them from their traditional beliefs and values.

This sad state of affairs in Tibet does nothing to alleviate the suffering of the Tibetan people or to bring stability and unity to the People's Republic of China. If China is seriously concerned about unity, she must make honest efforts to win over the hearts of the Tibetans and not attempt to impose her will on them. It is the responsibility of those in power, who rule and govern, to ensure that policies towards all its ethnic groups are based on equality and justice in order to prevent separation. Though lies and falsehood may deceive people temporarily and the use of force may control human beings physically, it is only through proper understanding, fairness and mutual respect that human beings can be genuinely convinced and satisfied.

The Chinese authorities see the distinct culture and religion of Tibet as the principal cause for separation. Accordingly, there is an attempt to destroy the integral core of the Tibetan civilization and identity. New measures of restrictions in the fields of culture, religion and education coupled with the unabated influx of Chinese immigrants to Tibet amount to a policy of cultural genocide.

It is true that the root cause of the Tibetan resistance and freedom struggle lies in Tibet's long history, its distinct and ancient culture, and its unique identity. The Tibetan issue is much more complex and deeper than the simple official version Beijing upholds. History is history and no one can change the past. One cannot simply retain what one wants and abandon what one does not want. It is best left to historians and legal experts to study the case objectively and make their own judgements. In matters of history political decisions are not necessary. I am therefore looking towards the future.

Because of lack of understanding, appreciation and respect for Tibet's distinct culture, history and identity China's Tibet policies have been consistently misguided. In occupied Tibet there is little room for truth. The use of force and coercion as the principal means to rule and administer Tibet compel Tibetans to lie out of fear and local officials to hide the truth and create false facts in order to suit and to please Beijing and its stewards in Tibet. As a result China's treatment of Tibet continues to evade the realities in Tibet. This approach is shortsighted and counter-productive. These policies are narrow-minded and reveal the ugly face of racial and cultural arrogance and a deep sense of political insecurity. The development concerning the flights of Agya Rinpoche, the Abbot of Kumbum Monastery, and more recently Karmapa Rinpoche are cases in point. However, the time has passed when in the name of national sovereignty and integrity a state can continue to apply such ruthless policies with impunity and escape international condemnation. Moreover, the Chinese people themselves will deeply regret the destruction of Tibet's ancient and rich cultural heritage. I sincerely believe that our rich culture and spirituality not only can benefit millions of Chinese but can also enrich China itself.

It is unfortunate that some leaders of the People's Republic of China seem to be hoping for the Tibetan issue to disappear with the passage of time. Such thinking on the part of the Chinese leaders is to repeat the miscalculations made in the past. Certainly, no

Chinese leader would have thought back in 1949/50 and then in 1959 that in 2000 China would still be grappling with the issue of Tibet. The old generation of Tibetans has gone, a second and a third generation of Tibetans have emerged. Irrespective of the passage of time the freedom struggle of the Tibetan people continues with undiminished determination. It is clear that this is not a struggle for the cause of one man nor is it that of one generation of Tibetans. It is therefore obvious that generations of Tibetans to come will continue to cherish, honor and commit themselves to this freedom struggle. Sooner or later, the Chinese leadership will have to face this fact.

The Chinese leaders refuse to believe that I am not seeking separation but genuine autonomy for the Tibetans. They are quite openly accusing me of lying. They are free to come and visit our communities in exile to find out the truth for themselves.

It has been my consistent endeavor to find a peaceful and mutually acceptable solution to the Tibetan problem. My approach envisages that Tibet enjoy genuine autonomy within the framework of the People's Republic of China. Such a mutually beneficial solution would contribute to the stability and unity of China—their two topmost priorities—while at the same time the Tibetans would be ensured of the basic right to preserve their own civilization and to protect the delicate environment of the Tibetan plateau.

In the absence of any positive response from the Chinese government to my overtures over the years, I am left with no alternative but to appeal to the members of the international community. It is clear now that only increased and concerted international efforts will persuade Beijing to change its policy on Tibet. In spite of immediate negative reactions from the Chinese side, I strongly believe that such expressions of international concern and support are essential for creating an environment conducive for the peaceful resolution of the Tibetan problem. On my part, I remain committed to the process of dialogue. It is my firm belief that dialogue and a willingness to look with honesty and clarity at the reality of Tibet can lead us to a viable solution.

I would like to take this opportunity to thank the numerous individuals, governments, members of parliaments, non-governmental organizations and various religious orders for their support. The sympathy and support shown to our cause by a growing number of well-informed Chinese brothers and sisters is of special significance and a great encouragement to us Tibetans. I also wish to convey my greetings and express my deep sense of appreciation to our supporters all over the world who are commemorating this anniversary today. Above all I would like to express on behalf of the Tibetans our gratitude to the people and the Government of India for their unsurpassed generosity and support during these past forty years of our exile.

With my homage to the brave men and women of Tibet who have died for the cause of our freedom, I pray for an early end to the sufferings of our people.

Mr. GRAMS. Mr. President, I ask unanimous consent that an amendment at the desk to the resolution be agreed to, the resolution, as amended, be agreed to, the amendment to the preamble be agreed to, and the preamble, as amended, be agreed to, the title amendment be agreed to, and the motion to reconsider be laid upon the table, and, finally, any statements be printed in the RECORD.

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

The amendment (No. 2884) was agreed to, as follows:

AMENDMENT NO. 2884

(Purpose: To provide a complete substitute)

On page 3, strike lines 2 through 16 and insert the following:

(1) March 10, 2000 should be recognized as the Tibetan Day of Commemoration in solemn remembrance of those Tibetans who sacrificed, suffered, and died during the Lhasa uprising, and in affirmation of the inherent rights of the Tibetan people to determine their own future; and

(2) March 10, 2000 should serve as an occasion to renew calls by the President, Congress, and other United States Government officials on the Government of the People's Republic of China to enter into serious negotiations with the Dalai Lama or his representatives until such a time as a peaceful solution, satisfactory to both sides, is achieved.

In the preamble, strike all the whereas clauses and insert the following:

Whereas during the period 1949–1950, the newly established communist government of the People's Republic of China sent an army to invade Tibet;

Whereas the Tibetan army was ill equipped and outnumbered, and the People's Liberation Army overwhelmed Tibetan defenses;

Whereas, on May 23, 1951, a delegation sent from the capital city of Lhasa to Peking to negotiate with the Government of the People's Republic of China was forced under duress to accept a Chinese-drafted 17-point agreement that incorporated Tibet into China but promised to preserve Tibetan political, cultural, and religious institutions;

Whereas during the period of 1951–1959, the failure of the Government of the People's Republic of China to uphold guarantees to autonomy contained in the 17-Point Agreement and the imposition of socialist reforms resulted in widespread oppression and brutality;

Whereas on March 10, 1959, the people of Lhasa, fearing for the life of the Dalai Lama, surrounded his palace, organized a permanent guard, and called for the withdrawal of the Chinese from Tibet and the restoration of Tibet's independence;

Whereas on March 17, 1959, the Dalai Lama escaped in disguise during the night after two mortar shells exploded within the walls of his palace and, before crossing the Indian border into exile two weeks later, repudiated the 17-Point Agreement;

Whereas during the 'Lhasa uprising' begun on March 10, 1959, Chinese statistics estimate 87,000 Tibetans were killed, arrested, or deported to labor camps, and only a small percentage of the thousands who attempted to escape to India survived Chinese military attacks, malnutrition, cold, and disease;

Whereas for the past forty years, the Dalai Lama has worked in exile to find ways to allow Tibetans to determine the future status of Tibet and was awarded the Nobel Peace Prize for his efforts in 1989;

Whereas it is the policy of the United States to support substantive dialogue between the Government of the People's Republic of China and the Dalai Lama or his representatives;

Whereas the State Department's 1999 Country Report on Human Rights Practices finds that ''Chinese government authorities continued to commit serious human rights abuses in Tibet, including instances of torture, arbitrary arrest, detention without public trial, and lengthy detention of Tibetan nationalists for peacefully expressing their political or religious views.'';

Whereas President Jiang Zemin pointed out in a press conference with President Clinton on June 27, 1997, that if the Dalai Lama recognizes that Tibet is an inalienable part of China and Taiwan is a province of China, then the door to negotiate is open;

Whereas all efforts by the U.S. and private parties to enable the Dalai Lama to find a negotiated solution have failed;

Whereas the Dalai Lama has specifically stated that he is not seeking independence and is committed to finding a negotiated solution within the framework enunciated by Deng Xiaoping in 1979; and

Whereas China has signed but failed to ratify the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights: Now, therefore, be it

Amend the title of the resolution to read as follows: ''Recognizing the plight of the Tibetan people on the forty-first anniversary of Tibet's 1959 Lhasa uprising and calling for serious negotiations between China and the Dalai Lama to achieve a peaceful solution to the situation in Tibet.''.

The resolution (S. Res. 60), as amended, was agreed to.

The preamble, as amended, was agreed to.

The title amendment was agreed to.

The resolution, as amended, with its preamble, as amended, reads as follows:

(S. Res. 60 was not available for printing. It will appear in a future issue of the RECORD.)

ORDER FOR COMMITTEES TO FILE

Mr. GRAMS. Mr. President, I also ask unanimous consent that notwithstanding the adjournment of the Senate, committees have from 12 noon until 2 p.m. on Wednesday, March 15, 2000, in order to file legislative matters.

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

COMMEMORATING THE TWELFTH ANNIVERSARY OF THE HALABJA MASSACRE

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Con. Res. 95, submitted earlier by Senator LOTT for himself and others.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 95) commemorating the twelfth anniversary of the Halabja massacre.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. GRAMS. I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 95) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 95

Whereas on March 16, 1988, Saddam Hussein attacked the Iraqi Kurdish city of Halabja with chemical weapons, including nerve gas, VX, and mustard gas;

Whereas more than 5,000 men, women, and children were murdered in Halabja by Saddam Hussein's chemical warfare, in gross violation of international law;

Whereas the attack on Halabja was part of a systemic, genocidal attack on the Kurds of Iraq known as the ''Anfal Campaign'';

Whereas the Anfal Campaign resulted in the death of more than 180,000 Iraqi Kurdish men, women, and children;

Whereas, despite the passage of 12 years, there has been no successful attempt by the United States, the United Nations, or other bodies of the international community to bring the perpetrators of the Halabja massacre to justice;

Whereas the Senate and the House of Representatives have repeatedly noted the atrocities committed by the Saddam Hussein regime;

Whereas the Senate and the House of Representatives have on 16 separate occasions called upon successive Administrations to work toward the creation of an International Tribunal to prosecute the war crimes of the Saddam Hussein regime;

Whereas in successive fiscal years monies have been authorized to create a record of the human rights violations of the Saddam Hussein regime and to pursue the creation of an international tribunal and the indictment of Saddam Hussein and members of his regime;

Whereas the Saddam Hussein regime continues the brutal repression of the people of Iraq, including the denial of basic human, political, and civil rights to Sunni, Shiite, and Kurdish Iraqis, as well as other minority groups;

Whereas the Secretary General of the United Nations has documented annually the failure of the Saddam Hussein regime to deliver basic necessities to the Iraqi people despite ample supplies of food in Baghdad warehouses;

Whereas the Saddam Hussein regime has at its disposal more than $12,000,000,000 per annum (at current oil prices) to expend on all categories of human needs;

Whereas, notwithstanding a complete lack of restriction on the purchase of food by the Government of Iraq, infant mortality rates in areas controlled by Saddam Hussein remain above pre-war levels, in stark contrast to rates in United Nations-controlled Kurdish areas, which are below pre-war levels; and

Whereas it is unconscionable that after the passage of 12 years the brutal Saddam Hussein dictatorship has gone unpunished for the murder of hundreds of thousands of innocent Iraqis, the use of banned chemical weapons on the people of Iraqi Kurdistan, and innumerable other human rights violations: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) commemorates the suffering of the people of Halabja and all the victims of the Anfal Campaign;

(2) condemns the Saddam Hussein regime for its continued brutality towards the Iraqi people;

(3) strongly urges the President to act forcefully within the United Nations and the United Nations Security Council to constitute an international tribunal for Iraq;

(4) calls upon the President to move rapidly to efficiently use funds appropriated by Congress to create a record of the crimes of the Saddam Hussein regime;

(5) recognizes that Saddam Hussein's record of brutality and belligerency threaten both the people of Iraq and the entire Persian Gulf region; and

(6) reiterates that it should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime, as set forth in Public Law 105–338.

RECOGNIZING THE 50TH ANNIVERSARY OF THE KOREAN WAR AND THE SERVICE BY MEMBERS OF THE ARMED FORCES

Mr. GRAMS. Mr. President, I ask unanimous consent the Senate now proceed to the immediate consideration of Calendar No. 446, Senate Joint Resolution 39.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The legislative clerk read as follows:

A resolution (S.J. Res. 39) recognizing the 50th anniversary of the Korean War and the service by members of the Armed Forces during such war, and for other purposes.

There being no objection, the Senate proceeded to the immediate consideration of the joint resolution.

Mr. GRAMS. I ask unanimous consent that the joint resolution be read the third time and passed, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The joint resolution (S.J. Res. 39) was read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S. J. RES. 39

Whereas on June 25, 1950, Communist North Korea invaded South Korea with approximately 135,000 troops, thereby initiating the Korean War;

Whereas on June 27, 1950, President Harry S Truman ordered military intervention in Korea;

Whereas approximately 5,720,000 members of the Armed Forces served during the Korean War to defeat the spread of communism in Korea and throughout the world;

Whereas casualties of the United States during the Korean War included 54,260 dead (of whom 33,665 were battle deaths), 92,134 wounded, and 8,176 listed as missing in action or prisoners of war; and

Whereas service by members of the Armed Forces in the Korean War should never be forgotten: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress—

(1) recognizes the historic significance of the 50th anniversary of the Korean War;

(2) expresses the gratitude of the people of the United States to the members of the Armed Forces who served in the Korean War;

(3) honors the memory of service members who paid the ultimate price for the cause of freedom, including those who remain unaccounted for; and

(4) calls upon the President to issue a proclamation—

(A) recognizing the 50th anniversary of the Korean War and the sacrifices of the members of the Armed Forces who served and fought in Korea to defeat the spread of communism; and

(B) calling upon the people of the United States to observe such anniversary with appropriate ceremonies and activities.

ORDERS FOR MONDAY, MARCH 20, 2000

Mr. GRAMS. Mr. President, I ask unanimous consent when the Senate completes its business today, it stand in adjournment under the provisions of S. Con. Res. 94 until the hour of 12 noon on Monday, March 20. I further ask consent that on Monday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business with Senators permitted to speak for up to 5 minutes each, with the following exceptions:

Senator DURBIN or his designee, from 12 to 2 p.m.; Senator THOMAS or his designee from 2 p.m. until 4 p.m.

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

PROGRAM

Mr. GRAMS. For the information of all Senators, the Senate will convene at noon on Monday, March 20, and will be in a period of morning business throughout the day. As a reminder, there will be no votes on Monday. On Tuesday, March 21, the Senate will begin consideration of H.R. 5, the Social Security earnings legislation. Under a previous agreement, there will be approximately 4 hours of debate with three amendments in order to the bill. Therefore, Senators can expect votes throughout the afternoon on Tuesday.

During the remainder of the week of March 20, the Senate could consider any of the following items: Crop insurance, budget resolution, agricultural sanctions, satellite bill, or the Export Administration Act, and therefore votes can be expected to occur.

ADJOURNMENT UNTIL MONDAY, MARCH 20, 2000

Mr. GRAMS. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the provisions of S. Con. Res. 94.

The PRESIDING OFFICER. Under the previous order, the Senate is adjourned until the hour of 12 noon on Monday, March 20, 2000.

Thereupon, the Senate, at 6:22 p.m. adjourned until Monday, March 20, 2000, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate March 9, 2000:

DEPARTMENT OF ENERGY

MADELYN R. CREEDON, OF INDIANA, TO BE DEPUTY ADMINISTRATOR FOR DEFENSE PROGRAMS, NATIONAL NUCLEAR SECURITY ADMINISTRATION. (NEW POSITION)

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN L. WOODWARD, JR., 0000

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. DAVID F. WHERLEY, JR., 0000

THE JUDICIARY

S. DAVID FINEMAN, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE NORMA LEVY SHAPIRO, RETIRED.

MARY A. MCLAUGHLIN, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE MARVIN KATZ, RETIRED.

DEPARTMENT OF STATE

W. ROBERT PEARSON, OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TURKEY.

IN THE AIR FORCE

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be Colonel

JAMES L. ABERNATHY, 0000
DAVID S. ANGLE, 0000
DAVID E. AVENELL, 0000
TRAVIS D. BALCH, 0000
JOSEPH G. BALSKUS, 0000
ANTHONY B. BASILE, 0000
DANIEL W. BECK, 0000
DONALD M. BOONE, 0000
RICHARD S. CAIN, 0000
CRAIG E. CAMPBELL, 0000
DONALD H. CHAMBERLAIN, 0000
MICHAEL G. COLANGELO, 0000
ARTHUR O COMPTON, 0000
JAMES D. CONRAD, 0000
DOUGLAS T. CROMACK, 0000
THOMAS L. DODDS, 0000
PATRICK F DUNN, 0000
CLAUDE J. EICHELBERGER, 0000
WILLIAM H. ETTER, 0000
DANTE M. FERRARO, JR., 0000
KATHLEEN E. FICK, 0000
RONALD K. GIRLINGHOUSE, 0000
THOMAS M. GREENE, 0000
DAVID J. HATLEY, 0000
THOMAS J. HAYNES, 0000
DEBORA F. HERBERT, 0000
RANDALL D. HERMAN, 0000
ALLISON A. HICKEY, 0000
ROBERT A. HICKEY, 0000
RANDALL E. HORN, 0000
WILLIAM E. HUDSON, 0000
THOMAS INGARGIOLA, 0000
JOHN C. INGLIS, 0000
RICHARD W. JOHNSON, 0000
VERLE L. JOHNSTON, JR., 0000
RICHARD W. KIMBLER, 0000
DEBRA N. LARRABEE, 0000
MICHAEL L. LEEPER, 0000
ALAN E. LEW, 0000
CONNIE S. LINTZ, 0000
SALVATORE J. LOMBARDI, 0000
HENRY J. MACIOG, 0000
NAOMI D. MANADIER, 0000
GREGORY L. MARSTON, 0000
EUGENE A. MARTIN, 0000
THADDEUS J. MARTIN, 0000
CRAIG M. MC CORMICK, 0000
DENNIS W. MENEFEE, 0000
DENNIS J. MOORE, 0000
MARIA A. MORGAN, 0000
BARBARA J. NELSON, 0000
ROBERT B. NEWMAN, JR., 0000
CHRISTOPHER M. NIXON, 0000
DONALD D. PARDEN, 0000
FRANCIS W. PEDROTTY, 0000
KATHLEEN T. PERRY, 0000
THOMAS F. PRENGER, 0000
JOHN A. RAMSEY, 0000
MARVIN L. RIDDLE, 0000
RENNY M. ROGERS, 0000
RUSSELL H. SAHR, 0000
LOIS H. SCHMIDT, 0000
TIMOTHY W. SCOTT, 0000
JACK F. SCROGGS, 0000
SAMUEL S. SIVEWRIGHT, 0000
JOHN B. SOILEAU, JR., 0000
BENJAMIN J. SPRAGGINS, 0000
JAY T. STEVENSON, 0000
DAVID K. TANAKA, 0000
TIMOTHY G. TARRIS, 0000
WAYNE L. THOMAS, 0000
JAMES K. TOWNSEND, 0000
TERRANCE R. TRIPP, 0000
KAY L. TROUTT, 0000
BRIAN A. TRUMAN, 0000
CURTIS M. WHITAKER, 0000
MARK WHITE, 0000
KENNARD R. WIGGINS, JR., 0000
BRENT E. WINGET, 0000
BARRYLL D.M. WONG, 0000

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

JAMES G. AINSLIE, 0000
SHAWN W. FLORA, 0000
DOUGLAS MC CREADY, 0000
THERESA M. ODEKIRK, 0000
THOMAS M. PENTON, JR., 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 624:

To be lieutenant colonel

JANE H. EDWARDS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT IN THE NURSE CORPS (AN), MEDICAL SERVICE CORPS (MS), MEDICAL SPECIALIST CORPS (SP) AND VETERINARY CORPS (VC) (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be lieutenant colonel

JEFFREY J. ADAMOVICZ, 0000 MS
ROXANNE AHRMAN, 0000 AN
MATTHEW J. ANDERSON, 0000 AN
RANDALL G. ANDERSON, 0000 MS
DEBRA C. APARICIO, 0000 AN
DONALD F. ARCHIBALD, 0000 MS
DAVID R. ARDNER, 0000 MS
KIMBERLY K. ARMSTRONG, 0000 AN
CHERYL M. BAILLY, 0000 AN
FRANCIS W. BANNISTER, 0000 MS
LINDA M. BAUER, 0000 AN
*TERRY K. BESCH, 0000 VC
STEVEN G. BOLINT, 0000 MS
LORI L. BOND, 0000 AN
CRYSTAL M. BRISCOE, 0000 VC
HORTENSE R. BRITT, 0000 AN
*HENRIETTA W. BROWN, 0000 AN
DAVID P. BUDINGER, 0000 MS
KAY D. BURKMAN, 0000 VC
*SPENCER J. CAMPBELL, 0000 MS
BRIAN T. CANFIELD, 0000 MS
*CHARLES E. CANNON, 0000 MS
*CALVIN B. CARPENTER, 0000 VC
*MARGARET N. CARTER, 0000 VC
JANICE E. CARVER, 0000 AN
THOMAS H. CHAPMAN, JR., 0000 AN
STEVEN H. CHOWEN, 0000 MS
*JAMES A. CHURCH, 0000 AN
EDWARD T. CLAYSON, 0000 MS
*RUSSELL E. COLEMAN, 0000 MS
JOHN M. COLLINS, 0000 MS
JOHN P. COLLINS, 0000 MS
JOYCE CRAIG, 0000 AN
*JOSEPH F. CREEDON, JR., 0000 SP
PETER C. DANCY, JR., 0000 MS
SHERYL L. DARROW, 0000 AN
RAYMOND A. DEGENHARDT, 0000 AN
*DONALD W. DEGROFF, 0000 MS
DANNY R. DEUTER, 0000 MS
CHERYL D. DICARLO, 0000 VC
GEORGE A. DILLY, 0000 SP
LAURIE L. DURAN, 0000 AN
RHONDA L. EARLS, 0000 AN
WANDA I. ECHEVARRIA, 0000 AN
SAMUEL E. EDEN, 0000 MS
RICHARD T. EDWARDS, 0000 MS
BRENDA K. ELLISON, 0000 SP
*RICHARD J. ELLISTON, 0000 MS
STEVEN D. EUHUS, 0000 MS
*ANN M. EVERETT, 0000 AN
SHERI L. FERGUSON, 0000 AN
JULIE A. FINCH, 0000 AN
DANIEL J. FISHER, 0000 MS
ELAINE D. FLEMING, 0000 AN
LORRAINE A. FRITZ, 0000 AN
MARY S. GAMBREL, 0000 AN
ALEXANDER GARDNER III, 0000 MS
MARY E. GARR, 0000 MS
KATHRYN M. GAYLORD, 0000 AN
DAVID G. GILBERTSON, 0000 MS
MARK H. GLAD, 0000 MS
RICARDO A. GLENN, 0000 MS
ROBERT E. GRAY, 0000 MS
*STEVEN W. GRIMES, 0000 AN
CHRISTINA M. HACKMAN, 0000 AN
*KAREN A. HAGEN, 0000 AN
CHRISTINE S. HALDER, 0000 MS
TERESA I. HALL, 0000 AN
RITA K. HANNAH, 0000 AN
BRYANT E. HARP, JR., 0000 MS
*SALLY C. HARVEY, 0000 MS
BRUCE E. HASELDEN, 0000 MS
BERNARD F. HEBRON, 0000 MS
HEIDI A. HECKEL, 0000 SP
DAVID HERNANDEZ, 0000 AN
CLAUDE HINES, JR., 0000 MS
MARK E. HODGES, 0000 AN
CHARLOTTE L. HOUGH, 0000 AN
ROBERT E. HOUSLEY, JR., 0000 MS
RANDOLPH G. HOWARD, JR., 0000 MS
LINDA L. HUNDLEY, 0000 AN
DONNA L. HUNT, 0000 AN
THOMAS C. JACKSON II, 0000 MS
CLIFETTE JOHNSON II, 0000 AN
RICHARD N. JOHNSON, 0000 MS
DARIA D. JONES, 0000 AN
DAVID D. JONES, 0000 MS
SANDRA D. JORDAN, 0000 AN
VAN A. JOY, 0000 MS
PHILIP KAHUE, 0000 MS
JUNG S. KIM, 0000 AN
JOSHUA P. KIMBALL, 0000 MS
MICHAEL S. LAGUTCHIK, 0000 VC
MARSHA A. LANGLOIS, 0000 MS
*TERRY J. LANTZ, 0000 MS
*JAMES L. LARABEE, 0000 AN
WILLIAM J. LAYDEN, 0000 MS
JOHN R. LEE, 0000 MS
CATHY E. LEPPIAHO, 0000 MS
PATRICIA M. LEROUX, 0000 AN
GLORIA R. LONG, 0000 AN
LESLIE S. LUND, 0000 AN
LISA C. MAC PHEE, 0000 MS
LEO H. MAHONY, JR., 0000 SP
LANCE S. MALEY, 0000 MS
THIRSA MARTINEZ, 0000 MS
BRUCE W. MC VEIGH, 0000 MS
JOHN R. MERCIER, 0000 MS
TALFORD V. MINDINGALL, 0000 MS
ULISES MIRANDA III, 0000 MS
RAFAEL C. MONTAGNO, 0000 MS
OCTAVIO C. MONTVAZQUEZ, 0000 MS
CONNIE J. MOORE, 0000 AN
JOSEF H. MOORE, 0000 SP
JANET MOSER, 0000 VC
SHONNA L. MULKEY, 0000 MS
MICHAEL C. MULLINS, 0000 MS
DAVETTE L. MURRAY, 0000 MS
SUSAN M. MYERS, 0000 AN
JANE E. NEWMAN, 0000 AN
DOUGLAS E. NEWSON, 0000 AN
*VICKI J. NICHOLS, 0000 AN
KIMBERLY A. NIKO, 0000 AN
MARY C. OBERHART, 0000 AN
JOHN F. PARE, 0000 AN
JESSIE J. PAYTON, JR., 0000 MS
JOSEPH A. PECKO, 0000 MS
JEROME PENNER III, 0000 MS
SUZANNE R. PIEKLIK, 0000 AN
FONZIE J. QUANCEFITCH, 0000 VC
*DORIS A. REEVES, 0000 AN
*LUE D. REEVES, 0000 AN
MICHAEL L. REISS, 0000 MS
GEORGE C. RENISON, 0000 VC
KAROLYN RICE, 0000 MS
MARIA D. RISALITI, 0000 AN
CHRISTOPHER V. ROAN, 0000 MS
GEORGE A. ROARK, 0000 MS
LAURA W. ROGERS, 0000 AN
MIGUEL A. ROSADO, 0000 AN
DENISE M. ROSKOVENSKY, 0000 AN
ROBBIN V. ROWELL, 0000 SP
YOLANDA RUIZISALES, 0000 AN
MICHAEL P. RYAN, 0000 MS
KRISTINE A. SAPUNTZOFF, 0000 AN
PATRICK D. SARGENT, 0000 MS
WAYNE R. SMETANA, 0000 MS
SUSAN G. SMITH, 0000 AN
EARLE SMITH II, 0000 MS
WADE L. SMITH, JR., 0000 MS
NANCY E. SOLTEZ, 0000 AN
KERRY L. SOUZA, 0000 AN
EMERY SPAAR, 0000 MS
GLENNA M. SPEARS, 0000 AN
DEBRA A. SPENCER, 0000 AN
JOYCE D. STANLEY, 0000 AN
BARRY T. STEEVER, 0000 AN
MARC J. STEVENS, 0000 MS
JOHN R. STEWART, 0000 MS
ROBINETTE J. STRUTTONAMAKER, 0000 SP
STEPHANIE M. SWEENY, 0000 AN
JOHN R. TABER, 0000 VC
REGINA L. TELLITOCCI, 0000 AN
ROBERT D. TENHET, 0000 MS
JOHN H. TRAKOWSKI, JR., 0000 MS
JOE M. TRUELOVE, 0000 MS
*CORINA VAN DE POL, 0000 MS
LORNA M. VANDERZANDEN, 0000 VC
LINDA J. VANWEELDEN, 0000 AN
KEITH R. VESELY, 0000 VC
JIMMY C. VILLIARD, 0000 VC
ROBERT W. WALLACE, 0000 MS
KEVIN M. WALSH, 0000 AN
JASPER W. WATKINS III, 0000 MS
VIRGIL G. WIEMERS, 0000 AN
PATRICIA A. WILHELM, 0000 AN
JAMES A. WILKES, 0000 MS
*KATHLEEN J. WILTSIE, 0000 AN
KELLY A. WOLGAST, 0000 AN
JOHN S. WONG, 0000 AN
JOHN F. ZETO, 0000 MS

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

JOSEPH L. BAXTER, JR., 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

ROBERT F. BLYTHE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

GEORGE P. HAIG, 0000

To be lieutenant commander

MELVIN J. HENDRICKS, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

JON E. LAZAR, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

LAWRENCE R. LINTZ, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

DAVID E. LOWE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

MICHAEL S. NICKLIN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

ROBERT J. WERNER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

CARL M. JUNE, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate March 9, 2000:

THE JUDICIARY

MARSHA L. BERZON, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

RICHARD A. PAEZ, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT.