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## Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JON S. CORZINE, a Senator from the State of New Jersey.

### PRAYER

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

Dear God, think Your thoughts through us today. We want to love You with our minds and praise You with our intellects. We seek to be riverbeds for the mighty flow of Your wisdom through us. Teach us to wait on You, to experience deep calm of soul, and then to receive Your guidance. We spread out before You the decisions we must make. Thank You in advance for Your guidance. Give us the humility to trust You for answers and solutions, and then, grant us the courage to do what time alone with You has convinced us must be done. You are the author of all truth, the bottomless sea of understanding.

Send Your Spirit into our minds and illuminate our understanding with insight and discernment. We accept the admonition of Proverbs, *Incline your ear to wisdom, and apply your heart to understanding; yes, if you cry out for discernment, and lift up your voice for understanding, if you seek her as silver, and search for her as for hidden treasures; then you will understand the fear of the Lord, and find the knowledge of God. For the Lord gives wisdom; from His mouth come knowledge and understanding.*—Proverbs 2:2-6. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable JON S. CORZINE, a Senator from the State of New Jersey, 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.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, June 11, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON S. CORZINE, a Senator from the State of New Jersey, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. CORZINE thereupon assumed the chair as Acting President pro tempore.

### SCHEDULE

Mr. REID. Mr. President, this morning the Chair will announce a period of morning business until 10:45, with the first half under the control of the majority leader or his designee and the second half under the control of the Republican leader or his designee.

At 10:45, the Senate will resume consideration of the hate crimes legislation, with 60 minutes of debate prior to a cloture vote at 11:45 a.m. So Senators would have until 10:45 a.m. today to file second-degree amendments to the bill.

The Senate will recess from 12:30 to 2:15 p.m. for the weekly party conferences.

### FH UNANIMOUS CONSENT AGREEMENT—S. 2578

Mr. REID. Mr. President, I am going to make a unanimous consent request at the present time. I ask unanimous consent that immediately following the cloture vote today, regardless of the outcome of that vote, the Senate proceed to the consideration of S. 2578,

the debt limit extension; that that bill be read the third time and the Senate vote on passage of the bill without any intervening action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, let me express my appreciation to the minority. This is something that the President desires us to do. We tried to work it out last week on the supplemental. We could not do it. This will bring it forward, as painful as it is, to increase the debt if something has to be done. The debt has been incurred, and we have to meet our obligation. That is my opinion.

I appreciate the cooperation of the Republican leadership and the members of the minority for allowing us to do this.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:45 a.m., with Senators permitted to speak therein for up to 10 minutes each.

Under the previous order, the first half of the time shall be under the control of the majority leader or his designee.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

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



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Mrs. BOXER. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. Seventeen and a half minutes remain on the leader's time.

#### ENVIRONMENTAL PROTECTIONS

Mrs. BOXER. Mr. President, I have come to the Chamber today to talk about an issue about which I have spoken before and will continue to do so until we turn around the current climate we are facing, which is a rollback of environmental protections for the American people.

It is stunning to see what has happened to environmental regulations since administrations have changed. We have, fortunately, a group called the NRDC. I have a list of all the actions that have been taken by this administration since they took over. We have seen the average of one anti-environmental action every week since this administration took over.

This chart is way too small for people to read, but it gives a sense of the situation. I have two charts like this. These are 100 rollbacks. Our Nation certainly is in a situation where we are so focused on meeting the challenges that hit us on September 11—and it is very understandable; we are so united on that—but what has happened in the course of that time is that without very much publicity, a lot of these regulations have moved forward.

We face the circumstance where if we in the Senate and those in the House who care about the environment do not speak out, I fear for the future of our country.

Why do I say that? Because when one says the word "environment," it means many things, and one meaning is health and safety. For example, when this administration believed it was not so important that arsenic was in the water, finally the people woke up to what they were doing. Then when they said it was not so important to test poor kids for lead in their blood—even though we know if a child has elevated levels of lead in his or her blood, there is going to be a serious learning problem and illness problem, even problems of death—they went too far.

It does not seem to stop them. In my State, they are against us as we are trying to protect the coastline. They are against us. They said to Florida: We will help you. But as to California, it is unbelievable. Interior Secretary Norton said people in California do not care about their coasts. Mr. President, I am here to say that is an insane statement if you look at the record.

Since the seventies, when under the Carter administration they thought they would drill, we convinced Carter not to drill. We thought that problem was over. The State has a moratorium on drilling off our shores. The fact is, we have set up sanctuaries all along the ocean. This is a terrible statement and an example of how the Bush administration is so blinded by this idea

that the environment does not matter, they will say things that do not make sense.

My colleague from Illinois is in the Chamber, and I know he wants to add to this debate. First, I want to cover one more issue before I yield to him. I want to talk about one issue. It is called the Superfund.

I think it is very interesting that the Presiding Officer, as well as Senator TORRICELLI, are two leading proponents for doing something about Superfund sites.

The word "super" is a good word: You look super fine. The word "Superfund" is not a good word because what it means is that we have sites all over this country that are filled with poison and toxins, and we need to clean up these sites.

This chart shows there are national priority list sites in every single State but one. North Dakota is the only State. New Jersey happens to have the most. Pennsylvania is third. My own State has about 104 sites, and we are second on the list.

What I want to show my colleagues—and I hope the Senator from Illinois will pick up on this—is what is happening specifically to the Superfund program, which is such a popular program in this country. It cleans up these toxic sites. A lot of people live near these sites. Children live near these sites. It makes the sites safe, and it goes after the responsible parties, the polluters, and says the polluter pays, which is the basic premise of the Superfund program.

Under Bill Clinton's administration, we saw a ratcheting up of the cleanup: 88, 87, 85, 87 sites in the last 4 years. We were all set to continue. We were a little disheartened when President Bush said he is only going to clean up 75 sites, but worse than that happened. Now they are saying they are only going to clean up 47 sites, and then 40. We are going back down. We are going back down to a level, frankly, that we have not seen in more than a decade.

This is a horrible situation. I am proud that Senator CHAFEE has joined us, and we have bipartisan legislation to reinstate the Superfund fee so polluters will pay.

I am going to show one last chart because this is so important. This idea of "polluter pays to clean up their mess" has been basic to this country for many years, since Superfund was set up in the 1980s, and it led us to a situation where the industry and the polluters were paying 82 percent of the cleanup and taxpayers only 18 percent. That was where we could not find a party or we did not have enough funds in the Superfund trust fund.

This is where we are headed under President Bush. I consider this administration the most anti-environmental that I have ever seen, frankly. I have been in Congress since 1982, with Senator DURBIN, who is about to speak. In 2003, 54 percent of the cleanup in Superfund will be paid for by taxpayers; 46

percent by the industry that polluted. This is not a good trend for the American people, for the taxpayers, and that is why we have so much support for turning this around.

I am proud to be the chair of the environmental team that Senator DASCHLE has appointed to point out the environmental record of this administration and how it is hurting the health, safety, and well-being of the American people.

Mr. DURBIN. Will the Senator yield?

Mrs. BOXER. I am happy to yield to my friend for as long as he would like.

Mr. DURBIN. I thank my friend for her leadership on the environmental issue, and I would like to get back to it, but I would like to ask the Senator to reflect with me for a minute on the larger issue, an issue of corporate responsibility, whether U.S. businesses will accept their responsibilities as part of America, their responsibility not only to their workers, their investors, and shareholders, but the consumers and America at large.

Time and time again, what we find with the Bush administration is they turn their back and ignore this issue of corporate responsibility. We now have a "Bermuda Triangle." This Bermuda Triangle is sucking in American jobs and American tax dollars as more and more corporations are moving their headquarters overseas. As they move their headquarters to Bermuda to avoid paying America's taxes, they are shirking their corporate responsibility to the United States.

When the Stanley Tool Company decided to move from the United States and put their corporate headquarters in Bermuda, did we hear any protests from this administration that they were shirking corporate responsibility? Not at all.

We saw in the paper yesterday that we now have the Norquist black list. Grover Norquist, one of the leading gurus of the Republican Party, has said he is creating a black list of those entities, organizations, and people in Washington who will not be acceptable and welcome in the Bush administration. They want their close circle of corporate friends to have entre to persuade this administration to move in the worst directions. They do not want to hear both points of view, the Norquist black list, part of this Bush administration philosophy.

It really comes through graphically on this issue of the Superfund. Who should pay for the toxic mess? The people who created the toxic mess or the taxpayers, the families of America?

What we are saying basically is if this burden is shifted to the taxpayers of America, corporate responsibility is abandoned. The corporations and businesses that create the mess should bear the burden of cleaning it up.

The Senator from California has made this point: In my State of Illinois, we have 39 sites on the Superfund list and 6 that have been formally proposed. Several others ultimately filled

with PCBs, arsenic chlorinated solvents, and other harmful compounds will qualify. The Bush administration says the corporations and industries responsible for this mess should not pay for it; American families, workers, and taxpayers ought to pay for it. Where is corporate responsibility in this administration?

Mrs. BOXER. I am really pleased my friend has tied this into the bigger picture, because this particular chart shows it all. The Bush administration is moving away from corporate responsibility when it comes to cleaning up the worst toxic sites in America. They are cleaning up half the number of sites. We do not know. We cannot tell.

I am the chair of the Superfund Committee and the Environment Committee. The bottom line is, I cannot even tell whether the sites of the Senator from Illinois are going to be cleaned up because this administration is keeping that information secret.

To get to the point about corporate responsibility, having faced the Enron scandal, and continuing to face it in California, let me state what this means. It means corporations could care less about the people they serve. They tell their own employees to buy Enron stock while the insiders sell out. The shareholders were the last people they thought about. It is a lack of a corporate ethics.

When this administration writes an energy plan, they talk to these very same corporations that essentially turn their back on the American people. As my friend, Senator MIKULSKI, brought up at a meeting we both attended today, some of these corporate executives renounced their citizenship in order to get away with not paying any taxes. They leave the greatest country in the world, which gave them every opportunity to fulfill the American dream, and they throw it all away for dollars and cents.

There is little corporate ethic in America. There are some very good corporations. Why not say to those good corporations: We appreciate what you are doing; join with us. Let us get back a corporate ethic.

On the Norquist black list that my colleague referred to, I thought it was interesting when Ari Fleischer was asked about it in his press conference. He said: I have no comment because we have nothing to do with it. I found that amazing. Does he have no comment on terrorism? He has nothing to do with that. Does he have no comment when something horrible happens around the world that we have nothing to do with? Since when is it that there is suddenly silence when it comes to a black list? I think it is a political embarrassment to them.

More than that, what worries me is they are not distancing themselves from this issue. I hope in America there is room for all kinds of views. When Vice President CHENEY put together the energy plan, they did not want any views from people who had

what I would call the public interest versus the special interest. I worry about this small circle around this President that does not hear from people who may have a different view.

Mr. DURBIN. If the Senator will yield for another question, I think we should make it clear what this Norquist black list is all about. Grover Norquist is one of the conservative gurus in the Republican Party. He is now joining in what he calls his "K Street Project" with other conservatives. They are really creating a black list of people with which this administration will not deal. People who are fighting for the environment, people who are fighting for human rights, people who are trying to protect the rights of individuals to have health care, people who are trying to protect consumers will be part of the Norquist black list.

Now what the Bush administration is saying is that they really do not know that they want to comment on this. They should comment on it immediately and reject it. They ought to denounce it. This is unacceptable, whether the President is a Democratic or Republican. Every President should be open to every point of view. They may come down and reach a different conclusion, but to create a black list, as Grover Norquist has for those who are standing up and fighting and basically representing the families of America, is plain wrong.

I ask the Senator from California, do we not see this coming back at us in so many different ways? The Senator mentioned Enron, the weak stock market, and the lack of confidence in corporate America. Should we not have leadership from the White House saying we demand corporate responsibility? We do not find that, do we, in this administration response?

Mrs. BOXER. No, we do not find it. As a matter of fact, I am waiting for some indictments on the Enron case, to be honest.

Mr. DURBIN. Not one so far.

Mrs. BOXER. Not one so far. We now know because other whistleblowers are telling us that they set the pace for the energy industry. This was the biggest transfer of wealth from ordinary American families to the pockets of these people. It is extraordinary.

Overlay the whole Enron scandal and anyone can see that California was used as a cash cow to keep Enron afloat while the insiders sold their stock. I have seen videotapes of the highest executives at Enron telling the poor employees—as these top executives were unloading their stock—buy more stock. They wanted to see that the stock was artificially held up and have more people and more employees buying so they could sell out.

I look at the word "patriotism" perhaps in a different way than others. Patriotism extends to a very broad range. When I say this, I mean if you are truly patriotic and love this country, yes, you stand with this President

in the war against terror. But it extends to the way you treat people in your life, Americans who get up in the morning and work hard, single moms, people with illness who want prescription drugs. To make this the greatest country is making sure we have a strong middle class to buy the products that business makes, to be able to educate their children so this country continues to be the greatest in the world.

When you put greed ahead of the American families in this country and their rights and forget your responsibilities, where is the patriotism there?

Mr. DURBIN. Will the Senator yield?

I have met with business leaders in Chicago from good businesses, from across Illinois, and they are saying the same thing. They are ashamed of what has happened with Enron. They are ashamed of what they are seeing in this area of corporate irresponsibility. They believe they are good Americans creating profit for their shareholders and job opportunities and good products. They are looking for leadership from Washington. Usually business says, Washington, hands off, stay away from us.

Many times they are asking, What are you going to do to help us clean up the mess when it comes to accounting standards and energy regulation? We need leadership from Washington. Yet there is little or nothing coming from this administration when it comes to corporate responsibility. For the sake of this country, for the sake of the good companies in this country, those that are responsible, we need an administration that will speak out now to restore confidence to the American people in our economy, in our business structure, in our stock market. Yet the only thing we hear is the Norquist blacklist. They are going to blacklist certain people from having access to this administration if they deign to speak on behalf of consumers and average people. That sort of thing is totally unacceptable. It is an ethic we should not accept from either political party in this Nation.

I ask the Senator from California if she has heard the same thing from responsible business leaders in her State.

Mrs. BOXER. There is no doubt about it. They are embarrassed by what has happened—the corporate executives who take home millions and millions of dollars and then do not pay their taxes, corporate executives who do not care about their employees and destroy not only their employees' jobs but their pensions. It is a moment in our history where they are looking to us for leadership.

The way I tie it into the environment and health and safety is this: I showed on the floor the environmental record for 2001. This is the record for 2002. Each week, there is another plan to weaken environmental laws and protect the people. It is a terrible message to corporate America.

This chart shows the EPA budget. They eliminated the budget for graduate student research in the environmental sciences.

Look at enforcement. Good businesses welcome enforcement. If you are doing it right and the enforcers come in, you are in good shape. They cut it back, and the bad apples do not get caught.

Look at air quality, nuclear waste, endangered species, mining public lands, something my colleague is involved in, oil and gas drilling, urban sprawl.

This administration zeroed out the funding for urban parks. I would love my friend to comment on this point: 70 percent of our people live within reach of an urban park. Unbelievably, 2 weeks ago the administration sent out a press release bragging about all the grants they made from last year's money, not mentioning in this press release they have now zeroed out the funding for urban parks.

This lack of caring for the people of this country, as I see it, in terms of the environment and this kind of a record set a poor example for everyone, for business leaders. If business leaders see this administration does not really care, when it comes to the environment, about the health and safety of the people, what is the subtle message to a corporate executive? I guess: I don't have to care. I guess the bottom line is my profit.

Mr. DURBIN. I ask the Senator from California to reflect on this. It is not as if this administration cannot find money. When it comes to tax breaks for the wealthiest people in our country, they can find plenty of money. When it comes to an urban park—which is what many working families look forward to on a Sunday afternoon, whether it is in San Francisco, Los Angeles, or Chicago, a place to go with your family and enjoy yourself on Sunday afternoon—the administration says we cannot afford urban parks but we can afford a tax break so that the multimillionaires in this country can go to private clubs and can enjoy a lifestyle that involves a lot of privacy.

For the average working-class family, their lifestyle involves fun perhaps on a Sunday afternoon on the Lake Michigan shoreline or going to an urban park in and around the city of Chicago.

It really is a choice. It is not as if the Bush administration is saying there is just no money for anything. They found money when it came to tax breaks for the wealthiest people in America. When it comes to putting money into America to protect our environment, to protect for prescription drugs under Medicare, for a tax deduction for college education expenses, to give a tax break to small businesses to offer health insurance, this administration cannot see it. It casts a blind eye.

Mrs. BOXER. The point is the message it is sending, subtle or not so subtle, to corporate America, about what

is important. There is a relationship between the two.

This chart shows the clean water rule. The administration reverses a 25-year-old Clean Water Act rule that flatly prohibits disposal of mining and other industrial wastes into the Nation's waters. The EPA issued new regulations making it legal for coal companies to dump fill material—dirt, rock, and waste—from mountaintops, moving mining into rivers, streams, lakes, and wetlands.

My point is, if this administration that is charged with protecting the environment, as we are, is so callous about the quality of the water for the people of this country, the not so subtle message to corporate America is: People don't matter that much; just make your profit because we really don't care.

It is stunning. That is why I am glad my friend was here. This connection between this record, which I think is so unmindful of the needs of the American people, does translate over to short-term thinking in corporate America, to thinking that it really is not important to care about the environment, your people, or their health and their welfare reform.

Mr. DURBIN. Did we not go through this same debate on the energy bill a few weeks ago? The Senator and I were coming to the floor and saying, if you want to lessen America's dependence on foreign oil, if you want more energy security, take a look at the No. 1 consumer of oil in this country—the cars and trucks we drive. Have more fuel efficiency and fuel economy. Forty-six percent of the oil we import goes into our cars and trucks. A number of Members came to the floor and said let's improve fuel economy of cars and trucks in America to lessen our dependence on foreign oil. The corporate interests came in and said no, no change, no improvement.

What it means is, we passed an energy bill which fails to address the most basic element of developing energy security, energy independence, and a cleaner environment for America. It literally has been 17 years since we improved the fuel economy of cars and trucks. When we look at this, time and again, it is corporate irresponsibility that turns its back on the environment and energy security for this country.

As the Senator from California has pointed out, this is a pattern which is emerging through this administration. Instead of leading us toward more responsible conduct, as individuals, as families, and as businesses, they are turning their back on corporate responsibility.

I think it all comes together. I think the environmental issue plays into the energy issue and, frankly, the vote we had on the floor where, 67 to 32, the Senate rejected improving fuel efficiency in cars and trucks across America was a shameful vote. It is a vote which, frankly, we are going to have to answer for decades to come.

I ask the Senator from California, whose State has led when it comes to fuel standards and clean air and fuel efficiency, whether she believes this is all part of the same issue?

(Ms. STABENOW assumed the chair.)

Mrs. BOXER. I say to my friend, it is. It is short-term thinking. It is not good for this country. If you want to talk about patriotism, the most patriotic thing you can do, it seems to me, is drive a car that doesn't use all that foreign oil. It is very hard to get such a car, an American car particularly.

It is interesting my friend raised this because he is right. The Senate was weak on this, shamefully weak. But we did not get any help from Vice President CHENEY when, on June 18, 2001, he announced to General Motors executives that the Bush administration has no plans to pursue higher fuel efficiency standards. That set the tone.

When this administration came in, many of us did say there were so many ties to energy, so many ties to oil companies, that we were very worried. But some of us thought maybe, because of that, the administration would bend over backwards to be fair, to lean on this issue. We were sorely disappointed.

If one could sit down and really think it through, we are talking about a very unwise strategy on the part of this administration to not look ahead, to not plan for the future, to not care about your grandchildren or my grandchildren having the opportunity to see the beauty of this country; to not worry that much if the quality of the air goes down or the quality of the water; to convince yourself the environmental laws are a burden on industry. That is disproven and untrue.

My friend talks about California. We have been the leader on environmental protection. We have found when you clean up the environment you create jobs. There has been study after study. One of our best exports happens to be environmental technologies. So by turning away from a clean and healthy environment as a goal to help our people, you are also blocking a very important piece of our economy, a place where we are way ahead.

I remember when the wall fell in eastern Europe, one of my friends who went there said: The trouble is, now you can actually see the air. They had not done anything about air pollution.

I know my friend is leaving. I am about to end what I am saying. But I thank him so much for tying together this horrific anti-environmental record, the anti-environmental record of this administration, to the whole issue of corporate greed, of corporate irresponsibility. We are seeing more and more of the big corporations really turning their back on the people they are supposed to serve, frankly—their customers; the people they are supposed to help, their employees; their shareholders, just using this very shortsighted type of reasoning that this administration uses, which is get it all now and don't worry about the future.

If you take the issue of CO<sub>2</sub> emissions, we had a President who promised that, although he was against Kyoto, he would come up with a plan to cut those emissions back. That is the problem that causes global warming. I don't know of any respected scientists today who say global warming is not a dreadful problem. What it could do to our agricultural products, what it could do to our Nation, what it would mean for the world, is devastating.

It is not a question of panicking about it. It is a question of doing something about it. It is not that hard to do, if we set our mind to it.

This administration's Environmental Protection Agency sent a report to the United Nations where they admitted, yes, there is global warming and, yes, it is caused by human beings, and, yes, it is bad. Now this administration, this President, is backing away from his own administration, what they said. He said: Gee, I really don't agree with that "bureaucracy."

I don't get it. This is his Environmental Protection Agency. And the thrust of the report, even though it admitted there were problems, basically said there are these problems but we have to learn to live with them.

I do not understand why people go into Government, would join the Environmental Protection Agency, would run for President or the Senate or the House to say: "You know, it's a problem." And throw up their hands.

That is not what we are about. Our job is to find solutions to problems, to lay those problems out. I know the Senator who is in the Chair is taking the lead in finding solutions to the problem of the high cost of prescription drugs, not only for our seniors but for all of our citizens. She is working long and hard on that, day in and day out, and with her leadership and that of others in the Senate, we are going to come up with a good plan.

I know our leader, TOM DASCHLE, is going to come up with a very good plan that we can all back, on all fronts, dealing with Medicare but also dealing with the pricing of prescription drugs.

You could throw up your hands and just say, "Isn't this awful, prices are going up," and walk away. Why would we deserve to be here if we took that attitude? Why do we deserve to be here if we do not protect people's health—by getting them prescription drugs, but also preventing the health problems that you get when you have dirty air and water and high levels of arsenic and high levels of lead in children's blood.

It is one thing to react at the end of it when they have these illnesses. We need these pharmaceuticals. It is another thing to prevent these problems because many come from a very unhealthy environment.

I am sorry to say that this administration's record in 2001—and let's show 2002—an average of once a week, coming up with an anti-environmental rule, rolling back a pro-environmental,

prohealth rule. This record is shameful. I think it is only because we have been so focused, as we have to be, on other issues, that we have not, as Americans, stood up to say this is a terrible circumstance.

I will show the Superfund. I will leave with that one more time, to show the number of sites they are cutting back on the Superfund. Remember, in California 40 percent of Californians live within 4 miles of a Superfund site. I am sure, Madam President, if you examine the Superfund sites in your State—you have many, as unfortunately many of us do, and we will give the exact number later—you will see what is happening. There is a walking away from the responsibility to clean up these sites, which means these sites will remain very dangerous.

We have a site in New Jersey that has become infamous because the wildlife there is turning bright colors from the dioxin that is in the soil, the arsenic that is in the soil, the dangerous chemicals that are in the soil. The EPA will not tell us, Madam President, from which of your sites they are walking away. We are trying desperately to get the information.

Senator JEFFORDS, who is a man of tremendous patience, I can tell you, started trying to get the information in March. We sent a letter and said that we now see you promised to clean up 75 sites. Now you say it is only 47. That is down from 87 sites under the last administration. Tell us, pray tell, which sites are you abandoning? Our people have a right to know. It impacts their lives; it impacts the lives of their children; it impacts the property values in the community. Just tell us which sites you are not going to clean up.

We found in the hearing we held that, in fact, a message went out to all the employees at EPA not to talk to anyone. Don't tell Senators which sites are off the list; don't tell newspapers; refer all the calls to our communications people.

The penchant for secrecy in this administration is growing to be alarming. We couldn't find out who sat in on Vice President CHENEY's meeting when they drew up this energy bill. We had to go to court to find out. Now we know. It was the special interests that wrote that. We know what happens then.

That is not the kind of America we want. We want an America where everyone sits around the table—people from the environmental community, people from the business community, people from the labor community, people from the management community. That is the way we are going to have an America that works for everyone—not when we leave out people with whom we don't agree.

I represent a State which is very diverse in thinking. We go from very liberal to very conservative and everything in between. If I just sat with the people who voted for me, that would be a huge mistake for me; plus, it would be unfair and wrong.

We need to sit with people with whom we don't always agree. That is why this Norquist blacklist is so upsetting, as Senator DURBIN said. If we put a little X on the forehead of people who do not agree with us, and we put them on a blacklist and we never talk to them, what kind of America is this going to be? It is going to be an extremist America—an America that doesn't reflect the values of the American people.

One of the values of the American people is a clean and healthy environment. I hope people will educate themselves to the fact that we cannot find out which Superfund sites are not going to be cleaned. I hope people will understand the danger they face if this continues.

I pledge today to continue to come to the Chamber to talk about this environmental issue, to fight for the Superfund Program, and to fight for clean air and clean water. We are going to take this case to the American people.

I thank the Chair very much. I yield the floor.

THE PRESIDING OFFICER. The time controlled by the majority has expired. The remaining time until 10:45 is controlled by the minority leader.

Mrs. BOXER. Madam President, I suggest the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. THOMAS. Madam President, I ask unanimous consent to speak in morning business.

THE PRESIDING OFFICER. The Senator may proceed.

Mr. THOMAS. I thank the Chair.

#### ROLE OF THE FEDERAL GOVERNMENT

Mr. THOMAS. Madam President, we always have different kinds of things to talk about and issues that are before us. That is our job, of course, to deal with the issues. There is no end to the number of issues that come here. We focus on them, as we should. In addition to that, however, it seems to me that it is appropriate from time to time that we focus a little bit on the appropriate role of the Federal Government.

What is the appropriate role of Government spending? I understand the pressures that come from wanting to do something about every problem, partly because we do want to do something about every problem, and partly because of the politics of it. Now we find ourselves getting more and more into the kind of setting, a kind of culture, if you please, where, as the Federal Government continues to grow, every issue that arises—at whatever the level—the first request is let us get

the Federal Government involved; let us get some money from the Federal Government; let us get some programs from the Federal Government. So continuously we get larger.

If you walk down the street and ask in general terms if you think the Federal Government ought to be larger, if you think it ought to be less large, if the issues ought to be considered more close to the people where they have more input at the State and local level, the answer is yes.

I believe we need to stand back from time to time and take a look at what we are doing in terms of the future, and maybe try to get some vision of where we want to be in the next 10 years or 15 years.

What do we want our society to look like in terms of government? Do we want a national government for everyone? I don't think so. That is not what we are. This is the United States of America. We are a federation of States. The Federal Government's role is fairly well defined in the Constitution, and those things not there are to be left to the States. But we move the other way.

I am not anti-Federal Government. I think there is obviously a very serious role for the Federal Government. One of them we are exercising now is defense. That, obviously, is a Federal role, and one that we should and are pursuing.

But take a look at all the things we are in. Take a look at all of the little things in the supplemental budget which we passed last week, and tell me that those are Federal responsibilities—all of those little items in there that we are funding. I am sorry, they are clearly not.

It seems to me that we have to take a look at the concept. I think some of the things we are looking at now are very important. One of them is Medicare. Obviously, Medicare is a Federal program. But we need to take a look at it and see where it is going over time to be other than just patching here or patching there or putting a little more money in there, and then come to the Chamber and complain about not having enough money. But we never seem to look at where we might be.

I am a little frustrated at the feeding frenzy at the public trough of the Federal Government that we have been engaged in over the past several decades. As a matter of fact, I think that is going to be more difficult as we go forward.

First of all, of course, we need to debate and pass a responsible bipartisan budget resolution. To most people, the budget means you have a budget which hopefully you can stay within. If you can't, you can't. It means more than that here. A budget, of course, is some limitation on what you are spending. That is what your plan is, and that is what you are doing. But, in addition to that, there are some restraints that can be used here on the floor of the Senate.

If an appropriations or spending bill goes beyond the budget that we have

established, then it becomes more difficult. You have to have more votes to pass it.

It is a very important thing. Here we are without one, I think, for the first time in 27 years. Certainly, we need one. We need to take a long look at some of these appropriations bills that are coming up. We need to do that very soon. We will be talking about hundreds of billions of dollars in expenditures.

Of course, we should be helping to strengthen education. What is the role of the Federal Government in education? Now it contributes about 7 percent to elementary secondary education—most of it in special education. But we continue to look there for more and more money. There are all kinds of recommendations to do that.

I think one of the interesting ones that I run into—and the Presiding Officer does as well—in terms of the Finance Committee is taxes, tax changes, tax credits—tax this and tax that. Every day something comes up that someone wants to give a tax credit for some certain kind of behavior. Then the next day we come to the Chamber and say the tax system is too complicated. It is complicated because every day we use it more to affect behavior than we do for raising money. There is just no end to it. Let us give a tax credit to do this or give a tax credit to do that or we will give a tax credit to help build small communities or give a tax credit for charitable giving or whatever, all of which on their face are nice ideas. But if you step back and say what the role of the Federal Government is in that, then I think maybe you would have to take a closer look at what is really happening. It is one that I believe is very important.

There is constitutional direction, as I mentioned. Some people interpret that in different ways. But, nevertheless, it does indicate that there is a limit to what the Federal Government should do. I don't know. I suppose different States have different things. A good deal of Wyoming belongs to the Federal Government. So one of the things I hear the most is there is too much Government regulation—Federal regulations that impact everybody—probably more than anything else.

The Senator from California was talking about environmental restrictions. That is all I hear—an excessive amount of non-use restrictions on public property—and the idea that you don't have access to the Federal lands that belong to the people. The access, obviously, ought to be limited so that you preserve the environment. But the idea that you have to have roadless areas so you cannot access the property, the idea you cannot go to Yellowstone Park in a snow machine, even though the snow machine can probably be made cleaner than an automobile—these kinds of things are constantly there. At the same time, we want the Federal Government to get bigger,

with more regulations. It is quite a frustrating thing. I know it is difficult, but we need to take a look at really where we want to be.

Last summer in Wyoming, I had a series of meetings, two in almost every county; we called it Vision 20/20. We asked people to share with us what they saw in the future for their families, their town, their county, and their State. It was interesting. Of course, it was different in different parts of the State, but several things were pretty unanimous. It would be fun to have this body sit down for a day and say: What do you see as the role of the Federal Government? What do you see the Senate doing in terms of spending, in terms of programs 15 years from now? Do we want to continue to spend the way we have over the last several years? If so, what would be the totals?

A couple years ago, we tried pretty much to have some limitations and held the general budget to about 3 percent, which was basically inflation. This year, notwithstanding terrorism and the necessary emergency spending, it is probably 8 percent—probably more than that, close to a 10-percent increase in Government spending.

Of course, we will hear from our friends on the other side of the aisle that the problem is because of tax reductions. I don't agree with that. Tax reductions are necessary when you have a slow economy, to get things going. Tax reductions help us plan to see the kind of Federal Government we really want—perhaps one with a smaller role—and identifying those things that are clearly the role and responsibility of the Federal Government; perhaps reducing Federal taxes so locals can have more taxes, to do with it what they want.

One of the things I think most of us, I suppose from every State, work on more than anything else is what a bill or a proposal means in terms of our States. For instance, health care. I come from a rural State. Health care delivery in Wyoming is quite different than it is in New York City, so a Federal program that is designed for metropolitan areas doesn't fit at all. There has to be enough flexibility. The same is true with education and most everything else we do. But we don't always give that flexibility. So we find ourselves with programs designed to go nationwide which don't fit nationwide. Yet because we constantly have these Federal programs going, it is most difficult.

I mentioned to you that we are always saying we need to simplify taxes. Yet we use them to affect behavior more than almost anything. The size of the Government continues to grow. We worked very hard last year to get the bill passed that required agencies to look at their activities, and those that are not totally governmental could be put out into the private sector for private contracting. I think it is an excellent idea to try to keep the Government as small as possible. Some of our

folks are opposed to that idea; they want more and more Government and more and more Government employees. Those things that are not certified Government things ought to be dealt with in the private sector.

So I know these are general comments and you don't have an answer for all these issues, but there is a frustration that builds as you go through everything we look at every day, and more and more bills being talked about.

As an example, we are going to have hearings this afternoon on the Park Subcommittee, which I used to chair. I love parks. But there need to be some criteria as to what a national park should be. Failing having criteria, what they say in every community that has an area they would like to develop and set aside is, let's get the Federal Government to take it over and let it be some kind of a Federal park. It is not a Federal park just by its definition. But I understand when we are working for something in our States—some call it pork, and some call it other things, but it doesn't matter—we don't look at the broad picture, we just look at that. It is difficult.

So I am hopeful we can take a long look at what we are doing and, as opposed to simply dedicating ourselves to an election in 2002—to which I think you will find many of these things are very related—let's take a little longer look at where we are going to be. That is really our job for the future. These young pages sitting here, where are they going to be 20 years from now? We have some responsibility to look at that. I think it is a very strong responsibility.

So I hope we can put our emphasis a little more on our responsibility as the Federal Government, how we can best do that, what it means in the future, how we can help build the strength of local and State governments so that it will be close to the people and the people can indeed have a real role in what is being managed in their area.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. KENNEDY. Madam President, as I understand it, the time between now and 11:45 a.m. is equally divided, and at 11:45 a.m., we will vote on the cloture motion on the hate crimes legislation.

The PRESIDING OFFICER. The Senator is correct.

Under the previous order, the Senate will now resume consideration of S. 625, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 625) to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, and for other purposes.

Pending:

Hatch amendment No. 3824, to amend the penalty section to include the possibility of the death penalty.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I wish to briefly review where we are on this issue involving releasing the other arm of the Federal Government to fight hate crimes.

This is an issue that has been before the Congress since 1997. We reported the legislation out of the committee in 1999. It is the year 2002, and we still, in this body and in the House of Representatives, have been unwilling, unable to pass legislation that is going to permit the Federal Government to fight terrorism at home. That is what hate crimes are all about.

I am always surprised that we are unable to break the logjams. This legislation has been before the Senate. We voted on this legislation about a year ago as an amendment to the Defense authorization bill. The vote was 57 to 42.

So we had strong bipartisan support for that legislation. Then we get to the conference and the Republican leadership in the House of Representatives said no.

What we really need is to have the legislation passed free and clear, meaning no amendments attached to the legislation, in spite of the fact that 232 Members of the House of Representatives, Republicans and Democrats, understood as well that we ought to be fighting hate and terror at home. That is what this is all about, whether we are going to deal with the insidious hate crimes that continue to exist in this country and which, in too many instances, are not prosecuted.

We have the strong support of those in the law enforcement area. Twenty-two State attorneys general support it; 175 law enforcement, civil rights, civic, and religious organizations; and 500 diverse religious leaders from across the Nation.

We have to ask ourselves: Why are we really being blocked from permitting the Senate to address an issue which we have already addressed and which is in great need at home? And that is the hate crime issue.

It is an outrage that Congress continues to be AWOL in the fight against hate crimes. Hate crimes are terrorist acts. They are modern-day lynchings designed to intimidate and terrorize whole communities.

Our Attorney General in this past year has said:

Just as the United States will pursue, prosecute and punish terrorists who attack America out of hatred for what we believe, we will pursue, prosecute and punish those who attack law abiding Americans out of hatred for who they are. Hatred is the enemy of justice, regardless of its source.

In the same speech:

Criminal acts of hate run counter to what is best in America, our belief in equality and freedom. The Department of Justice will aggressively investigate, prosecute and punish criminal acts of violence and vigilantism motivated by hate and intolerance.

Our message this morning is unambiguous and clear. The volatile poisonous mixture of hatred and violence will not go unchallenged in the American system of justice.

That is what this legislation is all about, to try to make sure we are going to prosecute these acts of violence that are based upon bigotry and hatred and that affect not only the individuals who are involved but also affect the whole community.

Many of us thought, after September 11 and after the extraordinary loss of lives, after the extraordinary acts of heroism, there was a new spirit in America. I believe that to be so. I think it is true. It is reflected in so many different areas. We are reaching out to understand our communities. We are reaching out to understand our neighbors and friends. We have a strong understanding that America, in many respects, is closer, bonded together in order to try to resist the acts of terror that are at home but also understand the values which are important to each other.

Within that spirit, it is amazing to me that we as a country are so prepared to assault those cells of hatred as they exist in other parts of the world and refuse to address them at home. That is what this legislation is really all about. That is why we need this legislation. It is very simple.

I see my friend and colleague. I reserve the remainder of my time, and I yield such time as he may consume to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Madam President, each day I have detailed in the Senate RECORD another hate crime. Again, these are always violent, they are always sickening, but they always happen to an American citizen. These citizens are not different from you and me. They are Americans. They may be black, they may be gay, they may be disabled, female or of Middle Eastern descent, and yet they are all Americans. We are all, in that important aspect, the same.

I will detail a heinous crime that occurred in the State of Oregon in 1995. I have spoken about this horrible crime before in this Chamber. A 27-year-old Stockton, CA, man murdered a Medford, OR, couple: Roxanne Ellis, 53, and Michelle Abdill, 42. The women, who ran a property management business together, disappeared on December 4, 1995, after showing a man an apartment for rent. He shot them both in the head. The bodies were left bound and gagged in the truck bed. The Stockton man later confessed, saying he had targeted the women because they were lesbians, and he figured they would not have families that would miss them.

I believe the government's first duty is to defend its citizens, to defend them



against the harm that comes out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substantive. I believe that by passing this legislation we can change hearts and we can change minds.

I have noted, starting Friday, continuing most of the day Monday and today as well, that the opponents of this bill, I think, truly have an argument against the larger category of hate crimes. Their argument should not be the inclusion of these new categories of Americans whose minority subjects them to greater vulnerability. This is easy to demonstrate in crime statistics. An argument can be made that hate crimes are inappropriate, that all crime is hateful. This is an argument that has been made many times and in several cases that have reached the U.S. Supreme Court, but the Supreme Court has upheld the category of hate crimes.

So the question for us then becomes: Why not extend them to new categories of Americans who are demonstrably more vulnerable to crime? I argue once again that we should vote in the affirmative to include these new categories. I call on my colleagues to support it.

I have heard many arguments being propounded as to why we should not proceed. I believe we should proceed. I believe we should invoke cloture and get on with a final vote on this bill.

I will say, in defense of my colleagues, particularly our Republican leader, TRENT LOTT, in the rare case when he would invoke cloture early on a bill, he was roundly criticized by our friends on the other side. I wish cloture had not been invoked as quickly in this case so we might have a better chance of winning this vote. I say to my colleagues, this may be their only vote. I am given to understand that this bill will be pulled down if cloture is not invoked, and I think that is a very unfortunate development, because the time to do this is now, and the time to have effectively argued this is beginning Friday, Monday, today, and this week.

So I will be very disappointed, as one who has been present each of these days making this case, if this bill is pulled down because cloture is not invoked.

There may well be some good ideas that could be brought forward, but I think personally it is easy to distinguish between the meritorious arguments that can be made, such as some that Senator HATCH has been making, versus those that are designed to create political TV ads and to pull down this bill. It takes courage in the Senate to push the case, to make the case, and to stay with the case until this body has had time to work its will, but I fear that may not be allowed to occur now, which I regret. I wish more Senators had come the last 3 days to argue on the merits of this bill.

Every day I have entered a hate crime in the CONGRESSIONAL RECORD to

demonstrate the need for this legislation. If by having a hate crimes law that covered James Byrd, the Federal Government was able to be helpful to the officials of Texas, why not have a hate crimes law that could have helped the police officers of Wyoming to pursue and prosecute the case against Matthew Shepard? This is about permitting the Federal Government to show up to work. This is about the Federal Government standing with the American people and saying, as to these values, as to opposing crimes so horrible and callous, we will stand united with law enforcement at every level, locally and federally.

This is not an effort on the part of the Federal Government to subvert State law or local police processes. This is an ability to enhance them, to backstop them, to make sure we get the job done. It is a law that is 30 years old. It is a law that ought to be expanded because of our experience. It is a law that we ought to vote on in its final form when this week's work comes to an end.

Mr. KENNEDY. Will the Senator yield?

Mr. SMITH of Oregon. I am happy to yield.

The PRESIDING OFFICER (Mr. EDWARDS). The Senator from Massachusetts.

Mr. KENNEDY. The Senator makes a very good point that Congress went on record 32 years ago that we were going to have a Justice Department that was going to prosecute hate crimes. We have addressed that particular issue. We have made the decision.

During the more than 30 years since the current hate crimes law was passed, the Federal Government on average, has prosecuted only four hate crimes per year. By working cooperatively, state and federal law enforcement officials have the best chance of bringing the perpetrators of hate crimes swiftly to justice.

Now, as the Senator points out, another frequent argument we hear against the hate crimes bill. Opponents argue that the law is unnecessary because these crimes already are prosecuted at the State level. In the past thirty years, Congress has enacted dozens of federal drug and gun laws that criminalize conduct that already is illegal under state law. We didn't pass these laws because States were failing to their job, but rather because we believed that the Federal government had an important role to play in helping States combat violent crime. Our motivation in passing the hate crimes bill is no different.

The most important benefit of both state and federal criminal jurisdiction is the ability of state and federal law enforcement officials to work together as partners in the investigation and prosecution of serious hate crimes. When federal jurisdiction has existed in the limited areas authorized by current law, the federal government's resources, forensic expertise, and experi-

ence in the identification and proof of hate-based motivations have often provided valuable investigative assistance to local authorities without usurping the traditional role of states in prosecuting crimes.

We made a judgment, and even though there were State laws, we were going to pass this because there was an important interest in doing it.

Can the Senator find anything more important than trying to attack the basic core, the bias and hatred that motivates people to commit these crimes and make sure that we have a Justice Department that will be able to fight this with both arms, rather than one arm tied behind its back?

Mr. SMITH of Oregon. I agree with the Senator. We are in a war on terrorism in this world. It is entirely appropriate to focus on the war on terrorism at home. President Bush has proposed a more seamless process by which we backstop as a Federal Government local and State police and all law enforcement in our ability to protect the American people.

I believe government should help Americans as it finds them. Where there is a clearly demonstrated need, particularly as to gays and lesbians, we should show up to help. I believe the Senator would agree with me that in the case of James Byrd, where this African-American brother was dragged to death in a hate crime, the Federal Government, because the statute permits the category of race, was helpful. It did not subvert the local pursuit and prosecution of the murderers of James Byrd. We backstopped it. We brought the good offices and the resources and the expertise to be helpful to Texas in that case.

Come with me to Wyoming, sir, and you will talk to officers that introduced themselves to me as Republican police officers. They did not need to identify their party but their point to this Republican Senator was that this is not a partisan issue. They could have used the help. This became a case that so consumed Laramie, WY, that their limited resources were simply exhausted by one case. They would love to have had the Federal Government show up to work but the Federal Government was statutorily prohibited from coming to help.

Mr. KENNEDY. I ask the Senator one additional question, and we will hold our time with the agreement of the Senator to have the last 10 minutes. Does the Senator believe the Federal Government has less of an interest in combating hate violence against gays and lesbians than hate violence based on race?

Mr. SMITH of Oregon. It has the same interest in defending the American people regardless of their minority, their race, religion, their culture, their sexual orientation, their disability, their agenda.

It seems to me the government's business is not to pick between who among its citizens it will defend, but



that under the banner of equal protection and due process we defend all citizens. As our founding documents make clear, we are created equally.

Mr. KENNEDY. The Senator makes a point on race, religion, on gender, sexual orientation, on disability. This legislation goes to the core of the bias and hatred and addresses that. It gives the Justice Department the tools to be able to prosecute those. I thank the Senator.

How much time remains?

The PRESIDING OFFICER. There are 11 minutes remaining and the other side has 2 minutes remaining.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, last Friday, immediately after calling up S. 625, the hate crimes bill, the Democratic leadership filed for cloture, I believe within 15 minutes after they called it up.

No one is filibustering this bill. In fact, there have only been 20 amendments filed to be considered.

I expected this bill to be debated. We hoped the minority or anyone in the majority, who so chooses, who wants to try to modify this bill and make it better, would have the opportunity to do so. We all know, if cloture is invoked, for the most part, all we can do is make motions to strike. Almost everything will be held to be nongermane and therefore not debatable, unless we get a supermajority to overcome the point of order.

All we are asking is for our side to be given an opportunity to present amendments that may improve this bill.

It is astonishing to me that cloture would be filed on a bill of this magnitude, a bill that has been hotly contested for very legitimate reasons, basically for the purpose of foreclosing any amendments on one side, including my substitute amendment, which I think almost anyone would have to admit is a reasonable amendment. I don't know whether it would be accepted as a substitute or not, but it ought to at least be debated and voted up or down.

I filed an amendment yesterday that preserves the death penalty as an option in hate crime cases. It seems to me that is an option we would not want to deny law enforcement. One would think you would want to give them that additional prosecutorial tool in hate crime cases that result in death of the victim.

We can cite countless cases where, because of the threat of the death penalty, because it is a statutory option, people have pled guilty, accepted life imprisonment, and the matter was solved prior to trial, which preserves judicial resources.

We also know, that when the death penalty is an option, in many cases law enforcement officials can break down one of the conspirators to plead guilty and to become a witness, and an effective witness at that, against the other perpetrators of the heinous murders.

But, if this bill passes, it specifically excludes the death penalty. It specifically takes away those powers of the Federal Government as a tool to resolve some of these matters.

As everybody knows, I am not a big fan of the death penalty. I think it should be used very, very narrowly and only under the most stringent of circumstances. I think it is too widely used today. But it at least ought to be an option that a prosecutor can use to obtain confessions, cooperation from witnesses and, of course, use as a penalty for those who commit really heinous crimes that are proven beyond a reasonable doubt.

On Friday, immediately after calling up S. 625, the Democratic bill, the Democratic leadership immediately filed for cloture, as though anybody wants to filibuster this. I doubt seriously that all 20 amendments would be called up, but with a limited amount of amendments we could finish this bill by Thursday, 2 days from now.

It is an important bill. Everybody admits it. Why would you foreclose to me, the ranking member of the Judiciary Committee, the right to debate an effective substitute that may improve this bill and at least have a vote so those who agree with me can have their vote.

I point out to my distinguished colleague from Massachusetts that it was he and I who passed the Hate Crimes Statistics Act in the early 1990s. I was the Republican Senator who came forward and helped to get that done.

This bill has proved effective in showing there are hate crimes in our society. We know that if the two of us got together, along with the distinguished Senator from Oregon, we could probably resolve the conflicts so we would not have to wait another 5 or 6 years to have hate crimes legislation pass. But, no, there is no desire to try to resolve these matters. There is a desire to invoke cloture, cut off basically all effective debate and all amendments including the amendment of the ranking member, cut off the amendment with regard to imposing or at least requiring the death penalty, and any number of other relevant amendments. For what? Because they want this bill at all costs, when they know that the House leadership will not accept it without further amendment.

So it makes you wonder if this is not done primarily for political reasons instead of working together to try to come up with legislation that literally would work to resolve these problems.

I agree with the distinguished Senator from Oregon. There is no excuse for anybody to abuse, mutilate, kill, or otherwise commit violent conduct against anybody in our society, let alone gays and lesbians. I do not think that is justified, that anybody could get away with that. And we ought to do whatever we can to stop it.

The fact remains that State and local law enforcement are dealing with the problem. We have challenged the other

sides to give us examples, if they know any, where local law enforcement, local prosecution has not done the job. I am sure they may be able to come up with a few isolated examples, but I have not heard any yet.

We have had only 1 day of debate on this very important subject yesterday, and it was only a matter of a couple of hours. This is a bill that seeks completely to overhaul and vastly expand the role of the Federal Government in law enforcement. The attempt to prematurely cut off debate on a bill of this magnitude makes a mockery of the role of the Senate as a deliberative body.

If the distinguished Senator from Oregon is correct, if cloture is not invoked today—and I do not believe it should be—that this bill will be brought down, that would be a travesty because we could pass this bill by Thursday. There is not a soul in this body who is filibustering this bill, as far as I know. It just makes a mockery of the Senate as a deliberative body. I think the rush to ward off amendments can only lead to the conclusion it was done for sole purpose of thwarting any meaningful debate and avoiding some tough amendments because there is a wide disparity of viewpoint here with regard to the death penalty. But even if you are against the death penalty, you ought to realize the efficacy of having it there as a threat to criminals against hate crimes—yes, against gays and lesbians, to select that category—they might have to suffer the ultimate penalty because of what they have done.

In most cases the death penalty will not be imposed, but it will be used to obtain confessions, pleas, and cooperation from witnesses.

Again, I want to talk about the television show *Law and Order*. Although it is a fictional show, it really does portray how law enforcement uses the death penalty to obtain cooperation and confessions, to get people to testify against others, including their co-conspirators. If you really want to do something about hate crimes, let's do it the right way and do it by amendment, amending this bill so the House will have to consider it. They are not going to accept this bill in its current form and Senator KENNEDY knows that. I know that. The distinguished Senator from Oregon knows that.

I think Senator KENNEDY would agree with me that this bill deserves more than a single day of debate—or I should say 2 hours or so yesterday—before Senators are precluded from filing amendments.

I agree wholeheartedly that Senator KENNEDY's bill, S. 625, is an important piece of legislation and should be given consideration in the Senate.

In the past I, too, have introduced legislation addressing hate crimes and I intend to offer a viable substitute amendment.

As someone who has remained interested in this issue, as Senator KENNEDY

is and I am, I believe at a minimum I should have the opportunity to offer amendments relative to the discussion of hate crimes and to this bill. This opportunity, of course, can only be ensured if today's cloture vote fails and the leadership then agrees to work this out. Let's get a time agreement. Let's have limited amendments, and I think we can get our side to agree to that.

I believe my amendments will in fact improve this bill as it reads currently. Moreover, I believe the majority of my colleagues not only want to consider my amendments but would also approve my amendments. Protecting the safety and rights of all Americans is the paramount concern to all Senators. To not have a vote on the death penalty? For the first time, remove that as a consideration in these tough cases? If you really want to do something about hate crimes you ought at least to have the death penalty on the books.

There are, however, many differing thoughts about how to best provide the protection. No one is threatening to filibuster this bill. Relying on unsubstantiated rumors of machinations to file numerous irrelevant amendments is insufficient justification to cut off debate. The fact is, only 20 amendments were filed yesterday.

My colleagues and I are trying to engage in a sincere debate on this issue that affects all Americans. It is curious to me why the Senate Democrats are trying to block a substantive debate on hate crimes. By preventing relevant amendments from being offered and considered, the Democrats are shutting the door on any Republican ideas or alternatives, however constructive they may be. At least we should be entitled to a vote on a limited number of amendments. We could agree to that. Every Senator has the right to consider, thoughtfully, legislation that will have a significant impact on the way serious crimes are prosecuted in this country. By filing for cloture prematurely, the leadership is denying all Senators the right to debate and have a vote on issues that are important to them and the constituents of their States. Simply stated, it is wrong to foreclose debate on this very important bill.

I ask the Democratic leadership to rethink their strategy and unreasonable position. I strongly urge Senators to oppose cloture on this bill. I agree with my colleague from Massachusetts, every hate crime is a tragic reflection on our society and we need to address the problem. But no one has made the case to me that the local authorities are not effectively prosecuting these cases. We have asked them to. I believe the proper role of the Federal Government is to assist, not supplant, local law enforcement authorities. That is the approach I have taken in my alternative, which will not even be able to be considered if cloture is invoked today.

Let me just take a moment to review some of these cases that we have been

talking about. Take the Roxanne Ellis and Michelle Abdill case here. This is the one that the distinguished Senator from Oregon, if I remember correctly, was referring to. Roxanne Ellis and Michelle Abdill. The defendant was Robert Acremant, the jurisdiction was Oregon. Acremant, shot Ellis and Abdill, a homosexual couple, to death as they lay gagged in the back of his truck—truly a heinous, vicious, reprehensible act.

What happened to this defendant? Was he let go because the Federal law enforcement authorities and prosecutors did not have this hate crimes bill? Not at all. The local law enforcement brought him to trial and he received—guess what—the death penalty. That doesn't sound to me like he is getting away with a hate crime.

Let's go down through a few more. James Byrd—we have heard a lot of about James Byrd and we ought to hear a lot about it. It was a terrible, heinous act that was committed in Texas by three defendants, Lawrence Russell Brewer, John William King, Shawn Allen Berry.

They beat Mr. Byrd, an African-American, unconscious. They chained him to the back of a pickup truck and dragged him for miles down rural roads. That is what all three of these heinous criminals did. What happened to them? Let me tell you. Because the death penalty was available, Shawn Allen Berry pled guilty and became a witness against the other two, who both received the death penalty. That doesn't sound to me like the Federal Government was needed in that case.

The fact of the matter is, the State and local officials said: Enough is enough. We are not going to tolerate this kind of activity, this type of action. The death penalty, because it was available for these crimes—a defendant pled guilty and was sentenced to life in prison without parole. The other two defendants received the death penalty. All we ask is that we be permitted to offer my substitute amendment which preserves the death penalty. I can't imagine that amendment would fail on this bill and it would improve this bill by leaps and bounds.

Matthew Shepard, we have heard a lot of talk about Matthew Shepard and yes, State prosecutors and law enforcement, who believe, as we do, that hate crimes should be prosecuted. In the Shepard case, the two defendants were Aaron McKinney and Russell Henderson. They kidnapped Shepard, a homosexual college student, beat him so severely that his skull was fractured a half dozen times, tied him to a fence post and left him to die. The defendant Henderson drove the truck into which Shepard, a homosexual college student was lured, helped tie him to a fence—and at least stood by while Shepard was beaten senseless.

What happened? Henderson pled guilty in order to avoid the death penalty. He was sentenced to two consecutive life terms with no possibility of

parole. Aaron McKinney was sentenced to two consecutive life terms. He avoided the death penalty by agreeing not to appeal the life sentences. Had the death penalty not been there, who knows what would have happened? I think they had the defendants dead to rights, but it certainly did help in both of these cases to have the death penalty available.

Another case involved the homosexual couple, Gary Matson and Winfield Mowder. The defendants, Benjamin Williams and James Williams, shot Mr. Matson and Mr. Mowder to death. The death penalty was available and the prosecution is ongoing in both cases.

In another Texas case, the defendant Mark Stroman was tried for shooting Vasudev Patel, an Indian man, after 9/11, because Stroman thought Patel looked middle eastern. The local officials prosecuted the case and he received the death penalty.

In the case of Sasezley Richardson, an African-American, Jason Powell and Alex Witmer fired 12 shots at him in an attempt to "earn" a spider web tattoo from the Aryan brotherhood. The defendant Witmer drove the truck from which Powell fired 12 shoot at Richardson. Because the death penalty was available, Powell pled guilty and testified for the State in order to avoid the death penalty. He was sentenced to life in prison without parole. In the case of Alex Witmer, the death penalty was available, and he pled guilty and was sentenced to 85 years in prison. What if that death penalty had not been available? Who knows whether they could have convinced one defendant to testify against the other.

The next chart begins with the case of Amanda Milan, who was stabbed to death for being a transgender woman. The defendants in this case were Duayne McCuller and Eugene Celestine in New York.

In this case Eugene Celestine gave McCuller the knife with which to kill Milan. The prosecution is currently ongoing, and both are facing the possibility of life in prison.

In another case, the victim, Billy Jack Gaither was bludgeoned to death because he was homosexual. The two defendants, Mullins and Butler, attacked Gaither with an ax handle, slit his throat, threw him on the top of a pile of tires, and set him on fire.

Because the death penalty was available, Mullins pled guilty prior to trial and was sentenced to life in prison without parole. Butler was sentenced to life in prison without parole only because the victim's parents requested that the prosecution not seek the death penalty. But because it was available, they were able to bring these cases to conclusion and these two heinous criminals were sentenced to life because neither wanted to go through a trial where they knew they could get the death penalty. By obtaining pleas prior to trial, the prosecutors saved scarce taxpayer dollars.

In a Virginia case, Danny Lee Overstreet, was killed by the defendant, Ronald E. Gay when Gay went on a shooting rampage in a gay bar, killing Overstreet and wounding six others. Because the death penalty was available, he was sentenced to four life terms.

I have a lot of empathy for those on the other side of this issue at this time who want to pass legislation to address some of these hate crimes. They would like to give the Federal Government more authority. I am not against that. But I would like to have a bill that will pass both Houses. I would like to have a bill that will go to work tomorrow, or the next day, or 2 months from now, when it passes both Houses and is signed by the President, which will really do something about these crimes. I want a bill where there is a threat of the death penalty so we can get pleas and save the taxpayers' money.

Frankly, these cases are important cases. In almost every case that the proponents of this piece of legislation bring up—in almost every case—the State and local law enforcement—in fact, in every case, to my knowledge—they have done the job. My substitute amendment would give them the tools, the money, and so forth to do the job even better.

I would like the opportunity as ranking member of the Judiciary Committee to be able to offer some amendments that should have votes. If I lose, I lose. If I win, I win. But the fact of the matter is that we ought to at least have this opportunity to debate it.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time do I have left?

The PRESIDING OFFICER. Eleven minutes.

Mr. KENNEDY. I yield myself 4 minutes.

With regard to the procedure, there have been two occasions when the majority leader has requested that we have a debate on this legislation and have relevant amendments. That process and that procedure were objected to by the other side.

First of all, during the more than 30 years that the existing hate crimes statute has been on the books, the federal government has never tried a hate crime case in which it sought the death penalty. There is nothing in our bill that prohibits a State with the death penalty from seeking that punishment if the State decides to prosecute the hate crime. The fact remains that nothing in our bill would allow the federal government to take jurisdiction away from a State that wants to prosecute a hate crime and seek the death penalty.

It is interesting. During this debate, we know exactly what our situation is. If you talk about race, national origin, and religion, they are protected, if they fall within the six categories. But sex-

ual orientation is not. Disability is not protected. Neither is gender. Even in the amendment offered by the Senator from Utah, he excludes gender. The Republican leadership of the House of Representatives will not take protection of sexual orientation. Those are the facts. Sometime, some day, we have to deal with the realities.

This has been out there for 5 years. We have the support of 22 attorneys general. We have the support of the former Attorney General of the United States, Dick Thornburgh, who understands the importance of this legislation. There is a need out there. You are not going to get that kind of inclusion, those kinds of protections, in terms of gender, under the amendment of the Senator from Utah, and you will not get it under the Republican leadership.

Those are the facts. We have the list of the amendments. We have an anti-abortion amendment by the Senator from Pennsylvania here. Relevant amendments. The list goes on. The leader asked for the ability to do that. At some time we have to take action.

We know what this is really all about. We have had this for 5 years. We passed it 57 to 42 last year and were denied the opportunity to get this out of the conference because of the Republican leadership in the House.

The real question is, Are we going to take the action now? How long do people have to wait to get this protection? They have waited 5 years. We have a lot of pious statements here about the need for protection for American citizens on the basis of sexual orientation and disability and gender. Yet we refuse to address it or pass it.

That is the question and the issue. It is domestic terrorism. These are crimes based upon hate and prejudice that ruin not only the individual but the community and the Nation. That is what we are talking about. Trying to dismiss this as routine kinds of investigations isn't what this is about. The Senator from Utah understands that. That is the question—whether we are going to be prepared to take those steps to provide the limited but extremely important opportunity to make sure we are going to do something.

How about sending a message to those people out there in terms of the potential of hate-motivated crimes? We sent them a message when we passed the church burning legislation. We sent a powerful message, and that virtually stopped. How about doing the same thing with regard to hate crimes because of sexual orientation or gender or disability? What is the other side scared of?

They say we are going to federalize another thing. Well, they found 37 other provisions they are glad to federalize, but not this kind of protection.

As the Senator from Oregon said, this protection is rooted in animus, the basic hatred that motivates these kinds of crimes. The question is, Are we going to do something about it?

This is the time. Twice Republicans rejected the opportunity for debate on relevant amendments. We know what is happening. This is the vote. This is the time. We want to make it very clear, and I am hopeful that we get cloture. If we do not, I want to give the assurance to the Senator from Utah that we are going to be back again and again.

So have no fear about not addressing this issue because this is just the beginning, and we are going to continue the battle through this session.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I have heard all this rhetoric before. We have been working on this for 5 years. The distinguished Senator from Massachusetts knows that we put together some of the most important legislation in history—he and I. He knows darn well that this bill isn't going anywhere if it passes in its current form. He knows darn well that it sounds good to make all these political points, but I would like to pass something. I would like to do something. I would like to have something that works. I am willing to do it in a Federal way.

The Senator seems to be saying, take his viewpoint about this or take nothing, which is what we have done for the last 5 or 6 years. He knows darn well that I will work on the bill with him. We have discussed this in private.

I don't like what is going on in our society any better than he does, but I challenge him to show me where State and local law enforcement are not doing the job. Explain to me why he would not have the death penalty to help law enforcement and the prosecutors to obtain pleas, cooperation from witnesses, and to have witnesses testify against their coconspirators, which conserves judicial resources.

He says that if the States want to prosecute hate crimes, they can seek the death penalty. The fact is, we are taking these matters away from the States and saying the Federal Government ought to prosecute these crimes where there will be no death penalty. I feel embarrassed to have to talk about the death penalty because I am not real enthused about it. I don't want it applied, except in the most stringent of circumstances. There has to be absolute guilt, and the crime has to be so heinous as to justify it.

Look, I would be willing to put sexual orientation in my bill. I don't want every rape to be considered a federal hate crime. I don't want every criminal sexual act to be considered a federal hate crime, leading to the possibility of being brought before the Federal courts. On the other hand, I am certainly willing to talk about compromises.

The charts we just went through show that the criminals are being prosecuted. The crimes against gays and lesbians are being prosecuted. State and local law enforcement are bringing the appropriate prosecutions. The distinguished Senator said "let's send a

message through this legislation" if nothing more. I would like to do that. I would like to get a bill that we can pass. I would like to get a bill that the House will accept—instead of accusing the House of not having the same interests at heart than the Senator from Massachusetts.

No one is arguing that hate crimes are not a problem. We have never denied that hate crimes are occurring. Nobody can deny that. I want to get rid of them as much as anybody. No one feels more strongly on this issue than I do, whether they support S. 625 or not. No one—least of all me—is suggesting that hate crimes are not a problem, or that we as an institution should stand by and do nothing about hate crimes. That is why I intend to offer an amendment to S. 625 that provides an alternative approach to helping in the fight against hate crimes. I am willing to sit down with the Senator and see if we can work out something that will pass both bodies. The tremendous record of State and local prosecutions of hate crimes suggest to me, however, that States are doing a great job policing these types of cases.

In my view, a measured, appropriate, and constitutional Federal response should be directed at helping States that ask for our assistance. Nobody is arguing that existing Federal law is adequate. No one contends that we should rest on the existing Federal hate crimes statute. We can all agree that the Federal Government should do more than what 18 U.S.C. 245 currently provides.

That is why I will offer an amendment to S. 625 that provides for an alternative approach to help in the fight against hate crimes. The record is clear. I have always been open to fixing 18 U.S.C. section 245 through amendments.

The PRESIDING OFFICER. The time controlled by the Senator from Utah has expired.

Mr. FEINGOLD. Mr. President, I rise today to oppose the amendment offered by my colleague from Utah, Senator HATCH, to amend the penalty section of this bill to include the possibility of a death sentence.

This amendment is a step in the wrong direction.

Let me be clear. Those who commit crimes, including acts of violence that are motivated by hate, should be punished and punished severely. Federal law enforcement has an important role to ensure that hate crimes are investigated and prosecuted to the fullest extent of the law. And if death results from a hate crime, Senator KENNEDY's bill provides for the full weight of the law to be brought to bear on that individual. It does so by providing for a maximum sentence of life in prison without the possibility of parole.

At a time when Americans are increasingly recognizing that the current death penalty system is broken, this is not the time to expand the Federal death penalty.

We know that justice should be blind. But, unfortunately, in the Federal death penalty system, it appears that justice is not always blind. A report released by the Justice Department in September 2000 showed troubling racial and geographic disparities in the administration of the Federal death penalty. The color of a defendant's skin or the Federal district in which the prosecution takes place can affect whether a defendant lives or dies in the Federal system. Former Attorney General Janet Reno ordered a further analysis of why these disparities exist. And Attorney General Ashcroft has agreed to continue this study.

We have not yet seen the results of this study, nor have we had the opportunity to review and understand what the results might mean for the fairness and integrity of our Federal justice system. While this important study is underway, Congress should not create even more death-eligible crimes.

I also strongly disagree with Senator HATCH's claim that the availability of the death penalty ensures efficient and reliable prosecution and conviction of those who commit hate crimes.

We know that levying death has an immensely coercive effect on the accused. The accused who wants to live and does not have the resources to mount a "dream team" defense may feel little choice but to accept whatever deal for less than death that the prosecution offers. This can happen in situations where the accused is less culpable than other defendants, or worse yet, innocent of the charges altogether.

I am very troubled by the practice of some prosecutors who may use the prospect of the death penalty to coerce a defendant, including a defendant who may be innocent, to accept guilt and a plea bargain.

A case involving defense representation from my state illustrates how this coercive tactic undermines the integrity of the justice system. It involves Christopher Ochoa, who confessed to a rape and murder out of fear of facing the death penalty in Texas. Mr. Ochoa was released a little over a year ago after serving 12 years of a life term in Texas. Mr. Ochoa won his freedom as a result of the persistence, hard work, and skill of students and professors at the Innocence Project at the University of Wisconsin-Madison Law School.

According to the Wisconsin State Journal, police arrived to question Mr. Ochoa in November 1988. Mr. Ochoa, who was 22 years old at the time, was "harangued with grisly details of the crime, many of them false. A burly sergeant told him he would be 'fresh meat' in prison, pounded tables and demonstrated where the death needle would pierce his arm. Ochoa confessed." In a forum at the University of Wisconsin after he was released, he said, "I don't think people can say what they would have done until they're in that situation." He said, "Basically, I was terrified."

The Federal system is not immune from the use of this coercive tactic or the other flaws that result in the risk of executing the innocent in the state systems. According to the Federal Death Penalty Resource Counsel Project, since the death penalty was re-enacted in 1988, approximately 3 percent of persons the Justice Department has attempted to execute may have been factually or legally innocent.

In one case, David Ronald Chandler claimed his innocence throughout the trial and the appellate process. Chandler believes that the real triggerman made a deal with the government to testify against Chandler, and in return the government would not seek the Federal death penalty against the triggerman. But the triggerman later recanted his testimony. Luckily for Chandler, President Clinton commuted his death sentence to life. But how many other defendants who have claims of innocence will not be so lucky, or feel forced to accept a life sentence? I don't know the answer to that question. None of us do. And that is why a thorough, top-to-bottom review of the death penalty system at the State and Federal levels is needed.

Until such a comprehensive review has been undertaken, and the necessary work has been done to ensure fairness and justice, Congress should refrain from expanding the Federal death penalty. Congress can ensure that perpetrators of crime are effectively punished without resorting to capital punishment.

I urge my colleagues to join me in opposing Senator HATCH's amendment.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I will use leader time to make my remarks this morning.

I appreciate the debate we have had on this issue now for the last couple of days. I am struck by a couple of issues. First, I am struck by the number of hate crimes that occur every day. We are told there are over 20 hate crimes committed in the United States every day—every day. The Southern Poverty Law Center estimates the real number may be 50,000 a year. That comes out to five an hour.

In the time we have had the debate just this morning, according to those statistics, 15 to 20 hate crimes have been committed in this country—in just the time the Senate has been in session this morning.

If there is such a good job being done across this country as we deal with that volume, I would not be able to say that with any authority this morning, but the volume is there. That leads me to the second point.

The second point is that behind each one of those statistics is a human being, a face, a story, a tragedy. That is, in essence, what this debate is all about—to end the tragedy in this country.

As I consider the options we have available to us legislatively, I consider

those options as they must have existed during the civil rights debates of the fifties and sixties, and I am sure when we considered the civil rights issues in the fifties and sixties there were all kinds of reasons it was not the time to deal with civil rights laws; it was not the time to come to closure on how to address the rampant racism that existed in the country at that time.

Finally, it took leadership, it took resolve, it took bipartisan consensus and, ultimately, it took a willingness to commit to a bill. We passed the civil rights acts of the fifties and sixties, and today we are the better for it.

Who today would say we are going to repeal those laws? They have been on the books, they have worked, and we take credit for the fact they have.

This is our moment when it comes to hate crimes. This is our time to tell the Matthew Shepards of the world that we are not going to tolerate that anymore; that we are better than that; we are bigger than that.

Just as we addressed racism in the past, we have to address the prejudice against sexual orientation today. This is our chance. This is our moment. This is our Civil Rights Act for the year 2002. We are not going to have many more. Let's seize this opportunity. Let's seize this moment. Let's send a clear message. Let's end those terrible statistics. We can do it when we vote on cloture in a matter of moments this morning.

I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Mr. President, I yield myself time under my leader time that has been reserved.

The PRESIDING OFFICER. The leader has that right.

Mr. LOTT. Mr. President, I do not intend to get into the details now and a discussion on the substance of the bill except to say this: The greatest hate crime of all that we should be dealing with right now is the hate crime of terrorism against America and free and innocent peoples all over the world who have been attacked by terrorists—3,000 approximately killed on 1 day, September 11. There is where our focus should be.

I am disappointed at the timing of this legislation, to say the least. We should be focused on the war on terror. We should be taking up the Defense authorization bill. We should have already taken it up. Normally we deal with the Defense authorization bill in May; certainly the early part of June. Now it appears to me there will be no way to get to the Defense authorization bill before probably next Tuesday at the earliest, and maybe later. Until we do that, we cannot begin on the regular appropriations bills, the first of which should be the Defense appropriations bill. We need to make sure our men and women in uniform and our law enforcement officials all over this country and all over the world who are

fighting against this hate crime, terrorism, have what they need in terms of pay, quality of life, weapons, and sophisticated equipment they need to do the job.

While, obviously, this issue can be scheduled at some point—and I assume it will be scheduled—it certainly is one in which there is not an emergency facing us right now. I wanted to raise that point.

We do not even have a budget resolution. We are 2 months behind getting a budget resolution this year. It is just being ignored: No budget resolution. No 2003 numbers to which we have agreed. No policies. No enforcement mechanisms. How are we going to do the appropriations bills? What possible restraint can be provided for the ranking members and the chairmen of the subcommittees on appropriations?

The law requires we do the budget resolution by April 15. We do not have it. We do not know when we are going to have it. Apparently, we are never going to have it.

The Defense authorization bill was reported out of the committee May 15. While there were votes against it, it was a bipartisan vote. What is the problem? There is obviously a weapons system that is causing some consternation. Sooner or later we are going to have to address that issue—sooner rather than later, I hope.

With regard to this particular issue, I know how tough it is being majority leader and dealing with protracted debate and amendments. We saw last week what happens when we have a prematurely filed cloture motion. Tactically, one may think: I have to do it because I have to bring this to a conclusion.

We saw last Thursday night what happens when cloture is invoked and we cut off debate and amendments. Unless it is very tightly germane, it is not in order. So at midnight last Thursday night, we were trying to figure out how do we conclude the supplemental appropriations bill, again, for defense and homeland security. Amendments were being knocked out right and left, probably amendments that were worthy and should have been taken but were not germane.

We are about to do that here. We made the mistake last week, and now we are about to make the mistake again this week. We are going to cut off amendments. As a matter of fact, a substitute amendment by the ranking member of the committee of jurisdiction, Senator HATCH, would be non-germane postcloture. It is not a question of trying to stop unrelated amendments. This is an amendment that even deals with the substance of the issue. Why are we doing that?

I used to file cloture motions perhaps prematurely, and I was royally pilloried by the other side of the aisle: Why did you file a cloture motion so prematurely? You shouldn't do that.

Most of the time I realized it was probably a mistake, and on occasion, I

backed off and we vitiated the cloture vote.

Even at the beginning of the last Congress when it was 50-50, under S. Res. 8, the organizing resolution, we agreed specifically in the rule that cloture motions could not be filed before 12 hours of debate had taken place. When the majority changed, that rule went by the board, but the principle was there. Why was it good when we were 50-50 but not good when it is 50-49 and 1? This is not partisan. I have made this mistake. I think it is a mistake. We should not do this.

This cloture motion was filed after 12 minutes, not 12 hours. This bill was called up and within 12 minutes a cloture motion was filed. This is not the way to do business. We are prepared to debate this issue, consider legitimate, substantive amendments, and any other amendment for certainly a reasonable period of time. This is cutting off members of committees of jurisdiction. This is cutting off all Senators. It is a mistake. We made the mistake last week. We should not make the mistake now.

On my side of the aisle, it would be a message that we are not going to prematurely cut off debate. Give it a little time. It works on both sides of the aisle. I urge my colleagues to vote against this cloture motion. Let's have some amendments offered. Let's spend some time making sure we do not get ourselves trapped in the same situation we did last Thursday night, which was not pretty for this institution.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts controls the time.

Mr. KENNEDY. I yield the Senator from Minnesota 2 minutes.

Mr. WELLSTONE. I thank the Senator.

Mr. President, I disagree with my colleague, the minority leader. It is always an emergency when brutal crimes are committed against people because of their sexual orientation or gender or because of disability.

I think it is an emergency for our country when someone such as Matthew Shepard is brutally murdered. I think it is an emergency for our country when what we say to people is not just that they are a victim or that we dehumanize people but, rather, we say to many citizens in our country, by gender or sexual orientation, because they are a gay or because they are a lesbian, they are next. Hate crimes violate not only our Constitution but they destroy our oneness as a people. They diminish us as a country. They take away from what is best in our Nation.

I insist, as a Senator from Minnesota, that this is an emergency and that we should pass this legislation and that this legislation must not be blocked. If it were your loved one who had been murdered, if it were your

loved one who were a target of these hate crimes, you would consider it an emergency and you would want us to pass this very important legislation.

I urge my colleagues to vote for cloture.

Mr. SARBANES. Mr. President, I rise today to express my support for the Local Law Enforcement Enhancement Act of 2001, and my disappointment that the Senate failed to invoke cloture on this important legislation today. As a cosponsor of Senator KENNEDY's bill, I believe it is crucial that we pass hate crimes legislation in an expeditious manner in order to provide the government with the tools it needs to prosecute the many senseless bias-motivated crimes that occur in our country each year. In the past several decades we have made significant progress in reducing discrimination, yet more needs to be done. This legislation is an important step toward ending the scourge of hate crimes that continues to plague our Nation.

Data gathered under the Federal Hate Crime Statistics Act about the prevalence of these crimes is sobering. Beginning in 1991, the Act requires the Justice Department to collect information from law enforcement agencies across the country on crimes motivated by a victim's race, religion, sexual orientation, or ethnicity. Congress expanded the Act in 1994 to also require the collection of data for crimes based upon the victim's disability. For the year 2000, 11,690 law enforcement agencies in 48 states and the District of Columbia reported 8,063 bias-motivated criminal incidents (8,055 single-bias and 8 multiple-bias incidents) to the FBI. The incidents consisted of 9,430 separate offenses, 9,924 victims, and 7,530 distinguishable offenders. According to the data collected, 53.8 percent of the 8,055 single-bias incidents were motivated by racial bias, 18.3 percent by religious bias, 16.1 percent by sexual-orientation bias, 11.3 percent by ethnicity/national origin bias, and 0.5 percent by disability and multiple biases.

The Local Law Enforcement Enhancement Act is carefully tailored to ensure a state's ability to prosecute hate crimes, but it provides the Federal government with additional tools to prosecute hate crimes should a state be unable to do so. The legislation extends the Federal law to prohibit hate crimes against victims because of their gender, sexual orientation or disability. In addition, the legislation allows Federal prosecution of hate crimes wherever they occur and under whatever circumstances, thus broadening the previous requirement that the hate crime occur while the victim is engaged in a "federally protected activity."

The need for these limited changes in existing Federal hate crimes laws is clear. For example, according to the Justice Department, 16.1 percent of the hate crimes committed in 2000 were motivated by the victim's sexual ori-

entation. The Local Law Enforcement Enhancement Act would expand the definition of hate crimes to include those committed because of the victim's sexual orientation—in addition to a victim's gender or disability.

A hate crime may meet the federal definition of "hate crime" yet the federal government is still powerless to aid in its prosecution. For example, in the wake of the terrorist attacks of September 11th, our Nation has struggled to prevent discrimination and acts of violence against Arab-Americans. Despite the resolve that most Americans have shown in that regard, tragically, crimes have occurred. On September 15, 2001, Balbir Singh Sodhi, a Sikh-American, was shot and killed at his gas station in Mesa, Arizona. This tragic incident was the most serious of several attacks against people of Middle Eastern and South Asian descent who were targeted in the aftermath of the terrorist attacks. Although religion and national identity are already protected under current law, the hate crimes legislation before us would give the Federal government enhanced authority to investigate and prosecute these types of crimes.

Despite the progress towards ending discrimination over the past decades, it is undeniably clear that raw hatred and its tragic consequences continue to exist in our Nation. Strengthening the Federal government's ability to prosecute hate crimes is an important step towards the eradication of hate crimes in our country. Mr. President, I urge my Senate colleagues to bring the Local Law Enforcement Enhancement Act back to the floor of the Senate and to join me in supporting this important hate crimes legislation. We have an invaluable opportunity to make a statement that the United States government will not tolerate crimes motivated by bigotry and prejudice, and I look forward to the day when there is no longer a need in our Nation to legislate such changes.

Ms. CANTWELL. Mr. President, I would like to take this opportunity to express my strong support of the Local Law Enforcement Act of 2001, the "Hate Crimes Act." The Hate Crimes Act is a bill whose time has come. I would like to commend Senator KENNEDY for his long, hard work to pass this important legislation, and I am happy to have the opportunity to vote for it today.

The Hate Crimes Act creates an intergovernmental assistance program which would provide technical, forensic, prosecutorial and other forms of assistance to state and local law enforcement officials for hate crimes based on race, color, religion, national origin, gender, sexual orientation and disability. The bill authorizes the Justice Department to award grants of up to \$100,000 to state, local, and Indian law enforcement officials who have incurred extraordinary expenses associated with investigating and prosecuting hate crimes. This legislation

requires grant applicants to coordinate with affected community groups, schools, and colleges and universities. In addition, this bill gives the Justice Department jurisdiction over crimes of violence involving bodily injury, if motivated by a person's actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability, if it meets both the interstate commerce and certification requirements in the underlying statute. Lastly, the bill amends the Hate Crimes Statistics Act to include gender and requires the FBI to collect data from states on gender-based hate crimes in the same manner that it currently collects data for race, religion, sexual orientation, disability, and ethnicity.

The number of reported hate crimes has grown by almost 90 percent over the past decade and we cannot afford to ignore this growing problem. The recent hate-motivated crimes in my state of Washington demonstrate the destructive and devastating impact hate crimes have on individual victims and entire communities. On May 9th, 2002, Patrick Cunningham pled guilty to the September 13, 2001 attack of an Islamic Idriss Mosque in Seattle. Mr. Cunningham doused two cars with gasoline in the mosque parking lot in an attempt to destroy the mosque and harm worshipers inside. Cunningham also shot at the worshipers after being discovered. Just a few days later, on September 18, 2001, Kulwinder Singh, a Sikh cabdriver in Seatac, Washington, was harassed and physically assaulted by a passenger.

This legislation takes important steps to ensure that crimes motivated by the victim's race, gender, sexual orientation, disability or religion can be prosecuted to the full extent of the law, and it removes the artificial limitations that currently keep local law enforcement from getting needed assistance. The Hate Crimes Act provides the necessary complement between state and federal law enforcement officials in order to ensure that perpetrators of hate crimes are brought swiftly to justice. The federal government's resources, forensic expertise, and experience in the identification and proof of hate-based motivations have often provided invaluable addition to the important work conducted by local investigators. One need only remember the brutal killing of James Byrd in Jasper County, Texas to understand the benefits of an effective hate crimes investigative partnership between state and federal authorities. This partnership is also crucial to the work of the National Church Arson Task Force and to the increase in the number of hate crimes solved by arrests and prosecutions.

I believe that the Hate Crimes Act is necessary to ensure that violent hate crimes based on sexual orientation, gender, or disability do not go unpunished. Every year, a significant number of hate crimes are perpetrated



across our nation based on anti-gay bias. Current law, however, leaves the federal government without the authority to work in partnership with local law enforcement officials or to bring federal prosecutions when gay men or lesbians are the victims of murder or other violent assaults because of bias based on their sexual orientation.

This Act would fix the inadequacies in pre-existing federal law, which became painfully apparent in the vicious murder of Matthew Shepard in Laramie, Wyoming, and the subsequent investigation and prosecution of his assailants. The lack of federal funding caused significant financial hardships on the local sheriff's department in its efforts to bring Matthew's killers to justice, and, as a result, five law enforcement staff members were laid off. In response, this bill amends the criminal code to cover hate crimes based on sexual orientation and authorizes grants for state and local programs designed to combat and prevent hate crimes.

This legislation would have a measurable impact in my state of Washington and help prosecute the growing string of hate-based attacks targeting individuals' sexual orientation. On April 6, 1995 in Olympia, Washington, four young adults brutally assaulted Bill Clayton, an openly bisexual high school student, and his friends who happened to be walking with him. Just two months after the assault, the seventeen-year-old committed suicide. Prior to his suicide he had explained to his mother that he was just tired of coping, and that it was the constant knowledge that any time he could be attacked because he was bisexual, that despite the love of his family and friends, all he could see ahead of him was a lifetime of facing a world filled with hate and violence, going from one assault to another. We cannot let our citizens live in fear for their safety, knowing that their attackers will not be prosecuted to the full extent of the law. This legislation is necessary to fill the current void to ensure vigorous prosecution of individuals who perpetrate a hate crime. The extra federal resources that this Act would make available in the investigations and prosecutions of hate-motivated crimes would serve as both a significant deterrent and punishment, and would likely bring a greater number of cases to successful resolution through arrest and prosecution. We must do all we can to prevent the incidents that led to Bill Clayton's tragic death.

I believe it is important that we recognize from the beginning that not all crimes are hate crimes. The reason behind this is simple. All crimes are not created equal and mental states, in addition to acts, have always played an important role in determining the severity and subsequent punishment of a crime. Recognizing this, it is well established that a legislature can properly determine that crimes committed against certain classes of individuals

are different or warrant a stiffer response. Moreover, the U.S. Supreme Court had unanimously ruled that bias-inspired conduct inflicts greater individual and societal harm.

I share Senator KENNEDY's concerns regarding hate crimes, and I have consistently supported hate crimes legislation, from the time I was in the Washington state House of Representatives to now. There are nearly 8,000 hate crime incidents reported annually each year. The Hate Crimes Act sends a clear message that violence against a person based on skin color, sexual orientation, or religion will not be tolerated anywhere in this country. The bill will provide broader federal jurisdiction to prosecute hate crimes, including crimes motivated by race, color, religion, gender, sexual orientation, and disability. Broadening federal jurisdiction will allow effective prosecution even when hate crimes are committed in states that lack hate crime statutes, or where local law enforcement lacks the resources for this type of prosecution. Additionally, the bill will provide federal grant money to states to better enable these jurisdictions to successfully prosecute hate crime offenders. We cannot afford to wait any longer to pass this vital legislation. Our sons and daughters, brothers and sister, mothers and fathers depend upon this Act to ensure full protection of their right to be free from hate-motivated crimes. I urge my colleagues to support this bill.

Mrs. FEINSTEIN. Mr. President, I am pleased to join my colleagues in expressing my strong support for The Local Law Enforcement Act of 2001, legislation of which I am an original cosponsor.

Popularly known as The Hate Crimes Prevention Act, this legislation would: expand current federal protections against hate crimes based on race, religion, and national origin; amend the criminal code to cover hate crimes based on gender, sexual orientation, and disability; authorize grants for State and local programs designed to combat and prevent hate crimes; and enable the federal government to assist State and local law enforcement in investigating and prosecuting hate crimes.

While past efforts to enact this legislation have received strong bipartisan support, we have not been able to get it to the President's desk for his consideration. We must now work to ensure that this legislation is not simply supported, but actually passed and signed into law by the President.

In the aftermath of the tragic events of September 11th, we saw a terrible rise in hate crimes in the United States. California was not immune to the violence.

In San Gabriel, CA, Adel Karas, an Egyptian-American grocer, was shot to death while he worked in his store. It is believed that he was a victim of an attack motivated by the September 11 attacks, not a robbery, because all the cash was left in his register.

In Palmdale, CA, a public high school found a notice threatening a "massacre" to avenge the terrorist attacks, complete with the names of five Muslim students who would be targeted.

In Lancaster, CA, Gerald Pimentel, a Hispanic man, was attacked after he was mistaken for being Iranian. Two men bumped his car three times while he was driving. His car was then blocked, and the men began yelling and running toward him. They chased him through his yard and into his home. When he tried to defend his family, they beat him. "They'd been calling him an Iranian," Gerald's daughter later said. "I couldn't understand why. You know, my dad is not Iranian. They just kept hitting and hitting my dad," she said.

The FBI has investigated over 300 incidents since September 11 in which individuals perceived to be Muslim or of Middle Eastern decent have been attacked or threatened because of their religion or national origin.

President Bush moved swiftly to protect Muslims and Arab-Americans from hate crimes and sent out a message that this nation will not tolerate such attacks against any Americans.

The President implored, "In our anger and emotion, our fellow Americans must treat each other with respect . . . Those who feel like they can intimidate our fellow citizens to take out their anger don't represent the best of America, they represent the worst of humankind . . ."

Attorney General John Ashcroft reiterated the President's message by warning that, "We must not descend to the level of those who perpetrated [September 11th] violence by targeting individuals based on race, religion or national origin."

Now, it is the Senate's turn to speak out. We can, and must, do more to prevent these types of hateful threats and acts of violence, and passing The Local Law Enforcement Enhancement Act would do just that.

I have seen, first-hand, the devastating impact hate crimes have on victims, their families and their communities. A hate crime divides neighborhoods and breeds a sense of mistrust and fear within a community.

I am an original cosponsor of The Local Law Enforcement Enhancement Act because it is aimed at protecting citizens from crimes based on their real or perceived race, ethnicity, religion, gender, disability, or sexual orientation.

The current hate crimes law simply does not go far enough. It covers only crimes motivated by bias on the basis of race, color, religion or national origin, and it only covers instances in which the victim was targeted because he or she was engaged in a federally-protected activity, such as voting, attending a public school, or if the crime occurred on federal property.

The limitations of current Federal law prevent it from reaching many hate crimes where individuals are



killed or injured by just walking down the street or, in the case of Clint Risetter, where he was sleeping in his own home.

On February 24, 2002, Clint Risetter awoke in his Santa Barbara apartment engulfed in flames and then tried to escape as he was burning. When firefighters arrived, they found him dead on his patio. Two days later, Martin Hartmann walked into the Santa Barbara Police Department and admitted to entering Clint's apartment, pouring gasoline on him as he slept, and then setting him on fire.

Hartmann had known Clint for several months but had learned just recently that Clint was gay. He told police about his hatred toward gays and how he "... decided to put [Clint] out of his misery," because he was gay. He believed that he was doing the right thing and that Clint deserved to die.

Clint's murder is being prosecuted as a hate crime because it took place in California which has its own hate crimes law that includes sexual orientation. However, had it taken place in one of the 27 states that do not have hate crimes laws that include sexual orientation, Clint's family might not receive the justice they are entitled to.

Gay men and lesbians are the third-largest hate-crime victim group in the country, the second-largest in California. They were the targets of more than 16 percent, or almost 1,300, of all hate crimes in 2000. Yet, current Federal hate crimes law does not include crimes against individuals because of their real or perceived sexual orientation.

Current law does not extend basic civil rights protections to every American, only to a few and under certain circumstances.

The Local Law Enforcement Enhancement Act would expand current Federal protections against hate crimes based on race, color, religion, and national origin, and amend the criminal code to cover hate crimes based on gender, disability, and sexual orientation.

Extending the law would not provide special rights, it would ensure equal protection.

In the past, we have made some progress in the sentencing and prosecution of hate crimes, but more needs to be done. I am proud to have sponsored The Hate Crimes Sentencing Enhancement Act which was signed into law in 1994, and has just recently been invoked for the first time.

In 1996, Julianne Marie Williams and Laura Winans were discovered dead in Virginia's Shenandoah National Park, bound and gagged with their throats slit.

In April of this year, Attorney General John Ashcroft announced that The Hate Crimes Sentencing Enhancement Act would be invoked in the murder indictment against the perpetrator of this horrific crime, Darrell Rice, "to ensure justice for victims of hate crimes."

Rice chose his victims based on their gender and sexual orientation. He even stated that he intentionally selected women to intimidate and assault "because they are more vulnerable than men" and that these two women "deserved to die because they were lesbian whores."

With this indictment, the Federal Government has recognized the horrendous nature of this hate crime and that it should be prosecuted to the fullest extent of the law.

However, prosecutors were only able to use The Hate Crimes Sentencing Enhancement Act because the two women were killed in a national park. If these murders had occurred in almost any other place in America, The Hate Crimes Sentencing Enhancement Act could not have been invoked and, again, justice might not have been ensured for the victims and their families.

Enacting The Local Law Enforcement Enhancement Act would ensure that all hate crimes can be investigated and prosecuted no matter what the victims are doing when they are targeted and no matter where the crime is perpetrated.

It would also significantly increase the ability of State and Federal law enforcement agencies to work together to solve and prevent hate crime.

Until we enact this legislation, many hate crime victims and their families may not receive the justice they deserve.

Those who are opposed to this legislation would say that we should leave it up to the states to legislate, enforce and prosecute hate crimes laws.

To those, I would refer you to a May 3rd, 2002, New York Times editorial which put it best. It read:

Congress has long recognized that the Federal Government should play a role in pursuing certain crimes, like bank robbery, kidnapping and racketeering, where the national interest is great and where federal law enforcement is in a good position to offer help to local police and prosecutors. Crimes in which individuals are singled out because of their race, religion or membership in other protected groups strike directly at this nation's commitment to equality, and are worthy of this sort of special federal involvement.

Other opponents of this legislation often argue that any crime of violence is a hate crime and that the motives behind and harms caused by a hate crime are not relevant or distinguishable from other crimes. I disagree.

The crimes perpetrated against Gerald Pimentel, Julianne Williams and Laura Winans, and Clint Risetter were carried out with a different intent and motive than other violent crimes.

Unfortunately, they are characteristic of many hate crimes in America; where an attacker repeatedly beats, stabs or severely burns his victim as if he is removing whatever it is he hates out of the person.

And the attacker feels justified in doing so, as if he is doing a great service to humanity by killing the person.

Congress should expand the ability of the Federal Government to investigate these heinous crimes, and it should expand the ability to prosecute anyone who would target victims because of hate.

Final passage of the Local Law Enforcement Enhancement Act is long overdue. It is necessary for the safety and well being of millions of Americans.

No American should be afraid to go to work or school because of his or her religion or national origin.

No American should be afraid to go hiking for fear of a gender-motivated attack.

And certainly, no American should be afraid to sleep in their own home because of his or her sexual orientation.

We have had strong bipartisan support for this legislation in the past, and it continues to receive bipartisan support. It now has 50 cosponsors in the Senate and 206 cosponsors in the House.

Today, I urge my colleagues to invoke cloture and vote in favor of this legislation. Let us now send a message to all Americans, that we will no longer turn a blind eye to hate crimes in this country.

Mr. WYDEN. Mr. President, I speak today because it is time for Congress to send its own message to those who would perpetrate hate crimes. That message should be that Federal law will no longer tolerate intolerance. Hate crimes are a stain on our national greatness, and it is time to stop that stain from spreading.

Fighting hate crimes should not be a partisan issue. This is not about giving preferences to one group of people or another. I am talking about opposing violence. I am talking about opposing brutal crimes.

When the fight for a hate crimes law first began in the early 1990s, many Americans questioned whether the problem was serious enough to warrant a specific law. But during the past decade, from one coast of the United States to the other, tragic events have proven that a law is badly needed.

These crimes are so unspeakably ugly that the names of the victims are seared in our minds. James Byrd, Jr., dragged to his death because he was black. Matthew Shepard, beaten and left for dead because he was gay.

My home State has been wounded by hate crimes, too. Oregonians will not forget Roxanne Ellis and her partner, Michelle Abdill, who were taped up and shot twice in the head in the back of their own pickup truck in Medford, Oregon in December 1995. Or Loni Okaruru, who was found last August bludgeoned to death in a field in Washington County, just outside Portland. Loni was a transsexual planning to undergo surgery. She had been beaten multiple times prior to that night.

The Senate has passed hate crimes legislation unanimously several times, only to see it jettisoned in Conference with the other body. The consequences of all this legislative wrangling are

real. Each time Congress delays, more brutal, hate-driven deaths go unpunished. Each time Congress delays, more hate crimes happen, because the perpetrators have no fear of being punished for the true nature of their acts.

The legislation before this body today will close the loopholes in Federal hate crimes law. It will give local law enforcement the full force of Federal resources in investigating and prosecuting crimes motivated by bias against sexual orientation, gender or disability.

This legislation will not preempt State and local laws or authorities. But it will provide Federal backup to important local efforts. Based on testimony before the Senate Judiciary Committee, it is likely that Federal help will be sought by local authorities in a dozen cases a year.

The message Congress sends in passing this bill is as important as the resources that will be made available to local law enforcement. It is time to limit the lengths to which people can go to infect our society with diseases like racism, and homophobia, and religious intolerance.

Hate crimes are intentionally directed at victims because of who they are. They strike not just at a person but at the heart of a community, be it a black community, a gay community, or a disabled community. And when any one group is targeted, the entire American community feels the blow.

The scourge of hate crimes must be confronted and eradicated. This legislation gives Congress the means to do so. I urge my colleagues to vote for cloture on the bill so that it can be enacted swiftly.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I understand we have 3½ minutes remaining. I yield 2 minutes to the Senator from Oregon, and I will take the last minute and a half.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. As I contemplate the conclusion of this debate, my own judgment is that it has been one of the poorer debates I have witnessed in the Senate. Until this moment, there has been very little participation in it. Frankly, I find that disappointing because, as the Senator from Minnesota pointed out, this is an emergency.

I have to think of all of our gay brothers and sisters who may be watching, who cannot follow the confusion of Senate procedure, who will be very disappointed that once again we are thwarted from proceeding on a matter that is, in fact, very important. This is about domestic terrorism and about the Federal Government showing up to work.

On a positive note, I say, as Senator KENNEDY has said, we will be back and we will find another vehicle and another opportunity to proceed. I hope in the meantime we will reach out to Sen-

ator HATCH and others who have legitimate concerns to find ways to incorporate their concerns in an even better bill, and I hope we will do that in the spirit of the great example set in the New Testament. When confronted with a woman who had committed adultery, Christ himself was able to say in the public square he did not condemn, he did not endorse the lifestyle, but he did save a life. I think we ought to do the same as the Federal Government. It is in that spirit I intend to vote to invoke cloture.

I yield the floor.

Mr. KENNEDY. Mr. President, the most fundamental right we have as citizens is to be able to live in a peaceful country without the fear of violence in our society. We have seen so many different instances where violence has come in our society based on race, religion, and national origin. We have, over a period of years, tried to free ourselves from that form of discrimination. That is what this is about: Making sure that every American, regardless of their race, religion, national origin, sexual orientation, disability, or gender, is going to have the full support and weight of the Justice Department to ensure they will be able to live in this country in peace and dignity and some security. That should be a responsibility of the Justice Department, and it should be a common responsibility for all Americans.

That is not the state of affairs today, but this legislation will guarantee that. That is why it is so important. We are not prepared to exclude any different group. We want to include all Americans. That is why this legislation includes all of those groups. It is broadly supported by the law enforcement community, 22 attorneys general, former attorneys general from the United States, Republicans, and by virtually all the diverse religious leaders. They understand the moral issues, the moral compulsion, as well as the issues of liberty that are included. I hope we would now invoke cloture.

So all Members know, obviously if the amendments are germane, they will be considered after cloture. But let us give this message to all Americans that they will live in a secure nation.

#### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Calendar No. 103, S. 625, a bill to provide Federal assistance to States and local jurisdictions to prosecute hate crimes:

Hillary Clinton, Harry Reid, Jack Reed, Russell Feingold, Richard Durbin, Edward Kennedy, Evan Bayh, Charles Schumer, Debbie Stabenow, Maria Cantwell, Daniel Akaka, Ron Wyden, Carl Levin, Daniel Inouye, Joseph Lie-

berman, E. Benjamin Nelson, Byron Dorgan, Patrick Leahy.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived. The question is, Is it the sense of the Senate that debate on S. 625, a bill to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, and for other purposes, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Missouri (Mr. BOND), and the Senator from Idaho (Mr. CRAPO) are necessarily absent.

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

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

The yeas and nays resulted—yeas 54, nays 43, as follows:

[Rollcall Vote No. 147 Leg.]

#### YEAS—54

Akaka	Dodd	Lieberman
Baucus	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Edwards	Miller
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Breaux	Graham	Nelson (NE)
Byrd	Harkin	Reed
Cantwell	Hollings	Reid
Carnahan	Inouye	Rockefeller
Carper	Jeffords	Sarbanes
Chafee	Johnson	Schumer
Cleland	Kennedy	Smith (OR)
Clinton	Kerry	Snowe
Collins	Kohl	Stabenow
Conrad	Landrieu	Torricelli
Corzine	Leahy	Wellstone
Dayton	Levin	Wyden

#### NAYS—43

Allard	Frist	Nickles
Allen	Gramm	Roberts
Bennett	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Hutchinson	Specter
Cochran	Hutchison	Stevens
Craig	Inhofe	Thomas
Daschle	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Voinovich
Ensign	McCain	Warner
Enzi	McConnell	
Fitzgerald	Murkowski	

#### NOT VOTING—3

Bond	Crapo	Helms
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The PRESIDING OFFICER. On this vote, the yeas are 54, the nays are 43. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

Mr. DASCHLE. Madam President, I enter a motion to reconsider the vote by which cloture was not invoked on S. 625, the hate crimes legislation.

The PRESIDING OFFICER. The motion is entered.

Mr. LIEBERMAN. Mr. President, I rise to express my severe disappointment in the Senate's failure to invoke cloture on the Local Law Enforcement Enhancement Act—also known as the

Hate Crimes bill. I am proud to be a cosponsor of this bill, but I am not proud of what the Senate did to that bill today.

One of the things we try to do in this Chamber, as lawmakers, is to adopt laws that express and encode our values as a society—to, in some sense, put into law our aspirations for the kind of people we want to be. Clearly, one of the bedrock values, one of the fundamental values, of America is equality—equality of treatment before the law, equality of opportunity but, beyond that, a broader notion of tolerance in our society. It is part of what brought generations of immigrants to this country—the idea that they would be judged on their personal merit, not on anything related to their personal status or characteristics.

Starting with our Declaration of Independence—our nation's documentary explication of the values underpinning our experiment in self-government—our country's leaders have laid out a vision of a nation born and bred in notions of tolerance and equality. We know for a certainty that our nation did not live up to that vision when it was first articulated, but in each successive generation we have tried hard to meet the ideals we set out for ourselves. And in each successive generation we have come a bit closer to meeting that goal. Sometimes, obviously, we do not achieve those aspirations and we are intolerant toward one another. Then the law has not only the opportunity but the obligation to step in and to try to create incentives or deterrents toward the worst forms of intolerance, even hatred. That is what this bill is about.

Clearly, over the decades our Nation has built a strong and proud history of protecting the civil rights of Americans who are subject to racial, religious, gender-based, or disability-based discrimination in the workplace, in housing, in life. In more recent times, many of us here in the Chamber have worked to try to extend some of those protections to cover discrimination based on sexual orientation.

This bill stands solidly in that tradition and is just one more step on our nation's path to make its vision of itself a reality. Like the civil rights laws of which we are all so proud, this bill proclaims that there is certain conduct that is unacceptable to us as a nation. This bill takes Federal criminal jurisdiction and extends it to the prosecution and punishment of those who are accused of having caused bodily injury or death based on an animus, a hatred that comes from feelings about the victim's race, religion, nationality, gender, disability, or sexual orientation. In other words, this is another way for our society to express our disdain, to put it mildly, at acts of violence committed based on a person's race, religion, nationality, gender, disability, or sexual orientation.

It is also a way, as is traditionally the province of criminal law, not just

to speak to the common moral consensus of our society about what is right and what is wrong—that, after all, is what the law is all about—but also by punishing those who are proven to have committed the wrongs and to deter others in the future from committing those same acts that society generally finds abhorrent.

Current law expresses this but in a way that is limited. It permits Federal prosecutions of hate crimes resulting from death or bodily injury if two conditions are met: First, the crime must be motivated by the victim's race, religion, national origin, or color. Second, the perpetrator must have intended to prevent the victim from exercising certain specific federally protected rights. Of course, I support this law and the goals that it embraces: The Federal prosecution of people who inflict serious harm on others because of the color of the victim's skin, the sound of the victim's voice, a foreign accent, or the particular place in which the victim worships God. In short, these are crimes committed because the victim is different in some way from the perpetrator. Such crimes, I conclude, should be eligible for federal prosecution.

But the current federal law is too limited to address many of the hate crimes that are deserving of federal prosecution, and we need for the law to more fully express some of the principles I talked about at the outset: equality, tolerance, doing everything we can to stop the most abhorrent acts of violence against people based on their characteristics. I think we ought to add to the list of prohibited bases of these crimes, crimes committed against someone because of gender, because of sexual orientation, and because of disability. Adding these categories—gender, sexual orientation, disability—seems to me to be an appropriate extension of the basic concept of equal protection under the law. As the law now stands, it also imposes a requirement, a bar to prosecution relating to race, color, religion, and national origin that we ought to change, which is that the law is only triggered if the victim is prevented from exercising a specific type of federally protected activity.

There are obviously crimes that are committed based on hatred that are triggered in cases other than the prevention of the exercise of a specific federally protected activity, thus, the provision of this bill that would eliminate this obstacle and, therefore, broaden the ability of Federal prosecutors to pursue crimes motivated by racial or religious hatred. It would still, however, require prosecutors to show a connection to interstate commerce.

Just as importantly for those concerned that this bill unnecessarily intrudes upon State prerogatives, the bill also includes language requiring the Justice Department, prior to indicting a defendant for a hate crime, to certify not just that there is reasonable cause

to believe that the crime was motivated by improper bias, but also that the U.S. Attorney has consulted with local law enforcement officials and determined one of four things—that the state doesn't have or won't exercise jurisdiction to prosecute the crime, that the State has asked for federal prosecution, that the State does not object to federal prosecution or that the State has completed its prosecution and the Justice Department wants to initiate a subsequent prosecution. This process ensures both that we will avoid an unnecessary overlap between the exercise of State and federal jurisdiction and that those in local law enforcement, closest to the alleged crime, will have the first opportunity to pursue those committing these heinous crimes.

At the same time, it makes clear that in cases where federal prosecutors determine that federal prosecution is essential to vindicate federal values, this statute will be available to them. This certification process should lay to rest the concerns some of my colleagues have who fear that Federal prosecutors will interfere with State efforts to bring perpetrators of hate crimes to justice.

At a time when so much else is going on here in the Capitol with the high profile issues of this session, this bill brings us back to America's first principles of equality and tolerance and challenges each of us to think about the appropriate and constructive role that the law can play, understanding that the law can't control the hearts of people in this country.

Ultimately, we have to count on people's own sense of judgment and tolerance and, hopefully, the effect that other forces in their lives will have on them to make them fair and tolerant, such as their families, their schools, their religions, their faith. But this bill is here to say in the cases when all of those other sources of good judgment and values in society fail to stifle the hatred that sometimes does live in people's hearts and souls, to say that this is unacceptable in America and to attach to that statement the sanction of law, hoping that we thereby express the higher aspirations we have for this great country of ours as it continues over the generations to try to realize the noble ideals expressed by our founders in the Declaration of Independence, but also to put clearly into the force of law the punishment that comes with law when one goes so far over the line to commit an act of violence based on hatred, hoping thereby that we will deter such heinous acts from occurring again in the future.

The Senate had a chance today to bring us one step closer to making the law more closely reflect our founding vision. The Senate should have taken that step. It is a truly deep disappointment that it did not do so. This will not, though, be our last chance. The bill's opponents will not be able to hide behind procedural posturing forever. This bill will come back again this

year to the Senate and when it does, I believe that we have no choice but to pass it. Our values as a nation will allow for no less.

I thank the distinguished Chair. I yield the floor.

### INCREASING THE PUBLIC DEBT LIMIT

The PRESIDING OFFICER. Under the previous order, the clerk will report S. 2578 by title.

The legislative clerk read as follows:

A bill (S. 2578) to amend title 31 of the United States Code to increase the public debt.

The PRESIDING OFFICER. The clerk will read the bill for the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read for the third time, the question is, Shall the bill pass?

Mr. KERRY. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Missouri (Mr. BOND), and the Senator from Idaho (Mr. CRAPO) are necessarily absent.

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

The result was announced—yeas 68, nays 29, as follows:

[Rollcall Vote No. 148 Leg.]

#### YEAS—68

Akaka	Edwards	Miller
Allen	Feinstein	Murkowski
Baucus	Frist	Murray
Bennett	Grassley	Nelson (FL)
Biden	Gregg	Nelson (NE)
Bingaman	Hagel	Nickles
Boxer	Hatch	Reed
Breaux	Hutchinson	Reid
Brownback	Hutchison	Roberts
Bunning	Inouye	Rockefeller
Burns	Jeffords	Santorum
Byrd	Johnson	Sarbanes
Cantwell	Kennedy	Schumer
Carnahan	Kerry	Snowe
Cleland	Kohl	Specter
Cochran	Landrieu	Stevens
Collins	Leahy	Thomas
Craig	Levin	Thompson
Daschle	Lieberman	Thurmond
DeWine	Lott	Voinovich
Dodd	Lugar	Wellstone
Domenici	McConnell	Wyden
Durbin	Mikulski	

#### NAYS—29

Allard	Ensign	Lincoln
Bayh	Enzi	McCain
Campbell	Feingold	Sessions
Carper	Fitzgerald	Shelby
Chafee	Graham	Smith (NH)
Clinton	Gramm	Smith (OR)
Conrad	Harkin	Stabenow
Corzine	Hollings	Torricelli
Dayton	Inhofe	Warner
Dorgan	Kyl	

#### NOT VOTING—3

Bond	Crapo	Helms
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The bill (S. 2578) was passed, as follows:

S. 2578

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking “\$5,950,000,000,000” and inserting “\$6,400,000,000,000”.

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

The motion to lay on the table was agreed to.

Ms. CANTWELL. Madam President, I rise today to offer my support for increasing the federal debt ceiling by \$450 million. This is a difficult issue and I well understand that we need to raise the debt ceiling. We have troops conducting military operations overseas. We are working here at home to address critical national security needs. But if we hadn't acted today, the United States would have been on the verge of defaulting on its debt for the first time in history. This is unacceptable.

However, now that we have voted to raise our debt limit, we must begin an honest and open debate about why we are having this vote. I want to make it crystal clear that I believe we need to extend the budget enforcement procedures and establish reasonable discretionary spending caps as soon as possible.

At the beginning of last year, the Congressional Budget Office projected a ten-year surplus of \$5.6 trillion and the debt ceiling seemed to be high enough to last through fiscal year 2008. That all changed, however, as the projected big surpluses first started to decline last year and then dramatically changed into a \$2.7 trillion deficit. We know that the current deficit is the result of last year's tax cut, the recession, and the tragic events of September 11, 2001.

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

I want to make it clear that the change in our fiscal situation has driven estimated federal interest costs higher: CBO has boosted its projection of federal interest costs in 2002 through 2011 from just over \$600 billion a year ago to \$1.6 trillion. The dramatic downturn in the federal budget will force taxpayers to pay \$1.2 trillion more in debt payments, money that could have been used to invest in additional defense, homeland security, education, and job training.

Our total budget must be crafted within the need to maintain fiscal dis-

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

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

Having spent time in the private sector, I can tell you this: No private sector organization thinks it can spend its way out of programs; nor can we as a country. This is why I supported and cosponsored the Gregg-Feingold Budget Enforcement Amendment last week—and why I will continue to work with my colleagues on extending the pay-as-you-go budget enforcement procedures as well as setting up reasonable discretionary spending limits.

Some voted against this debt limit increase today because it had not been paired with procedures for a fiscally disciplined framework. I certainly empathize with that position. We are in tough times. And tough times force us to make tough decisions. Today's vote was one of them.

Mr. CONRAD. Madam President, I voted against S. 2578, a bill that would increase the public debt limit by \$450 billion.

I support taking action to increase the debt limit, in order to protect the full faith and credit of the U.S. government. Frankly, we have no choice but to raise the limit. The United States must pay its bills. What I cannot support, however, is increasing the limit without also putting in place procedures for arresting this dramatic downturn in our nation's fiscal health.

I want to provide a little background on how we arrive at this juncture. You might remember that a little over a year ago, when the Bush administration submitted its first budget, we were told that, even with the enactment of the President's proposed tax cut, we would not hit the Federal debt limit until 2008. By August, with the tax cut enacted, the administration acknowledged it was wrong and that we would actually hit the debt limit in 2004. By December, that estimate was moved up again, with the Treasury Secretary admitting the debt limit would be reached within months and pleading with Congress to raise the limit so that the United States wouldn't default on its financial obligations.

And, I should not, the administration didn't just request a small debt limit increase. It requested a \$750 billion increase, which would constitute the second largest one-time increase ever surpassed only by the \$915 billion increase

signed into law by the President's father during his term in office, in November 1990.

That dramatic turnaround in events followed a period of rapidly falling deficits in the 1990s and 4 years of surpluses. In total, as a result of the fiscal discipline put in place in the 1990s, we paid down \$400 billion of publicly-held debt and were on the path to eliminate our debt in preparation for the retirement of the baby boom generation. What a sad turn of events we now face today.

It is imperative that we find a way out of this mess. Last week, we were close in the Senate on adopting a bipartisan deal to restore budget discipline and prevent us from digging the hole any deeper. That deal would have extended PAYGO and the Budget Act points of orders, and set a cap on discretionary spending for 2003. Unfortunately, our Republican colleagues blocked its consideration. It seems that many in this chamber are still in denial about the dire position we find ourselves in today as a result of last year's tax cut, the brutal attacks on this nation last September, and the slowdown in the economy.

Let me state again that the Congress has an obligation to ensure that the government avoids default, an event that would have severe consequences for our financial markets and for the government's cost of borrowing funds. However, I feel just as strongly that we should either have passed a much smaller increase—in the range of \$100 billion to \$200 billion—or passed the current bill in conjunction with the adoption of bipartisan budget measures that would help us stop the fiscal bleeding and return the budget to a path of balance. Simply increasing the debt limit does nothing to force the President and this Congress to deal with the very real fiscal problems we now face today, problems that will only worsen as the baby boomers begin retiring over the next decade. I feel we missed a great opportunity today to adopt those measures as part of the increase in the public debt limit.

Mr. DORGAN. Madam President, today the Senate voted to increase the debt limit by \$450 billion. I agree with many of my colleagues that raising the debt limit is the responsible thing to do. We must protect the full faith and credit of the United States government and we are dangerously close to debt limit. The Department of Treasury has already used extraordinary measures to avoid a default. The time for action is now.

However, I also believe that we must put pressure on the Congress and the Administration to find solutions to our budget problem. We must work together to restore fiscal discipline to the Federal government. The bill approved by the Senate would raise the debt limit by \$450 billion which will provide sufficient funds for the government to operate through next spring. I opposed this increase. I would have

supported a smaller increase in the debt limit—\$150 billion, for example—that would prevent a default but would force an agreement on our budget issues this fall. It would have given us leverage to force a solution to our budget problems.

The debt limit must be raised. It is the responsible thing to do. However, a smaller increase would have kept the pressure on the Congress and the Administration to come to agreement on a long term solution to put our fiscal policy back in touch and develop a plan to eliminate our budget deficits.

Mr. HATCH. Madam President, as a longtime proponent of a balanced budget amendment to the Constitution, I rise to speak concerning S. 2578. While we are told that this bill will increase the Nation's debt limit, what we really voted on today was whether to keep the statutory commitment that Congress has made to the Social Security trust fund.

Social Security's current surplus is the main reason we need to raise the debt limit. Every single dollar of that surplus goes into the Social Security trust fund, and by law, every single dollar of the trust fund counts as part of the total Federal debt. Social Security is expected to run a \$160 billion surplus this year, with an even higher surplus next year. Ironically, in order to place that surplus in the Social Security trust fund, the law requires us to increase the debt limit. Only in Washington, DC, can running a surplus increase your level of debt.

Of course, the debt that is included in the Social Security trust fund is just money that the Treasury owes to itself. What really matters for the Government's budget and for the U.S. economy as a whole is the amount of debt held by the general public. Over the last few years, as a Republican Congress put the brakes on spending, debt held by the public actually fell, lowering the amount of money our Government had to spend on interest payments. However, the war on terrorism, our current recession, and Congress's recent extravagant spending have combined to increase the public debt over the past year. While it is important for Congress to meet its statutory responsibilities to the Social Security trust fund by increasing the debt limit, it is even more important that Congress get its fiscal house in order by working to cut discretionary spending and restore the economy's health.

Time to act on the debt limit is running out. In fact, the Secretary of the Treasury says that the main reason he has called June 28 the "drop-dead" date for raising the debt limit is because on that day, Treasury is scheduled to make a large payment into the Social Security trust fund. I am pleased that the Senate voted to raise the debt limit today, and we can get a final bill to the President for his signature.

Finally, now that we have voted on this wartime increase in the debt limit,

I hope that Congress enacts tough budget caps, strong limits on discretionary spending, and productivity-enhancing legislation so we can bring our budget back into balance and restore the American economy to its full potential.

#### ORDER OF PROCEDURE

Mr. REID. Madam President, I ask unanimous consent that at 2:15 p.m. today, the Senate proceed to a period for morning business until 3:15 p.m., with Senators permitted to speak for up to 10 minutes each; that at 3:15 p.m., the Senate proceed to the consideration of H.R. 8 under the parameters of the unanimous consent agreement of April 23, 2002.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. And I will not object, although I have an inquiry I need to make and I will probably ask consent as a result of that.

We need to go to the Defense authorization bill. That should be our first issue before anything else. I have made the points that we have not done a budget resolution and there is nothing more important than the defense of our country and that we need to go to the Defense authorization bill.

I know there was an agreement entered into on this death tax issue, and I think we should go to it as soon as possible. But I inquire about what is the plan with regard to the Defense authorization bill. I note that S. 2514, the Defense authorization bill, is on the calendar and was reported May 15.

Under my reservation, can I get some information about what is the plan with regard to the Defense authorization bill?

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, as the distinguished Republican leader and I discussed a few minutes ago, the plan is certainly to take up the Defense authorization bill prior to the time we leave for the July 4 recess. That has always been my intention. I have indicated that on several occasions to the Republican leader and to others, and that certainly is my intention again today. We know it will take some time. Senators have expressed an interest in offering some amendments to the bill, and they are in some cases not quite ready yet to go to the bill as they are examining amendment options.

In the meantime, we want to also fulfill our obligation to Senators on the estate tax. We made that commitment some time ago, and we are hoping to do that. We are also talking to the Senator from Kansas, the Senator from California, and others about the cloning-stem cell research debate. We are hoping we can get a unanimous consent agreement to do that on Friday of this week and Monday.

In addition to that, we are working on terrorism insurance, and we are hoping to get its passage before we leave. I would like to get a unanimous consent agreement on that matter.

Senator LOTT mentioned we were not able to get the budget language resolved. Unfortunately, our Republican colleagues objected to doing that last week during the debate on the supplemental, so we were precluded from doing that last week, but we will continue to work to find a way, hopefully without the objections of our Republican colleagues, on the budget as well.

I will reiterate my commitment to the distinguished Republican leader that the Defense authorization bill is legislation we will finish prior to the time we leave for the July 4 recess.

Mr. LOTT. Under my reservation, I note there is a great deal of difference between going to the budget resolution and having full consideration, and agreeing to a number and enforcement numbers on supplemental appropriations. I am prepared to try to help find a solution, to have some limits and some enforcement mechanisms, but obviously the way it has been done for the past 25 years is to have a budget resolution. I do think it is the right thing to do, to go to this death tax issue, and I do want us to continue to work on that.

We are going to get an agreement on how to proceed to the cloning issue because I made that commitment some time ago, as did Senator DASCHLE, to Members on both sides of the issue and on both sides of the aisle. I think we are very close.

I ask to be added to this unanimous consent agreement that following the disposition of this death tax issue, H.R. 8, the next order of business be the Defense authorization bill, which is S. 2514.

Mr. DASCHLE. Madam President, of course we will object to that. Let me reiterate, because the Senator has noted his desire as well to deal with cloning, to deal with terrorism insurance, to deal with a number of other issues, that I know he will be prepared to cooperate in scheduling. We have to take this a step at a time. We may not be ready to deal with Defense tomorrow, but we are going to be ready to deal with it before the end of this work period. So we will continue to do that.

I look forward to working with him to find that date when we can accomplish all we need to accomplish in a very short period of time.

Mr. LOTT. With that assurance then, I withdraw my further reservation, but I again express my concern that if we wait too late on bringing up the Defense authorization bill, being able to complete it before the recess could be a problem. We need to get it done so we can go to the Defense appropriations bill and the military construction appropriations bill.

In view of the objection and the assurances, I withdraw my reservation.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

#### RECESS

The PRESIDING OFFICER. The hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:53 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

#### UNANIMOUS CONSENT REQUEST

Mr. BUNNING. Mr. President, I have a unanimous consent request to propose. This unanimous consent is to pass a badly needed permanent extension of the adoption tax credit. If we do not pass this extension that was part of President Bush's tax relief bill of last year, it will sunset.

If the adoption tax credit is allowed to sunset, the following things will happen: The adoption tax credit will be cut overnight from a maximum of \$10,000 to \$5,000. Families adopting special needs children will no longer receive a flat \$10,000 credit; instead, they will be limited to a maximum of \$6,000. The tax credit no longer will be permitted if we have to extend it each year. Families claiming the tax credit may be pushed into AMT, alternative minimum taxes. The income caps will fall from \$150,000 to \$75,000 so that fewer families will be eligible for the credit.

There are over 500,000 kids in foster care right now. Let's help them find loving homes. Let's make it easier for families to adopt, not throw up barriers.

The PRESIDING OFFICER. Is there objection to the request of the Senator?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. BUNNING. May I carry on a colloquy with the Senator from Massachusetts?

The PRESIDING OFFICER. The Senator has made a request to engage in a colloquy with the Senator from Massachusetts.

Mr. KENNEDY. I would be more than glad to engage in a colloquy.

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

Mr. BUNNING. I ask the Senator from Massachusetts, does he have a specific objection to the permanent extension of the adoption tax credit at this time for some specific reason?

Mr. KENNEDY. Mr. President, I am doing it on behalf of the leadership because I understand we have Members who want to offer amendments and have a somewhat different view than the Senator from Kentucky and want the opportunity to do so and have that determined by the Senate.

For that reason, I object.

Mr. BUNNING. I understand the objection. I hope when the other objectors come forward, we will have an opportunity to discuss this permanent extension of the adoption tax credit and to try to work with whoever the objectors are on that side to make it possible that we have this extension made permanent so families can adopt and continue to get the permanent \$10,000 tax credit under which they are now operating. My fear is that will expire and then we will have all kinds of bad consequences.

I thank the Senator and I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I say to the Senator from Kentucky, I think the objective of the Senator is enormously worthwhile. I may very well come out and support the proposal of the Senator from Kentucky. I have been notified by the leadership there are those who have a proposal that may have some different features and they would like to be heard on that particular proposal, but I thank the Senator. I think the issues on adoption are enormously important. I think the idea of trying to provide assistance to those families is incredibly valuable.

I have had the opportunity, for example, to have hearings on families from Canada with grown children who have adopted children with special needs. They adopted these children who had special needs even though they had younger children because, under the Canadian health care system, they offset the medical aspects of the special needs children.

I asked the mother why she adopted special needs children when she had three or four children of her own. Her response was she wanted her children to understand what love was really all about.

I may very well support the Senator and try to go even further than the Senator from Kentucky. I admire him for raising the issue on the floor, and I only object because of what I have been notified by the leadership.

Mr. BUNNING. If the Senator will yield, my personal interest goes beyond just the permanent credit. I have a daughter who had four children and adopted a special needs child, and then had seven more children after that. So I am very familiar with the change in life and the loving care that comes with adopting a special needs child. I am just fearful the Senate will not act in a reasonable manner to make sure this credit becomes permanent. That is my reason for bringing it up at this time.

I understand the objection of the Senator.

Mr. KENNEDY. Since I am the one who objected, I say I will bring it up with the chairman of the Finance Committee and ask him if he would talk to the Senator from Kentucky about what their plans are and urge him to give us an opportunity to address this issue.



Mr. BUNNING. I thank the Senator and yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

#### ENVIRONMENTAL POLICY

Mr. NELSON of Florida. Mr. President, it was a Republican President, Theodore Roosevelt, who, in the early 1900s, established our Nation's first national forests and refuges, and his fifth cousin, President Franklin D. Roosevelt, who, during the Great Depression of the 1930s, launched the Civilian Conservation Corps. Then, under Dwight Eisenhower in 1960, our country set aside the first part of Alaska's Arctic National Wildlife Refuge. Under Richard Nixon, in 1970, we enacted the Clean Air Act to limit air pollution from cars, utilities, and industries.

Then, 20 years later, a major expansion of that act was signed into law by President George H.W. Bush, the father of now-President Bush.

For 100 years, Republican and Democratic Presidents alike saw that saving America's natural wonders ought not be a partisan political issue. Yet today we see the present Bush administration, time and again, side, with corporate political interests trying to roll back the time-tested and bipartisan measures aimed at protecting our land, our air, and our water.

Let me give some examples. The Federal Superfund Program for cleaning up toxic waste sites is running out of money. It was set up in 1980. It was sponsored, fostered and encouraged under several Presidents. It was set up under President Carter, and continued by President Reagan, then President H.W. Bush, and President Clinton. They all encouraged the use of the Superfund and the concept of the polluter pays.

In 1980, an agreement was struck with the oil companies and the chemical companies. The oil and chemical companies would pay into a trust fund, and when a toxic waste site was found—and this happened after the Love Canal situation had riveted the Nation's attention—there would be money in the trust fund if they could not find the polluter to pay. If the polluter had fled town or had gone bankrupt, there was a fund from which you could then get the toxic waste site cleaned up.

I just toured one of these toxic waste sites about 12 miles west of Orlando, a site that has been there for several decades, a site where at one point what I call a witch's brew of boiling DDT, which formed another chemical compound, had flowed into a holding pond. Why was it a holding pond? Because it was a depression in the ground. And where did that go? It was a sinkhole that went into the Floridian aquifer.

At one point it spilled out of this holding pond into this creek that ran into Lake Apopka, a lake of thousands of acres that used to have 4,000 alligators, and which has 400 now—and you

know how sturdy a beast an alligator is.

Yet what the present Bush administration has said is we do not want to continue the polluter pay concept. We want the taxpayer to pay for cleaning up toxic waste sites instead of the polluter. As short as we are on money, with the surplus having evaporated, with the war requiring more and more money, an appropriation from the general fund of taxpayer money for the Superfund may not happen. So sites such as the one 12 miles west of Orlando, are not going to get cleaned up. If we do not re-authorize the polluter pays provisions—which have had bipartisan Presidential support—then we are going to have a serious problem. The site west of Orlando will continue to jeopardize the water supply for all of that part of Florida. That is how serious it is.

Let's take another case. We had the matter of arsenic.

First, the administration was not going to lower the parts per billion in drinking water. It would remain at 50 parts per billion, a standard set before we knew arsenic caused cancer. Based on years of study, the previous Administration had recommended it go down to 10 parts per billion. There was such an outcry that the public was finally heard. And, before the Congress had to act, the administration, relented and adopted the 10 parts per billion standard.

In the Senate 2 months ago, we defeated the administration's attempt to permit oil and gas drilling in the pristine Alaska Wildlife Refuge. Unfortunately, we were unable to overcome the administration's opposition to improving automobile fuel economy standards.

If we are going to get serious about weaning ourselves from our dependence on foreign oil supplies, we are simply going to have to go to where we consume the most energy. The most energy is consumed in the transportation sector. If we don't get serious about increasing the miles per gallon on our automobiles and trucks, we are simply not going to be able to address our dependence on foreign oil. We should follow a balanced approach on the energy question. It should be part production, part conservation, part alternative fuels, part increased use of technology and part renewable fuels. We can use our technology—we have it today—to increase significantly the miles per gallon fuel economy of our transportation sector.

It is so hard, because of all the special interests involved, to pass good public policy. A good example is the defeat of our effort to increase corporate average fuel efficiency standards. But mind you—it is going to take a crisis, such as a terrorist sinking a supertanker in the 19-mile-wide, Strait of Hormuz which suddenly stops the flow of oil traffic out of the Persian Gulf to the industrialized world, to give us a major disruption of energy supplies.

We will rue the day that we did not increase the corporate average fuel efficiency standards of our cars and trucks because the transportation sector accounts for 42 percent of the oil we consume in this country.

Here, again, is another example of where this administration has not faced up to the reality of the environment and of energy. By the way, we have cars today—particularly Hondas and Toyotas—that can get over 50 miles per gallon. These are the hybrid vehicles that shift from gasoline to electric. Because of the computer, the driver and the passengers do not even notice the shift. There is no diminution of the electrical output of the automobile.

Again, it is another example of where we are just on the wrong course with regard to our energy and to our environmental policies.

If our energy legislation stalls and the environment remains under siege, is it all lost? I don't think it is. Our citizens and their elected representatives can demand and get better.

In the past, we saw an outcry regarding arsenic levels in our drinking water and arsenic used to treat wood. We won on both counts. The arsenic standard for drinking water was dramatically decreased and the wood preserving industry agreed to cease the manufacture of arsenic treated wood for residential uses by the end of 2003. Children's playground equipment will no longer be manufactured with wood treated with arsenic. More needs to be learned about the dangers of arsenic-treated wood but, I will continue to seek answers from the Administration.

Last year we were able, fortunately, to scale back the sale of new oil and gas leases in the Gulf of Mexico right off of the coast of Florida—keeping the drilling more than 100 miles from the Florida shores, preventing the spoiling of our coastal environment and protecting the \$60 billion a year tourism industry in Florida.

Senator GRAHAM and I tried to block that sale altogether and we will continue to battle exploration off Florida's coasts. Floridians, regardless of our individual party affiliations, overwhelmingly oppose offshore oil drilling that threatens our beaches, fisheries and tourist-dependent economy.

On saving the environment, our Federal Government today may be split largely along political party lines. But, in Florida, and across the Nation the people are not.

I thank you for the opportunity to share these thoughts with the Senate. I yield the floor.

Ms. STABENOW. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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



## PRESCRIPTION DRUGS

Ms. STABENOW. Mr. President, I rise today to speak about an important part of the strategy to lower prescription drug prices for all of our citizens, particularly our seniors who are using about 18 different medications in a year. We have a strategy to focus on with the intent to do everything possible to update Medicare to cover prescription drugs with a comprehensive Medicare prescription drug benefit which is long overdue.

Medicare was set up in 1965. It covers the way health care was provided in 1965. It needs to be updated to cover the primary way we provide health care today, which is outpatient prescription drug coverage.

We also know there are a number of other actions we can take to lower prices for everyone. I had the opportunity yesterday with the Detroit Regional Chamber of Commerce to hear from a number of businesspeople, large and small, who are struggling with their health care insurance premiums, some choosing to no longer be able to provide health care, and others finding they are having to cut back, and hospitals and nursing homes and home health agencies, all affected by the explosion in prescription drug prices.

When we look at the rising cost of health care, the majority of it is the cost of prescription drugs. A number of us have looked at what it is we can do to bring more competition, to bring prices down, and to make it more fair for Americans.

Americans today are underwriting the cost of research. I am very proud that, through the National Institutes of Health, we are providing billions of dollars in basic research. We support companies then taking that research, and we allow them to write off their research costs as well as their advertising and other costs to be able to provide the necessary research and development for new prescription drugs. We give them a patent to protect their development so they can recover their cost. But at the end of that process, we find that Americans, even after we have heavily subsidized, supported, and helped pay for the research and development, are paying the highest prices in the world.

One of the reasons is that there was a law passed in the late 1980s that puts a fence around the border of the United States as it relates to prescription drugs. It says that we as Americans cannot go across the border to Canada to purchase American-made, FDA-approved and safe drugs that are sold to Canada, on average, at half the price. We can't go to any other country as well.

In fact, as was shown in the Wall Street Journal last Friday in a front page article, every time the European Union or Canada or some other country negotiates lower prices for their citizens, the drug companies make it up by raising American prices, even though we are the ones paying for the research that creates the new miracle drugs.

To demonstrate this and to promote legislation, S. 2244, which Senator DORGAN, Senator JEFFORDS, myself, and many others, have introduced—it is a bipartisan bill to bring down this barrier at the border so Americans can get the very best prescription drugs at the very best prices from Canada—a number of us have been helping to sponsor bus trips to Canada to make the point.

This is a picture of a number of us who were joining, from the House and Senate last week, a bus in front of the Capitol. This is a bus that the Alliance for Retired Americans has been sponsoring. In fact, we have over 14 different trips planned in the next several days into Canada. We kicked off one in Detroit yesterday where a group of citizens got on the bus to go 5 minutes across the Ambassador Bridge, in which they were able to lower their prices on average by half, just by going across the bridge.

This is not about putting seniors or families on buses to go across bridges to get lower prices. This is about dropping the barrier at the border. This is protectionist legislation that does not allow us to have business relationships across the border to bring back those American-made drugs at a reduced price.

We can trade with Canada on agricultural products, manufacturing products, all kinds of things. People go back and forth across the border and do business every day. But when it comes to prescription drugs, we have not been able to do that. That creates a situation where we don't see the kind of pressure on our companies to be competitive and fair to Americans.

We want to get people off the bus. We want those prescriptions coming back to the United States to our neighborhood pharmacy, so a senior can walk in and get the reduced price.

I will just share with you some of the price differences we have seen as we have taken the bus trips to Canada from Michigan. Zocor, for high cholesterol, if you need to purchase this in Michigan, the price will be somewhere in the range of \$109. If you drive that 5-minute bus trip across the border, you can get that same Zocor for \$46. If we look at Prilosec for heartburn and ulcer relief, \$115 in Michigan; \$55 across the border to Canada.

Probably one of the most disturbing ones for me is a breast cancer treatment drug. I have taken to Canada breast cancer patients, who are in desperate need of this lifesaving treatment and medication. Tamoxifen is a well-known breast cancer treatment, \$136.50 in Michigan; \$15.92 across the bridge.

There is something wrong with this picture. There is something wrong when Americans are supporting and funding the development and underwriting costs and subsidizing, through tax deductions and tax credits, the development of these lifesaving medications, and we are paying so much more for these lifesaving drugs. It makes no sense.

I urge my colleagues to support our effort, to come on as cosponsors and support the effort to open our borders and lower prices for prescription drugs. We have a bipartisan bill, S. 2244. The time is now. We want to get the seniors off the bus, get lower priced prescriptions into the local pharmacy or the hospital or into the clinics around the State of Michigan. It is time to do that. It is past time to lower the prices for people.

This isn't the same as buying a new pair of tennis shoes. It is not the same as buying a new car, although coming from Michigan, I want to see people buy a new car every year. But if they don't, it is not going to threaten their life. But if a breast cancer patient does not get her Tamoxifen, it does threaten her life. That is the difference.

This is medicine. It is not optional. It is time we understand that and get serious about lowering prices, about creating the competition that will allow us to lower prices.

I have never seen an issue that affects more the economy of this country. It affects every businessperson trying to provide health insurance for themselves and their employees. It affects our universities' health clinics. The president of Michigan State University came to me expressing great concern about his rising health care premiums and the requirement that he was going to have to lay off people because they couldn't keep paying these rising costs, most of it from prescription drugs, and maintain the same number of staff at the university. This is ridiculous.

Most importantly, this is ridiculous because of what it means to our families and our seniors. Yesterday on the bus were a couple who are paying \$1,300 a month for their prescriptions, people on a fixed income. They were getting on that bus yesterday to go to Windsor, Canada, out of desperation to lower their prices so they could live independently in their own home and not have to be hospitalized or go into a nursing home and receive the kind of medicine they need.

It is wrong that we are seeing this kind of disparity. I urge my colleagues, while we are working on the important issue of Medicare prescription drug coverage, that we do something today to lower prices. We can do something right now by just simply opening the border to Canada and making sure that our citizens get the prices shown by these yellow bars on this chart, instead of paying the high prices we see they are paying right now.

I thank you, Mr. President. I urge my colleagues to get engaged in one of the most important issues affecting seniors and our families today. It is time to bring the prices down.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

## EDUCATION

Mr. KENNEDY. Mr. President, in the Washington Post today in the front

section on page A3, there is an article titled: "Report Urges Stricter Tests for Teachers, Expertise Is Stressed Over Theory."

This is an important report. It is one that underscores what a number of other reports have said, including those by the National Center on Education Information, which is a report that was out earlier this year, and the was a very solid report from 1996, which is most comprehensive on teacher quality, called "What Matters Most: Teaching for America's Future." The Administration's report is very important because it outlines the challenges we face.

I want to give an assurance to the American people that we do not need more legislation. We already have the legislation in place in the No Child Left Behind Act, and in the Higher Education Act of 1998, that, if fully implemented and funded, would address the real challenges we are facing in the States. We know that we need to hire over 2 million teachers over the next ten years, we need to improve teacher preparation, and we need to increase professional development. But we don't need new legislation. The No Child Left Behind Act requires 100-highly percent qualified teachers in our classrooms in four years. I believe that is the most important ingredient to have a well-qualified teacher in every classroom, increase professional development each year, and provide funding for mentoring.

The Higher Education Act, title II, provides funding for States and universities to improve the teacher preparation with high-quality strategies, including improving alternative routes to certification, and improving the quality of colleges of education.

Mr. President, what is left out of the report is the need for resources to help states meet these goals. We need resources to be able to achieve these goals for the children in this country. We need to do more than just count on alternative routes to certification. Alternative routes to certification could provide, at best, one-third of all of the teachers we need in our public school systems. For example, the Troops to Teachers only places about 700 teachers per year. We need to hire more than 200,000 teachers per year to address the shortages. Many of these new teachers need to have specialized training in special education, math and bilingual education. The alternative route programs can provide some assistance, but they are not the core of the solution. The solution lies in improving all of the teacher preparation and training programs and providing all teachers with the ongoing support they need once they are in the classroom.

Some traditional teacher preparation programs and alternative routes are successful. All the successful programs have the same characteristics. The recent report by the National Center on Educational Information said that a successful alternative route program is

specifically designed to recruit individuals with college degrees; that is, the emphasis is on content. Such a program has a rigorous screening process to attract high-quality candidates. The program is field based to give practical experience through internships. New teachers receive mentoring from trained teachers. Candidates must meet high standards upon completion.

The 1996 report had similar characteristics for a high-quality teacher preparation program at universities: organize teacher education around standards for students and teachers; develop and extend year-long programs with year-long internships; create and fund mentoring programs; and create high-quality sources of professional development for ongoing support.

So the Administration's report is useful and valuable today, but this is something we have understood now for a number of years. It really is nothing very new. The statistics may give us more recent information on particular States, but we know what needs to be done. We outlined in the No Child Left Behind legislation a series of programs to help and assist the States to address the teacher shortage, but the administration has requested zero increase in their proposed budget for improved teacher quality and reduced class size. There is an excellent study that says all these things need to be done—better training, recruitment, professional development and mentoring. We have to do them. But when it comes to the resources to be provided, we are just not getting it from the administration. That, I think, is a matter of enormous importance.

All of us want to address the kinds of needs that are outlined in this report. It is a good report. But in order to do that, it means funding the various programs that we have that are out there and in existence.

Mr. President, I want to mention several of the programs that the administration failed to fund this year that cut teacher quality programs by \$155 million this year. They include: The elimination of funding for preparing tomorrow's teachers to use technology is enormously important. You can get the new technology in the classroom, but unless the teacher understands how to use the technology and how to develop the curriculum to use the technology, you have missed the opportunity for success.

This program was oversubscribed, but it was eliminated by the Administration. Funding for the National Board for Professional Teaching Standards, which is enormously important, was eliminated. Certification by the National Board for Professional Teaching Standards, all across the country, is the key for increasing compensation, increasing professionalism, and increasing success. The National Board has been incredibly important and effective and yet the Bush Administration eliminates it.

The Bush budget eliminates programs to prepare teachers to teach

writing and civics, and provides a 50-percent cut in grants to help train teachers to teach American history.

So the point I am making, Mr. President, is that we can have these studies and they can point out what the problem is, but we know what the problem is, but we already know what the problem is. What it takes now is the increased investment in the No Child Left Behind Act and other programs that can really make a difference in terms of teacher quality.

We have to look at this in a comprehensive manner. We need to improve working conditions for teachers, including increasing pay, increasing the prestige of teaching, and improving schools so they are safe, modern places in which teachers can work and children can learn. Many schools have obsolete, crumbling, and inadequate facilities. All teachers and students deserve safe, modern facilities with up-to-date technology. Sending teachers and children to dilapidated and overcrowded classrooms sends an unacceptable message. It tells them they don't matter. No CEO would tolerate a leaky ceiling in the boardroom—and no teacher should have to tolerate it in the classroom.

This is all part of what we have to understand if we are going to expect that we are going to get quality teachers to teach in our schools.

Mr. President, this is just a final point I want to mention on the subject. Despite the goals we share in the recent report, I am concerned that the administration is not meeting the letter of the law in implementing the requirements of the No Child Left Behind Act to ensure a high-quality teacher in every classroom.

In the draft guidance of the new ESEA title II Teaching Quality Program, released on June 6, the Department proposes a large loophole for alternative routes to certification that I believe violates the law and could lower teacher quality.

The guidance says: "Any Teacher who has obtained full state certification, whether he or she has achieved certification through traditional or alternative routes, has a four-year college degree, and has demonstrated subject matter competence, is considered to be highly qualified under the law. Teachers who are participating in an alternative route program may be considered to meet certification requirements of the definition of a highly qualified teacher if participants in the program are permitted by the state to assume functions as regular classroom teachers and are making satisfactory progress towards full certification as prescribed by the state and the program."

This creates a double standard when it comes to teachers working through alternate routes compared to teachers working through the regular certification program—those working

through the regular certification program must be fully certified—no emergency, temporary provisional certification.

Alternate route teachers can be considered highly qualified while holding a provisional certification while they are working to obtain full certification. This is inconsistent with the definition in the ESEA which holds the same standards for all teachers.

I hope the draft guidance will be changed to ensure when we say all teachers will be highly qualified, we mean all teachers are highly qualified. We do not want to find on the one hand statements about the importance of these findings, and then on the other hand have the drafting of rules and regulations which are going to result in lower standards for the teachers in the classroom.

We welcome this report, but it comes back again to the issue of whether we are prepared to help the States, schools, parents, and children in this country by helping ensure there is a well-qualified teacher in every classroom. We have the legislation. We have followed these various recommendations, and all we need is the investment to make this happen. That is why we are going to continue to battle for the children of this country by insisting that we have an adequate budget invested in teacher quality.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CARPER). The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

#### DEATH TAX ELIMINATION ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 8.

The senior assistant bill clerk read as follows:

A bill (H.R. 8) to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period, and for other purposes.

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

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

Mr. REID. Mr. President, I ask unanimous consent Senators GRAMM and KYL be recognized for 5 minutes each; however they want to divide up the 10 minutes to speak on the general subject of the estate tax, and Senator CONRAD be recognized for up to 10 minutes.

Following that, we would be, I believe, in a position to lay down the first-degree amendment at that time pursuant to the order and the 2-hour time will start running at that time.

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

The Senator from Texas.

Mr. GRAMM. Mr. President, let me take a couple of minutes to tell people where we are. We worked out an agreement several weeks ago to debate the permanent repeal of the death tax. I thank the majority leader for agreeing to allow this to happen. We now have a unanimous consent agreement that dictates how the debate will occur. I will go over it so everyone will know exactly what we are doing.

Under the unanimous consent agreement, a majority member, a Democrat, will be recognized to offer a first-degree amendment related to the death tax. That amendment, by a majority member, will be subject to two second-degree amendments also offered by majority members. Those two second-degree amendments will be disposed of—either with a point of order, a motion to table, or a vote—and will be accepted or rejected. Then there will be one amendment standing, whether it is amended or not, and it will be voted on. Then I will be recognized to offer a first-degree amendment. It will not be subject to an amendment. I will offer an amendment identical to the permanent repeal of the death tax adopted by the House of Representatives. So if my amendment is adopted, the bill would again pass the House and the President could sign it into law.

If any other amendments should be adopted, we have to have a debate as to whether we would name conferees and we would potentially have to go to conference with the House.

That is basically where we are. We are now awaiting the offering of a first-degree amendment. Then that will be subject to two second-degree amendments, offered by the majority. We will vote on each one of them, in order, and then we will vote on the underlying amendment. I assume we would probably get through one vote this afternoon and then we would have three votes tomorrow and we would finish up tomorrow sometime in the mid-early afternoon if all the time is used.

I remind my colleagues there are 2 hours on the first second-degree amendment, 2 hours on the second second-degree amendment, 2 hours on the underlying first degree, and then there would be 2 hours on my amendment which would repeal the death tax, in exactly the same form the House has passed, and then there would be a vote on it and we would be finished.

That is where we are in terms of the structure of the debate. I wanted everyone to understand exactly where we are. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, this afternoon we begin a very important

debate on the question of the estate tax. My friends on the other side characterize it as a death tax. It is really not. There is no such thing as a death tax in America. Nobody pays taxes at death. There is an estate tax. For estates over a certain amount, they contribute to the revenue of the Federal Government by paying an estate tax.

The problem with the current estate tax is that it cuts in at too low a level. Currently, estates begin to be taxed at about \$1 million. The fact is, only about 2 percent of all estates pay any tax, even under that circumstance. But with what has happened in the national economy, many of us believe we do need to reform the estate tax—not eliminate it but reform it.

Why? First of all, because it is not fair to have the estate tax cut in at that level, given the increase in assets that has occurred in the country in the last decade. At the same time, it does not make much sense to us to eliminate the estate tax completely because of the cost. What our friends on the other side of the aisle are proposing is a \$100 billion cost in this decade and a \$740 billion cost in the next decade, right at the time the baby boom generation retires—all of this in the context of budget deficits as far as we can see.

I believe we ought to reform the estate tax. I believe we ought to increase the level at which it cuts in on individuals and their families. But to eliminate the estate tax and dig the deficit hole deeper, put us deeper into debt and take it all out of Social Security, I do not think is defensible.

Last year, the President said this about paying down the debt:

My budget pays down a record amount of national debt. We will pay off \$2 trillion of debt over the next decade. That will be the largest debt reduction of any country, ever. Future generations should not be forced to pay back money that we have borrowed. We owe this kind of responsibility to our children and grandchildren.

What a difference a year makes, because just a few hours ago we responded to the President's request for the biggest increase in the debt—the second biggest increase in the debt in our Nation's history. That is what we did just hours ago. Has this Chamber already forgotten? Have we already forgotten that we just responded to the President, who said he was going to pay down the biggest amount of debt in our Nation's history, in fact he said the biggest amount of any country ever? And now, just 2 hours ago, 3 hours ago, we responded to his request for not debt paydown but the biggest expansion of the debt—the second biggest expansion in our Nation's history?

Here is the comparison. The only time we had a bigger increase in the debt than what the President is seeking was when his father was President. When his father was President, we had to increase the debt by \$915 billion, in November of 1990. Now this President comes and asks for a \$750 billion increase in the debt. That is after telling

us last year he was going to pay down the debt by the maximum amount possible, the biggest of any country ever.

Last year, the President told us it would be 7 years before we would have to increase any debt. In August of last year, he told us it would be 3 years before any increase in the debt. In December 2001, he told us 2 months. Right now, the Treasury Department is using extraordinary means to finance the debt of the United States. They are taking from the retirement funds of Federal employees to cover the Federal debt.

Let me say this. If any private company tried that, they would be on their way to a Federal facility, but it would not be the White House of the United States, it would not be the Congress of the United States, they would be on their way to a Federal penitentiary because that is a violation of Federal law. But that is what is going on right now.

You recall in the previous administration they did that for a short time and in the House of Representatives our friends across the aisle filed impeachment proceedings against the Secretary of the Treasury for doing what this Secretary of the Treasury is now doing.

Can we forget what just happened a few hours ago, when there was a vote here to increase the debt of the United States by \$450 billion? The President requested \$750 billion in increased debt. We increased it \$450 billion.

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

The PRESIDING OFFICER. The Senator has used 6 minutes of his 10; 4 minutes remain.

Mr. CONRAD. Mr. President, remember last year? We have to put this in context. We have to think about the circumstance within which we are making decisions. Last year, we were told there was going to be \$5.6 trillion of surpluses over the next decade. That is what we were told just last year. Now we look at the budget circumstance of the United States, and the surpluses are all gone. There are no surpluses. In fact, if we look at the President's budget and we look at the latest shortfall in revenues and we look at the stimulus package just passed, what we see over the next decade is not \$5.6 trillion of surpluses, what we see is \$600 billion of deficits. It is a pretty stunning turnaround. In 1 year we go from \$5.6 trillion of surpluses to \$600 billion of deficits. And our friends on the other side want to dig the hole much deeper—much deeper—by adding \$100 billion, and another cost in the next 10 years of \$740 billion, right at the time the baby boom generation retires. It does not make much sense to me to eliminate this estate tax instead of reforming it.

Yes, let's address the problems that exist with the estate tax. Let's increase the amount of the exemption in a responsible and rational way. But let's not dig the hole deeper and deeper

with respect to the deficits and debt of this country.

Here is where we are, looking back to 1992, when there were deep deficits, not counting Social Security. We were able, over a period of years, to pull our country out of this deficit and debt morass. We were able to run surpluses for 3 years. But look at what happened last year. We are right back in the soup. For anybody who thinks it is going to be short-lived, here is the hard reality. We are poised to be back in deficit for the entire next decade—billions, hundreds of billions of dollars of deficit and debt.

Again, I say our friends on the other side, in their proposal, say: Don't worry about that; don't worry about all this red ink; don't worry about all these deficits; don't worry about piling up the debt; let's just go out there and cut some more taxes and not pay for it. That is their answer. They will add another \$100 billion to these deficits over the next decade. But what is really stunning is in the second 10-year period they would take another \$740 billion right out of Social Security trust funds.

There is an alternative that deals both with the question of reforming the estate tax and making it more fair and at the same time reducing the cost dramatically over what our friends on the other side of the aisle are proposing.

What I am proposing is immediate relief. Take the estate tax exemption to \$3 million next year—\$1 million now, and increase that to \$3 million next year—\$6 million for a couple for 2009, and thereafter the exemption would increase to \$3.5 million. The maximum estate tax rate would be frozen at 50 percent. We retain the stepped-up basis.

Mr. President, I ask for an additional 3½ minutes and for the other side as well.

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

Mr. CONRAD. Mr. President, we have retained the stepped-up basis. The other side's proposal goes to what is called a carryover basis.

This is a hugely important issue that people should understand. We will have a chance to go into it as we proceed.

Let me say at this point that in a stepped-up basis, when a relative dies, you inherit their property at its value at the time they die.

That is a very important concept to understand. Let me repeat it.

Under a stepped-up basis, you pay future taxes based on the value of the property of the loved one that is giving you the property. You pay on the basis of the value of the property at the time they died—not what they paid for it but the value at the time they died.

Under the alternative proposal offered on the other side, you are going to go to what is called a carryover basis. You are not going to pay future taxes based on the value at the time

that your relative died. You are going to go back to the value of what they paid for it.

Let us say you inherit a farm. You don't inherit the value of the farm at the time your father died or your grandfather died. You are going to pay future taxes based on what they paid for the property.

There is a big difference between our proposals. It is an accounting nightmare.

What our friends are proposing we tried before—the carryover basis, going back to what grandpa paid for a property. It was an administrative nightmare for all concerned. And we quickly abandoned it. They want to go back to the bad, old days.

Not only does this proposal fundamentally reform the estate tax and make it more fair and avoid going to carryover basis, but it also saves hundreds of billions of dollars in the second decade. In this decade it saves \$87 billion. The cost of our proposal in this decade is \$12.5 billion. The cost of their proposal is \$99.4 billion.

Under the proposal I am making, by 2009, only .3 percent of estates will face any estate tax liability. That means 99.7 percent of estates would pay zero, nothing, have no estate tax liability.

We will have more to say about this as we go forward.

At this point, I want to yield the floor so my colleague from Arizona, Senator KYL, can have a chance at this initial moment to speak on this subject.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, in addition to the 3 minutes granted by the extension, I inquire about how much time remains on our side.

The PRESIDING OFFICER. Ten minutes.

Mr. KYL. Which includes the 3 minutes.

The PRESIDING OFFICER. That is correct.

Mr. KYL. I will speak for 5 minutes, and our colleague from Texas will speak for 5 minutes.

I thank the Chair.

Mr. President, let me make three points.

First of all, I find it very interesting that our Democratic colleague is worried about the debt of the United States. This does not seem to be much of a concern to him or his colleagues when they vote for spending bills around here.

Just recently—I took some of the more recent ones—the railroad retirement bill was \$15 billion in one payment. I voted against that. The farm bill was \$82.8 billion over the baseline, over the budgeted amount. I voted against that.

Mr. CONRAD. Will the Senator yield?

Mr. KYL. I am happy to yield for a moment—for a moment, please.

Mr. CONRAD. The amount that the Senator refers to is not over the budget. Every penny of the money in the

farm bill is within the budget. Does he acknowledge that?

Mr. KYL. No. Let me reiterate what I said. The fact is that the distinguished Senator from North Dakota, chairman of the Budget Committee, has not been able to bring a budget to the floor. So there is no budget. We are talking about the baseline. I believe my number is accurate with respect thereto. We are spending billions on this farm program above what we originally had decided to spend; under trade adjustment assistance, over \$11 billion over the President's request—a 10-year number; in the supplemental that we just passed—a 1-year number—about \$4 billion above the President's request.

The highway bill is about 5.7 above the President's request.

My point is that it seems to be a little contradictory when some colleagues are so concerned about the debt, and all of a sudden they are happy to spend very large sums of money above the baseline.

Let us get into this debt business a little bit more. With what do we pay down debt?

We pay down debt with Social Security income. Under Social Security revenues—the FICA tax—you pay in 7.6 percent and your employer pays 7.6 percent. That is Social Security.

The death tax receipts don't pay for Social Security. Not one nickel of the death tax collections or estate tax collections pay for Social Security benefits—not one nickel. If we repeal the entire death tax today, Social Security wouldn't lose one nickel because that isn't where Social Security gets its money. You all know where Social Security gets its money—from the FICA tax, the Social Security payments. Those right now are in surplus.

What do we do with the surplus? We pay down the debt with it.

If my colleagues are worried about the need to pay down the debt, then they are talking about taxes, Social Security money, and paying down the debt with that. That is exactly what happens every single year. We all agree to that.

If they are worried about taking away money for Social Security, then they need to be worried about the Social Security tax collections and not the estate tax collections. None of that money goes for Social Security.

This is a bogus argument that Social Security would in any way be affected by a reduction of the estate tax collections.

Finally, to this argument that somehow it is unfair for us to step up the basis—or, rather, to carry over the basis rather than have a stepped-up basis, this may seem to be an arcane argument to folks who aren't familiar with these terms. Here in practical terms is what it means.

You have a billionaire and he dies. His wife inherits the money. Under the proposal of the Senator from North Dakota, if the spouse decides the day after her dear loved one's departure to

sell all of that property, cash it in, do you know how much she pays in capital gains tax? Zero. Zip. Nothing. That is how much you pay under the amendment of the Senator from North Dakota.

Under our proposal, you would pay the capital gains on the original value of the property.

If her dear loved one bought that property for \$100 million way back when and sells it for \$1 billion, that is a \$900 million gain. She would pay a capital gains tax on that again.

Our idea is that death should not be a taxable event. You can't anticipate it. It is the worst possible time to have to pay a tax. It is not fair. Most of the Tax Code says you pay a tax when you do something knowing what the tax consequences will be. You earn money, you sell property—those are taxable events. What we are doing is replacing one tax for another.

The estate tax is unfair, it is wrong, and it should be repealed. It will be replaced by a capital gains tax.

The interesting thing about it is that really wealthy people will end up paying a tax when they sell that property; whereas, they would not pay nearly as much tax as they would under the amendment of the Senator from North Dakota.

What it really boils down to is you are still paying the tax. What it really boils down to is a matter of policy. You are going to pay sooner or later. But do you want to pay with death being the taxable event or do you want to pay a tax based on an economic decision you made knowing what the tax consequences would be. That is what our Tax Code theory is and the death tax should comport with that.

The PRESIDING OFFICER. The Senator from Texas is recognized for 4½ minutes.

Mr. GRAMM. I don't mind yielding to my Democratic colleague.

Mr. CONRAD. I inquire as to the time.

The PRESIDING OFFICER. Four and one-half minutes remain to the Senator from Texas.

Mr. CONRAD. Do I have time on my side?

The PRESIDING OFFICER. No, you do not.

Mr. GRAMM. Mr. President, we all understand that the death tax basically says if somebody works a lifetime, they scrimp and save and sacrifice, they plow the money back into their business or their farm or their estate, they do it for their family, and then they die, then their family has to sell their business or sell their farm or sell off their estate to give the government a double taxation of 55 cents out of every dollar they have earned in their lives. It is an absolute outrage. The American people believe that.

Today and tomorrow, as we debate this issue, our Democrat colleagues are not going to defend the death tax as such. They are going to try to make a series of points. You are going to get to

hear it in the long debate, but since we are waiting for them to come forward with their amendment, I want to make some points early on. They are going to say: OK, it is wrong to make people sell off their life's work, but shouldn't we redistribute wealth? Shouldn't we say that above a certain level we are going to have a death tax? They are basically going to try to appeal to this old class struggle, this old Marxist idea that has been rejected everywhere else in the world but still carries currency in the United States of America.

The second thing they will do is say: Look, we wanted to repeal the death tax but we can't afford it. We just can't afford it. Let me remind my colleagues, we don't have to go way back to the railroad retirement debate of last year to see that this is not true. Let's go to last Thursday. Last Thursday this body, the Senate, voted overwhelmingly—and I think almost every Democrat Member of the Senate voted for the bill—to spend \$14 billion more than the President requested for non-emergency items in a supplemental appropriation. That's \$14 billion more than the President asked for in non-emergency items. That is 4 times what it costs to repeal the death tax next year.

So our colleagues today are broken-hearted: You would repeal the death tax and deny the Government that money, and we are so worried. They are worried about the deficit and the debt. Where were they Thursday? Where were they Thursday night? I was here. I raised a point of order against 80 amendments. Where were they? They were willing to spend four times as much this coming year on spending the President didn't ask for in an emergency bill than it would cost to repeal the death tax.

On the farm bill, they were willing to spend seven times as much as the cost of repealing the death tax. Now they are worried about the debt. They are worried about the deficit. But last month when we passed this bloated, inflated farm bill, they were willing to spend seven times as much as it would cost this coming year to repeal the death tax. They were not worried then, but they are really worried today.

Then there was the energy tax incentive. They weren't worried then. They were willing to spend more on energy tax incentives than it would cost next year to repeal the death tax.

Finally, just to add insult to injury, on the budget that was reported on a straight party-line vote out of the Budget Committee, the Democrat majority increased nondefense discretionary spending by a whopping \$105.8 billion above the level requested by the President. In other words, when they cast that vote, they could afford \$106 billion. That is more than enough to fund the repeal of the death tax for the next 10 years.

I know they are upset today. They are very upset about the deficit and the debt. But they are only upset when we

are talking about letting people keep more of what they earn. They are never, ever upset when it comes to spending money.

They write a budget that spends more money on new discretionary programs than repealing the death tax would cost, but when it is time to let people keep money, they are worried.

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

The Senator from Nevada.

Mr. REID. It is my understanding that all time has been used that was previously allocated.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I would now say to the Chair that under the unanimous consent request before the Senate, there is an opportunity now for the majority to lay down an amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I ask that Senator CONRAD be recognized for that purpose.

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

The Senator from North Dakota.

AMENDMENT NO. 3831

Mr. CONRAD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 3831.

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

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to restore the estate tax with modifications)

Strike all after the enacting clause, and insert the following:

# SECTION 1. RESTORATION OF ESTATE TAX; REPEAL OF CARRYOVER BASIS.

(a) IN GENERAL.—Subtitles A and E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subtitles, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subtitles, and amendments, had never been enacted.

(b) SUNSET NOT TO APPLY.—

(1) Subsection (a) of section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking “this Act” and all that follows and inserting “this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.”

(2) Subsection (b) of such section 901 is amended by striking “, estates, gifts, and transfers”.

(c) CONFORMING AMENDMENTS.—Subsections (d) and (e) of section 511 of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subsections, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subsections, and amendments, had never been enacted.

# SEC. 2. MODIFICATIONS TO ESTATE TAX.

(a) INCREASE IN EXCLUSION EQUIVALENT OF UNIFIED CREDIT.—

(1) IN GENERAL.—Subsection (c) of section 2010 of the Internal Revenue Code of 1986 (re-

lating to applicable credit amount) is amended by striking all that follows “the applicable exclusion amount” and inserting “: For purposes of the preceding sentence, the applicable exclusion amount is \$3,000,000 (\$3,500,000 in the case of estates of decedents dying after December 31, 2008).”

(2) EARLIER TERMINATION OF SECTION 2057.—Subsection (f) of section 2057 of such Code is amended by striking “December 31, 2003” and inserting “December 31, 2002”.

(b) MAXIMUM ESTATE TAX RATE TO REMAIN AT 50 PERCENT; RESTORATION OF PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—Paragraph (2) of section 2001(c) of such Code is amended to read as follows:

“(2) PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—The tentative tax determined under paragraph (1) shall be increased by an amount equal to 5 percent of so much of the amount (with respect to which the tentative tax is to be computed) as exceeds \$10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of the applicable credit amount under section 2010(c) and \$224,200.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 2002.

# SEC. 3. VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS; LIMITATION ON MINORITY DISCOUNTS.

(a) IN GENERAL.—Section 2031 of the Internal Revenue Code of 1986 (relating to definition of gross estate) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

“(d) VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS.—For purposes of this chapter and chapter 12—

“(1) IN GENERAL.—In the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092)—

“(A) the value of any nonbusiness assets held by the entity shall be determined as if the transferor had transferred such assets directly to the transferee (and no valuation discount shall be allowed with respect to such nonbusiness assets), and

“(B) the nonbusiness assets shall not be taken into account in determining the value of the interest in the entity.

“(2) NONBUSINESS ASSETS.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘nonbusiness asset’ means any asset which is not used in the active conduct of 1 or more trades or businesses.

“(B) EXCEPTION FOR CERTAIN PASSIVE ASSETS.—Except as provided in subparagraph (C), a passive asset shall not be treated for purposes of subparagraph (A) as used in the active conduct of a trade or business unless—

“(i) the asset is property described in paragraph (1) or (4) of section 1221(a) or is a hedge with respect to such property, or

“(ii) the asset is real property used in the active conduct of 1 or more real property trades or businesses (within the meaning of section 469(c)(7)(C)) in which the transferor materially participates and with respect to which the transferor meets the requirements of section 469(c)(7)(B)(ii).

For purposes of clause (ii), material participation shall be determined under the rules of section 469(h), except that section 469(h)(3) shall be applied without regard to the limitation to farming activity.

“(C) EXCEPTION FOR WORKING CAPITAL.—Any asset (including a passive asset) which is held as a part of the reasonably required working capital needs of a trade or business shall be treated as used in the active conduct of a trade or business.

“(3) PASSIVE ASSET.—For purposes of this subsection, the term ‘passive asset’ means any—

“(A) cash or cash equivalents,

“(B) except to the extent provided by the Secretary, stock in a corporation or any other equity, profits, or capital interest in any entity,

“(C) evidence of indebtedness, option, forward or futures contract, notional principal contract, or derivative,

“(D) asset described in clause (iii), (iv), or (v) of section 351(e)(1)(B),

“(E) annuity,

“(F) real property used in 1 or more real property trades or businesses (as defined in section 469(c)(7)(C)),

“(G) asset (other than a patent, trademark, or copyright) which produces royalty income,

“(H) commodity,

“(I) collectible (within the meaning of section 401(m)), or

“(J) any other asset specified in regulations prescribed by the Secretary.

“(4) LOOK-THRU RULES.—

“(A) IN GENERAL.—If a nonbusiness asset of an entity consists of a 10-percent interest in any other entity, this subsection shall be applied by disregarding the 10-percent interest and by treating the entity as holding directly its ratable share of the assets of the other entity. This subparagraph shall be applied successively to any 10-percent interest of such other entity in any other entity.

“(B) 10-PERCENT INTEREST.—The term ‘10-percent interest’ means—

“(i) in the case of an interest in a corporation, ownership of at least 10 percent (by vote or value) of the stock in such corporation,

“(ii) in the case of an interest in a partnership, ownership of at least 10 percent of the capital or profits interest in the partnership, and

“(iii) in any other case, ownership of at least 10 percent of the beneficial interests in the entity.

“(5) COORDINATION WITH SUBSECTION (b).—Subsection (b) shall apply after the application of this subsection.

“(e) LIMITATION ON MINORITY DISCOUNTS.—For purposes of this chapter and chapter 12, in the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092), no discount shall be allowed by reason of the fact that the transferee does not have control of such entity if the transferee and members of the family (as defined in section 2032A(e)(2)) of the transferee have control of such entity.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

Mr. CONRAD. Mr. President, I have already described what my amendment does. I will use the first part of my time to answer the very creative arguments made by my colleagues on the other side. I have never heard such imaginative arguments on the Senate floor. This is really intriguing.

They start out by justifying eliminating the estate tax by an attack on the farm bill, saying the farm bill was over the budget and, therefore, what does it matter if we take another \$700 billion out of Social Security in order to eliminate the estate tax. How soon they have forgotten their own votes. They voted for the farm bill budget which they decry. Yes, they did. The



farm bill budget was provided for in the last budget resolution.

Our colleagues on the other side of the aisle voted aye. They voted for the Republican budget resolution. The Republican budget resolution passed on the floor of the Senate was their resolution. Their colleagues in the House passed exactly the same budget resolution. Do you know what else? Their President proposed a budget with exactly that amount of money in it for the farm bill.

I hate to rain on their parade, but they supported the Republican budget resolution that funded the farm bill. That was their budget resolution. That was their proposal. They voted for it. Now they come out here and attack it. They should have been here voting against their own budget resolution because that is what provided the budget for the new farm bill.

The Senator from Texas talks about the bill that just passed that was requested by the President. He has attacked the supplemental appropriations bill that was requested by the President. The difference between what we passed here, which he attacks, and what the House of Representatives passed, according to the Congressional Budget Office, is \$1.3 billion, not the \$10 billion to which he referred. The \$10 billion he referred to is an absolute myth. There is \$1.3 billion of difference between what the Senate passed and the House passed.

By the way, the President praised what the House passed and condemned what the Senate passed. In a \$30 billion bill, there was only \$1 billion difference. Where is the difference? The Senate bill has more money for first responders, the policemen and the firemen we expect to protect this Nation, a \$600 million difference there. There was \$300 million more in the Senate bill than the House bill to protect our nuclear facilities.

Has anybody read the paper the last few days? Of what did the administration warn us? They warned us of a "dirty" bomb attack on the Capitol of the United States. What is a "dirty" bomb? It is a regular bomb with nuclear fissile material around it. Do you know what would happen if that kind of bomb were dropped in the vicinity of the Capitol? The former Vice Chairman of the Joint Chiefs of Staff, Admiral Owens, told me in a breakfast just 2 weeks ago, it would make the Capitol area uninhabitable in a mile circumference for 400 years.

From where might that nuclear fissile material come? It might come from our own labs. That is why the Senate added \$300 million to protect our nuclear facilities and added \$650 million for our first responders—our policemen and firemen—and added another \$700 million to protect our ports, because one of the things we know is that nuclear fissile material might come into this country everyday in thousands of containers. And only 2 percent are checked.

So is this some big, wasteful spending program to protect our nuclear facilities, to protect our ports and to provide funding to our first responders? I don't think so. That is the difference between the House bill the President praised and the Senate bill that the President attacked. There is no \$10 billion difference. That is total fiction.

Let's go back to the question of the fundamental issue before us. Is spending a threat to our fiscal future? Absolutely. But our fiscal future is determined not just by spending, but by the relationship between spending and revenue. Deficits are created by an imbalance between spending and revenue. You only have deficits when you spend more than your income.

We know the circumstance we face as a nation. It has become abundantly clear to all of us. We face a circumstance in which we see in our future an ocean of red ink. Here it is. We go back to 1992 on this chart. We were facing deficits, not counting Social Security, of \$341 billion. In 1993, we passed a 5-year plan that started lifting us out of deficit.

By the way, not one of our friends on the other side voted for it. It was the plan that started lifting us out of deficit.

Each year, we were coming out of deficit. Then in 1997, on a bipartisan basis, we passed a plan that finished the job. We actually got back into surplus. We were there for 3 years, and then we got plunged back into the deficit hole by the events of last year: No. 1, the tax cut advocated by our friends on the other side; No. 2, the attack on this country; No. 3, the economic slowdown.

When you wonder where the surpluses went, here is what we find: 42 percent went to the tax cuts that were passed last year; 23 percent went to the economic slowdown; 18 percent went to the increased costs of the attack on our country; 17 percent are due to technical changes, mostly underestimations of the cost of Medicare and Medicaid.

We have before us a fundamental question: How are we going to deal with this ocean of red ink? Our friends on the other side say: Well, let's keep digging the hole deeper. It doesn't matter. We were for eliminating the estate tax last year, and we are still for it. It doesn't matter that the surpluses have evaporated. It doesn't matter that the money is all gone. We are going to stay steady on this course—even if the course leads to insolvency. It doesn't matter that just a few hours ago this Chamber voted to increase the debt of the United States by \$450 billion.

That is after the President and our friends on the other side promised us last year that they had a financial plan that was going to lead to the maximum paydown of our debt. That is what they said a year ago. They had a plan that would lead to the maximum paydown of the debt. Now they have asked for the second biggest increase in the debt

in our Nation's history. They told us a year ago that we would have surpluses of \$5.6 trillion in the next decade. Now the money is all gone. Instead of surpluses, there are deficits. That is the hard reality.

So the question before us is, what do we do about the estate tax? Let me stipulate that they have one part of this argument right. We need to change the estate tax. We should not leave it the way it is. We should not let it hit people with a million dollars of assets. We ought to increase it. That is what my proposal does. My proposal goes to \$3 million next year, \$6 million for a couple. You don't have to wait until 2007, as you do under their proposal. We go to \$3 million for an individual and \$6 million for a couple next year. You don't have to pay a penny of estate tax. In 2009, we go to \$3.9 million.

On their side, they talk about how much they care about helping people. But they want to wait. They want to wait. I don't want to wait. I want to go to \$3 million for an individual, \$6 million for a couple next year. Give them the estate tax relief they deserve. Don't eliminate it. Don't say to the wealthiest among us—the super wealthy—you don't ever have to face any estate tax. Why? Because it costs too much, Mr. President. Their proposal costs \$99 billion—\$99 billion in this decade.

The proposal I am making costs \$12.6 billion in this decade. So it seems to me it is a pretty good proposal. No. 1, it gives immediate and substantial relief to estates by going from a million dollars of exemption to \$3 million for an individual, \$6 million a couple, not in 2007 or in 2008, but next year. No. 2, it costs a lot less because you don't eliminate the estate tax, you reform it. Their plan costs \$99.4 billion. Mine costs \$12.6 billion.

Mine includes a stepped-up basis rather than a carryover basis. I know that is confusing and I know those are words most people don't use. What it means is simply this: Under my plan, you will pay future taxes based on the value of the assets you inherit at the time you inherit them. You will not be paying taxes based on what grandpa paid for the asset you inherited. Think of the difference. Not only is that a big tax difference, that is a big difference in terms of practicality and simplification.

We tried what they are proposing, this idea of carryover basis, this idea that you are going to go back to the value of what grandpa paid for the farm, of what grandpa paid for the stock, of what grandpa paid for the real estate. Do you know what we found? Most people don't even have the records. Most people don't even know what grandpa paid. Most people don't have any idea, and they can't find out because it happened 30 or 40 or 50 years ago. We tried this. We tried what they are proposing. It was an administrative disaster, an administrative nightmare.

We will hear the other side saying that these assets have already been



taxed. The fact is, an analysis has been done. The vast majority of these assets have never been taxed. Yet they say it is double-dipping. Most of these cases are assets that have never been taxed. I believe the proposal that—

Mr. KYL. Will the Senator yield for a question on that?

Mr. CONRAD. Yes.

Mr. KYL. I am curious about the source of the statement that the majority of assets has never been taxed.

Mr. CONRAD. Yes. I will get the Senator a copy of the analysis on that.

Mr. KYL. I thank the Senator.

Mr. CONRAD. The hard reality is that we have to make choices. We ought to reform the estate tax. We ought to increase the amount of exemption. We should not wait for 2007 and 2008. We ought to do it now.

Under my proposal, we go to \$3 million from \$1 million today for an individual, \$6 million for a couple. At the same time, it costs a lot less. That means we do protect Social Security. We do protect the financial structure of this Government. We are fiscally responsible.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mr. GRAMM. Mr. President, how much time does the Senator from Alabama need?

Mr. SESSIONS. Ten minutes.

Mr. GRAMM. I yield 10 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Texas for his leadership on this issue and for yielding me time.

One of the issues we need to recognize as we talk about a budget—and we have the distinguished chairman of the Budget Committee here—is we do not have a budget. One was proposed in the Budget Committee by the Democratic members. It was brought up, voted on, and got zero votes. The reason is that there is not sufficient discipline to make tough choices in this body, and the budget that was proposed had no political support, did not balance, and did not make sense.

We are in trouble with spending. When the President proposes an \$18 billion emergency spending bill and this Senate adds \$14 billion more to it for special projects that I do not believe are necessary, and, in fact, I think the President's supplemental was generous, we are losing discipline on spending.

The reason we had a surplus from 1994 to 1998 is we had almost no increase in spending in this body. We kept our spending flat on discretionary spending. It resulted in tremendous gains in balancing the budget.

It is time for us to deal with this estate/death tax. In 2000, we voted to eliminate it. It phases out at the end of 10 years, in 2010. People do not like it. It is unfair. It disrupts the American economy. To have the Federal Govern-

ment reach in at the time of death of a family member and take out 55 percent of what that family has accumulated is a confiscation. It is an absolute decimation of a family's life and savings.

I had an individual tell me about their grandfather. Everybody was home for Christmas. It was just after Ronald Reagan had pushed through a modification of the estate tax. It would have saved his family a little money. The grandfather was there at Christmas. The cancer was taking its toll on him. Every day, he asked what day it was. She told me: My grandfather died at 10 a.m. on January 1. His last act was to do what he could to keep the taxman from taking away what he had earned and preserve it for his family.

I think this is a big deal. It touches a lot of people. Some people say: Oh, it is huge revenue, we cannot afford it. It is only 1 percent of the total income into this Government at best. That is something we certainly can afford to eliminate.

No tax causes more gyrations, more lawyers, more accountants, CPAs, appraisers, and strategists to try to beat this tax than does the death tax.

In addition to that, the Federal Government spends more on trying to collect the tax than on any other tax. For the 1 percent we get, we are getting the heaviest cost on the economy, the heaviest cost on the Government to collect them. I think it is very unwise. It causes extraordinary stress on the elderly.

Sit down, as I have done as a practicing lawyer, and talk with a family about the tough decisions they may have to make. Do they want to create a trust? Do they want to advance gift money to children to try to reduce the impact of this tax? This is forcing the elderly to make decisions they ought not have to make. It upsets them, makes them nervous, and causes them to make uneconomic decisions that reduce oftentimes the productivity and efficiencies of their corporations and businesses.

It is, in my view, a huge nightmare to collect. Much of the dispute is in litigation over appraised values of properties. Many of these issues are just really a nightmare for the elderly.

Let me share with my colleagues briefly what I think is the most pernicious part of this tax. My good friend's proposal to raise the exemption to \$3 million really will not touch it. These are the growing, vibrant, midsize, local, home-based companies that are doing well.

I know of a company that had 27 automobile parts stores. They built up from one. They had headquarters in Alabama. One of the members dies, and then what do they do? They meet, have a discussion, and the net result is that this locally owned company, competing with some of the biggest parts companies in America, sells out to Carquest. I have nothing against Carquest, but that is a national company, maybe even an international company in

scope, moving millions and millions of dollars a year in parts. As a former parts person myself and a former equipment dealer, I have some empathy for them.

I will just say this: Carquest, as a major national company, a broadly held stock company, never pays the death tax. It is never impacted by a death tax. But a closely held corporation is savaged by the death tax.

It reminds me of a situation in which there are some trees growing up. There are some big trees and there are some little trees growing. They are trying to compete with the big trees to get more sunlight and develop and expand and compete with the big trees, and somebody comes along with the clippers and clips the tops off them, making it impossible for them to compete.

If my colleagues want to know why in America today we see a collapse of local companies, why we see an unusual conglomeration of wealth in the big stock companies, the reason is they do not pay this tax. This is a tax that falls only on the small companies in a way that devastates them too often.

I am concerned about that situation.

I ask you: Do GM, GE, DaimlerChrysler, Toyota, or Mitsubishi pay a death tax? No, they do not. But I can take you back to the small bank in my hometown, the small manufacturing company, or the small chain of auto parts stores. I can tell you about a young man who told me that he and his father and brother owned four motels in Alabama. They would like to see their business expand. He explained to me that he, his brother, and his father were paying \$5,000 a month for a life insurance policy on their father's life so they could pay the estate tax in case he died. Otherwise, they would have to take the money out of their company—and they had no money to take out of the company; they were pouring their money into the company—they would be forced to sell off maybe to a Holiday Inn, maybe to a Ramada, or some big company that does not pay the death tax.

We need to quit nickel-and-diming this issue. We have voted to eliminate this despicable, unfair, abusive tax that eliminates and weakens competition in America. It brings in little revenue at extraordinary cost to the tax collector and to the American people who have to pay it. It is long overdue to get rid of it. Let's not back up now. Let's go forward. Let's not let those who want more money to spend, spend, spend, spend, and keep us from doing the right thing.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the time is controlled by the Senator from North Dakota. I wonder if the Senator will yield me time to talk about some of the statements I heard this afternoon.

Mr. CONRAD. I will be happy to do that. Maybe I will take a minute.

Mr. REID. Fine.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we have heard a lot from the other side about spending running away.

If we examine the budget before us, all of the increase is in two areas: defense and homeland security. Both sides of the aisle have supported those increases. The President proposed major increases in defense spending after the attack on this country. Those of us on our side of the aisle immediately agreed. The President proposed major increases in homeland security. Those on our side of the aisle immediately agreed.

There are big increases in spending, but every part of that increase is in those two areas of defense and homeland security. That is where the big increases are occurring, and I think it is understandable why we have big increases in defense proposed by the President and agreed to by our side of the aisle. I think it is very easily understood why we have a big increase in homeland security proposed by the President and agreed to by our side of the aisle.

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

Mr. CONRAD. Yes, I would be happy to yield.

Mr. REID. I have said publicly and, of course, privately that I think the Senator from North Dakota really has a grasp on numbers. The Senator is aware, is he not, that about a year ago at this time, it was approximately a \$4.7 trillion surplus over 10 years? The Senator would agree now that that basically is gone; is not that right?

Mr. CONRAD. Yes. Actually, the Senator will recall, we were told a year ago that we were going to have \$5.6 trillion of surpluses over the next decade. That is what we were told a year ago, January of 2001, \$5.6 trillion of surpluses.

Now when we look at the President's budget proposal, plus the shortfall in revenue in this filing season, plus the stimulus bill that has been passed, there are no surpluses, none. Remember, about half of this money was Social Security money. In other words, \$2.5 billion of this amount of surpluses is Social Security money. It is all being used for other purposes now.

When the Senator from Arizona says it does not matter about the estate tax and Social Security because estate tax money is not used for Social Security, the point he misses is when money is taken out of the revenue stream, and there already is not enough to meet the obligations and now even more money is taken, something has to give. What is the one place that is left to give?

Mr. REID. Social Security.

Mr. CONRAD. The Social Security trust fund. So he can say there is no connection, but there is a very direct connection. There is a very real connection. The only place there is any money is the Social Security trust

fund. So if he takes a big chunk more of revenue, how is it going to get covered?

Mr. REID. Will the Senator answer another question?

Mr. CONRAD. I would be happy to.

Mr. REID. The tax cuts that were passed in this body also had some impact on the future financial security of this country. Is that a fair statement?

Mr. CONRAD. There is no question about it. If we look at, where did all the money go, here is where it went. Our friends on the other side like to say it all went to spending. No, no, no. Forty-two percent went to the tax cut. That is the biggest reason for the disappearance of the surplus. The second biggest reason is economic changes. That is the economic slowdown. That is the second biggest reason. The third biggest reason is spending, and virtually all of it is defense and homeland security.

The final reason was underestimations of the cost of Medicare and Medicaid. That is where the money went.

Mr. REID. I would like to ask the Senator another question or two. Is that appropriate?

Mr. CONRAD. Sure.

Mr. REID. We passed Friday, about 1 a.m., a supplemental appropriations bill. I have heard statements all day from the other side of the aisle about this supplemental appropriation and how it contains big spending. I direct the Senator's attention to a number of items. First, I ask the Senator from North Dakota, the chairman of the Budget Committee, he realizes, does he not, that there was \$14 billion in that bill for defense? Is the Senator aware of that?

Mr. CONRAD. That is correct. Of the \$31 billion, \$14 billion was for defense.

Mr. REID. That was requested by the President; is that true?

Mr. CONRAD. That is correct.

Mr. REID. The Senator is aware also that there was approximately \$5.5 billion requested by the President for homeland security efforts; is that true?

Mr. CONRAD. That is correct.

Mr. REID. The Senator is also aware that Senator BYRD and Senator STEVENS held hearings over a period of 3 weeks that included seven Cabinet officers and scores of other witnesses to find out what was needed for homeland security for this next fiscal year. Is the Senator aware of that?

Mr. CONRAD. I am.

Mr. REID. After having done that on a bipartisan basis, unanimously out of the Committee on Appropriations, is the Senator aware that figure was increased by about \$3 billion?

Mr. CONRAD. That is correct.

Mr. REID. Is it not true, I say to my friend, that of those moneys that were increased, there was a billion for first responder programs? I say to my friend, I heard on public radio this morning a long piece on how State and local government is being killed financially because of the responsibilities

they have for providing security for their people, and these are responsibilities they believe that the Federal Government should bear. They gave an example of a place in Florida. Tomorrow I think they said they are going to go to Orange County, CA, and indicate how these entities are being decimated financially as a result of their requirements, these unfunded mandates that we have passed on to them. Is the Senator aware of that?

Mr. CONRAD. I am. I say to my colleague, I looked at the increases because, frankly, there were parts of that bill that I did not support. I voted against a number of the provisions in that bill. If one is fair and objective about what was offered, where did the increases occur?

According to the Congressional Budget Office, the difference between the Senate-passed bill and the House-passed bill is \$1.4 billion, not the \$10 billion that is being discussed on the other side; \$1.4 billion of differences between the House bill and the Senate bill when scored consistently by the Congressional Budget Office. Where were the differences? First responders, \$600 million more in the Senate bill; nuclear facilities, \$300 million more to protect our nuclear facilities; port security, \$700 million more.

If anybody has been reading the newspapers, they know there is a tremendous vulnerability of the United States to a so-called "dirty" bomb that would make this Capital uninhabitable for 400 years. I do not think it is unreasonable to say we are going to protect the nuclear facilities where that fissile material might come from, that we are going to protect the ports of America where those threats could come in to America.

Another \$250 million was added for airport security to protect against these materials coming into the airports of the country in the holds of planes.

I say to my colleagues, that is spending that was designed to protect America.

Mr. REID. Will the Senator also acknowledge that there has been in this bill that we passed in the Senate last Friday morning \$387 billion for bioterrorism, including to improve lab capacity at our Centers for Disease Control and the National Institutes of Health? Does the Senator from North Dakota acknowledge the importance of studying bioterrorism after the anthrax that closed down a major office building for 3 months in the Senate?

Mr. CONRAD. It not only closed down a major office building in the Senate but closed down post offices and closed down businesses.

Mr. REID. And killed people.

Mr. CONRAD. Killed people.

Now that we know a significant part of the planning by the al-Qaida network is bioterrorism, we know that a significant part of the planning of the al-Qaida network is a "dirty" nuclear device to be dropped on this Nation's

Capital, we cannot choose to turn our backs and not worry about defending the country.

Our first obligation as United States Senators is to defend this Nation.

Mr. REID. Would the Senator acknowledge there is \$200 million in this bill that the President requested based on hearings held by Senators BYRD and STEVENS for food safety, including food inspectors, laboratories, protections against animal and plant disease, and also to assess risks to rural water systems; and also aware there is \$154 million for cyber-security, there is also \$100 million for the Environmental Protection Agency to look at assessments of water system security?

We have people quibbling, and I say "quibbling" because I cannot find another word to describe what they are talking about this afternoon. The Senator has shown in graphic form billions of dollars taken away from the American people and given to a very small percentage of the people. Less than 1 percent of the American taxpayers, 42 percent, is gone because of that; is that right?

Mr. CONRAD. Yes.

Mr. REID. I don't mean to denigrate, but I cannot come up with another word other than "quibbling." We are talking about billions of dollars that is gone—like that—and here we are talking about programs that Senators BYRD and STEVENS worked on for weeks, that passed in the Senate without any problem at all because it was good for homeland security, good for the people of my State, good for the people of your State, and as I heard on Public Radio this morning, good for the people of Florida and even Orange County, CA, which has been devastated. I might mention, Orange County, CA, is a very rich county, but they have been devastated by virtually unfunded mandates that we passed on them since September 11.

Mr. CONRAD. I ask my colleague, are there times when money is spent inappropriately? Absolutely. Do we need to restrain spending? Absolutely.

Under the budget proposal I made to my colleagues, we would take spending to the lowest level since 1966. I applaud the Senator from Texas and the Senator from Arizona for saying we have to restrain spending. There is no way out of this hole that has been dug except to look at both sides of the equation—spending and revenue.

To eliminate the estate tax that costs \$99 billion under their proposal, when instead we could reform the estate tax and increase the exemption to \$3 million for an individual, \$6 million for a couple, at a cost of one-eighth as much, a cost of \$12.5 billion instead of \$99 billion, makes no earthly sense to me. I hope we think carefully about these votes and what it means for the financial future of the country.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. How much time do I have?

The PRESIDING OFFICER. Thirty-one and a half minutes.

Mr. CONRAD. I am happy to yield to the Senator from West Virginia, 15 minutes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the distinguished Senator from North Dakota.

Mr. President, I understand there is a little bit of grousing and gnashing of teeth concerning the moneys that were appropriated for homeland security in the supplemental appropriations bill last week. Let us stop, look, and listen.

In the last several hours, the threats against this Nation from terrorist attack once again were made evident with the arrest of an American citizen who apparently has been working with the "al-Qaida" terrorist network, plotting an attack on the nation's capital.

Once again, our eyes have been opened to the fact that terrorists live among us. The threats are real. The danger is present. We should not continue to delay actions that will fund immediate steps to protect American lives from attack.

Soon, the supplemental bill, which is being criticized by some today, will be in conference. I will fight hard for the \$8.3 billion homeland security package that this Senate overwhelmingly approved last week. I hope that President Bush will match his rhetoric on homeland security with support for a funding package that meets so many of the critical security shortfalls in this country.

The announcement about yesterday's arrest only amplifies the concerns raised by administration officials within the past few weeks. The Vice President warned that a strike is "almost certain." Secretary of Defense Donald Rumsfeld has stated that it is inevitable that terrorists will acquire weapons of mass destruction. Secretary of State Colin Powell has warned that "terrorists are trying every way they can" to get nuclear, chemical or biological weapons. And Homeland Security Director Tom Ridge said, "While we prepare for another terrorist attack, we need to understand that it is not a question of if, but a question of when."

Clearly, we know that the threat exists. We know that terrorists plan to strike. We do not know where or how or when, but we know that they will strike again. The question remains, will we be prepared?

Last week, the Senate took steps to address the many gaps in our homeland security network. By a vote of 71 to 22, the Senate voted very clearly to provide critical resources to protect American lives and to try to prevent future tragedies like the one we witnessed last September. Unfortunately, despite all of its rhetoric that homeland security is a top priority, the administration continues to oppose this critical legislation. In fact, the administration has gone so far as to threaten to veto the bill.

The President today travels to a water treatment plant in Kansas City, MO, to showcase a piece of his proposed Department of Homeland Security. This piece would create a threat analysis unit, envisioned as part of Mr. Bush's proposed intelligence-analyzing division, that would study the vulnerabilities of critical infrastructure such as water, road, and financial systems.

The supplemental bill approved by the Senate and currently opposed by the Bush Administration would put us several steps ahead on this threat assessment.

During Senate Appropriations Committee hearings over the last several weeks, Senators learned that more than \$400 million is needed for local governments to conduct vulnerability assessments for our water systems. The supplemental bill includes \$125 million for cities to assess the vulnerabilities of their water systems and for vulnerability assessments and security improvements to protect rural water systems. The administration did not request funding to help secure our drinking water systems, and it is opposing the Senate-passed supplemental bill that does make appropriations for our drinking water.

This spring, the Department of Energy sent the Office of Management and Budget a request for additional funds to secure America's nuclear weapons complex and labs, but the request was turned down. Now the administration has lauded its arrest of one man linked to a "dirty bomb" plot. But instead of supporting funds to better secure our nuclear labs and material, the administration is opposing the Senate supplemental bill that contains \$200 million for that very purpose.

While in Kansas City today, the President is also expected to trumpet his plans to address vulnerabilities within the nation's financial systems. A cyber attack is a real possibility. As Senator BENNETT has pointed out, "In the cyber-age, many of the attitudes we have had about warfare, about vulnerability, about opportunity have to be thought through entirely differently." Instead of supporting our efforts to address this threat, the President is opposing the Senate-passed supplemental bill that includes \$154 million for cybersecurity to help combat the threat to Federal and private information systems.

Today, the President will talk about his support for local communities in the overall homeland security effort. A major part of that local effort is the actions of first responders, namely, local police officers, firefighters, emergency medical teams. The Federal Emergency Management Agency received \$3 billion worth of applications from local firefighters for new equipment and training, but FEMA only had \$360 million to meet the request. The administration did not ask for any additional funds in its supplemental bill. But the Senate-passed legislation last

week does include \$300 million to continue to meet this massive gap in our homeland security network.

Last week, the President announced a massive governmental reorganization to respond to terrorist threats. I support the concept of a Department of Homeland Security, as do most Members of this Congress, I believe, but there are many details to be worked out and many questions to be answered. We should not wait to address the gaps in our Nation's defenses while this new department is crafted. Terrorists will not swear off further violence until a new department is up and running. We should not delay our efforts to thwart that attack. The appropriations bill the Senate passed last week with a huge margin will do just that.

It is time for the administration's rhetoric on homeland security to be matched by action. It is time for the administration to recognize that simply talking about homeland security will not save lives. It is time for the administration to support investments in homeland security, to support the Senate's work to save lives, and to help fill the gaps that currently exist in our Nation's homeland security network. The administration should support the supplemental appropriations bill passed by the Senate last week, and I hope the President will speak to that end.

I was down at the White House this morning, and I urged the President to support the supplemental appropriations bill that the Senate passed last week. This bill will go a long way toward matching the rhetoric by the administration.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. I say to my colleague, Senator CONRAD was going to yield me 10 minutes.

Mr. GRAMM. I can do it either way. I was going to speak, but if the Senator has a time constraint, I am happy to step aside for 10 minutes.

Mr. WELLSTONE. If my colleague would be willing to do so, that would help me.

Mr. GRAMM. I will be glad to do so. Let my colleague speak.

Mr. REID. How much time does the Senator from Minnesota desire?

Mr. WELLSTONE. Ten minutes. I will take more time tomorrow.

Mr. REID. Senator CONRAD has how much time remaining?

The PRESIDING OFFICER. There remain 22.5 minutes.

Mr. REID. On behalf of Senator CONRAD, I yield 10 minutes to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I strongly oppose the full repeal of the estate tax for multimillionaires and billionaires. It is unfair, and it is unaffordable. Let's repeal it for small businesses. Let's repeal it for family farmers. We all agree on that. Let's go with the Conrad formula of \$3 million individual, \$6 million a couple, up to \$7

million, but let's retain some modicum of fiscal sanity before we give away nearly \$1 trillion in tax cuts to a handful of the ultrarich. That is what this is.

The timing could not be more ironic. We now immediately follow a vote to increase the Federal debt limit by \$450 billion. That was to borrow another \$450 billion, which is only enough credit to last until next March.

Many of my colleagues voted for the tax cuts last year but they opposed increasing the debt limit; that is to say, in the words of the old Yiddish proverb, dancing at two weddings at the same time, although I don't think you should be able to do so.

It is now clear that the claims that have been made by the White House, by the President, and by too many Senators and Representatives, that we can have massive tax cuts for the wealthy—Robin Hood in reverse—with most of the breaks going to the top 1 percent, pay down the debt, and invest in critical public priorities, were completely false.

Of course, there is plenty of that to go around. Colleagues were out here advocating nearly a \$1 trillion tax cut for billionaires less than a week after there was so much heartburn on the Senate floor over an extra \$1 billion for homeland security. Where did the fiscal conservatives go? They will spend \$1 trillion to protect some wealthy kid's inheritance, but they will not spend \$1 billion to protect our cities and towns from terrorists.

Spend \$1 trillion to protect some wealthy kid's inheritance but not \$400 million for veterans' health care, with so many veterans falling between the cracks.

Give away almost \$1 trillion over the next 20 years, erode the revenue base—it is fine to do it for billionaires and multimillionaires, but we don't have enough money for education, not for smaller class size, not to recruit and retain good teachers, not to have good, affordable prescription drugs, not to do something about deplorable conditions in nursing homes, not to help elderly people stay at home, live at home in as near normal circumstances as possible with dignity, not to expand health care coverage. We will not have any of the money to do that.

Full repeal of the estate tax would cost \$104 billion over the next 10 years, literally to protect a few thousand ultrawealthy families. Even worse, from 2013 to 2020 it is going to cost the taxpayers over \$800 billion to provide this "relief." This means that the full cost of this effort to have full repeal of the estate tax over 20 years is nearly \$1 trillion.

Nationally, only 1.6 percent of all estates were made up with significant small business assets and only 1.4 percent had significant farm assets. This means that virtually all the estate tax is paid by extremely wealthy people who do not own farms or small businesses. The Conrad amendment really targets this.

In contrast, many rely on Social Security. Over 740,000 Minnesotans currently receive Social Security. Make no bones about it, what we are going to be doing here is not only not providing the investment in education or health care or affordable housing, but in addition we are just going to basically be taking it out of the Social Security trust fund. That is what this is all about.

For helping multibillionaires and billionaires, refusing to target this—which is what the Conrad amendment does—refusing to exclude small businesses and family farms that are handed from family to family—which is exactly what the Dorgan amendment does—instead, we have this effort to erode the revenue base \$1 trillion over 20 years, most of the benefits going to the wealthiest Americans. And at the same time, we will not even be able to live up to our commitment in Social Security.

I believe this is really a proposal which defies common sense. If we want to do it the right way, we cap the estate tax exemption at a reasonable level. That is what the Conrad amendment does. If we want to do it the right way, we exempt, as I said before, family farms and family-owned businesses. If we want to do it the right way, we will have some balance.

I finish on this note. I do not fault my colleagues because I think for many of them, this is their position. If you believe that when it comes to the most pressing issues of people's lives—be it to make sure Social Security benefits are there, to make sure we adequately fund Medicare reimbursement for our hospitals and nursing homes and home health care providers, to make sure people can afford prescription drugs, to make sure we live up to our commitment to get the dollars back to our schools and our school districts, our teachers, our children, our young people from prekindergarten through higher education, to make sure something is done about the lack of affordable housing, to make sure we can provide some help for people who have no health care coverage, to make sure we can provide some help for small businesses that can't afford health care costs—if you believe, when it comes to those pressing issues, there is nothing the Government can or should do—and I believe that in some ways that is the ideological position some of my colleagues take—then eliminating the estate tax, not targeting it, is the perfect way to go.

It is win-win. You help the millionaires and the multimillionaires and the billionaires, you erode the revenue base, and you make it impossible for the Senate and the House of Representatives and the Federal Government to play a positive role in helping people. You make it impossible for the Federal Government to play a positive role in dealing with some of the most pressing issues of the lives of people we represent.

That is what this estate tax cut does. That is what this proposal to completely eliminate the estate tax accomplishes.

In one broad stroke of public policy, you have Robin Hood in extreme reverse with the benefits going to the wealthiest Americans, and at the same time you make it impossible for us to make the investments in health care, in education, in affordable housing, in Social Security, and in Medicare.

From the point of view of some of my colleagues, it is win-win. From my point of view, it is lose-lose.

I hope our colleagues will support the Conrad amendment as at least a commonsense, reasonable alternative.

I am not sure my colleague from Texas fully agrees with my statement, but I appreciate his graciousness.

Mr. GRAMM. Mr. President, I first wish to say something that I consider to be positive about our colleague from Minnesota. There are many people who want to take the repeal of the death tax back, but they do not want to own up to why they want to do it. They want to do it because they want to spend the money. The one thing I have always admired about the Senator from Minnesota is that he does not dilute his liberalism with the alloy of hypocrisy. He says exactly what he believes. I think in doing so he not only is true to his conscience but he does the Senate a service by defining exactly what all of this is about.

I wish to yield myself 20 minutes of the remaining 50 minutes we have.

Let me begin by saying that I think I am a good person to be a leader on this issue in the sense that the only thing I have ever been bequeathed in my life is that my grandmamma's brother, my great-uncle Bill—who was a great checkers player and I guess in the minds of the world since he worked in a cotton mill he may not have been a very important person, but he was an important person to me—but he bequeathed to me a cardboard suitcase full of yellow sports clips from the 1950s. I have often thought that had it been baseball cards I would be a rich man today. So I will never pay a death tax. I hope someday my children and grandchildren will have enough wealth that it would be an issue if we don't repeal it. But I am against the death tax because it is profoundly wrong.

I know it is easy to envy what another family achieves. But how can it be right? I am not talking about budgets, I am not talking about dollars, I am talking about right and wrong. People may work a lifetime, they scrimp, they save, they sacrifice, they plow back into their business, they work 12 and 14 hours a day, they accumulate, they build, and they build America while they are building. How can it be right simply because we are greedy and we want their money to make their children sell off the fruits of their life's work to give the Government a 55-percent share of everything they have accumulated during their

lifetime simply because they have been successful?

It is a question of right and wrong. I will say about the constituents of my State—I can't speak for any other State in the Union—but in my State when I am talking about this issue—whether I am talking to farmhands, or railroad retirees, or rich people in North Dallas—when I talk about it being wrong to make a man or a woman sell off the life's work of their parents to give the Government a double taxation, people stand up and applaud because they are against it. They are flat against it because it is wrong and because it is un-American. It is un-American to do that. By doing it, we prevent accumulation.

I would like to refer to two thick studies. I would put them in the CONGRESSIONAL RECORD, except it would cost a lot of money. So let me refer to them so if people want them they can get them off the Internet. I will save probably \$25,000 by not putting these in the RECORD.

There was a study by the Joint Economic Committee, entitled "The Economics Of The Estate Tax." It was published in December of 1998 by the Joint Economic Committee.

All of their analyses and numbers boil down to the conclusion that the death tax has reduced by \$500 billion the capital stock and the total investment that the Nation has made in job creation. They conclude that we are not raising net revenues by forcing people to destroy small businesses, destroy family farms, and to tear up the bequeath of Americans who have been successful. They argue that it destroys capital and that actually we are not collecting net revenue. I commend this to my colleagues.

The second study is a private study that was done by the Institute for Policy Innovation, entitled "The Case For Burying The Estate Tax."

They conclude that there are costs to collecting the estate tax. There is a decline in economic efficiency as people sell off their business because they do not want their children to have to deal with the estate tax problem. People buy insurance with money they could be investing in their business, and they do that to try to avoid the estate tax. When you look at all those costs, the Institute for Policy Innovation concludes that on net we are not even collecting any taxes with the death tax.

Finally, even if you accept the IRS data as net data—in other words, that we are really losing revenue—when you take into account what it costs to collect the tax, what people spend trying to avoid it, and how it hurts the economy, contrary to all of the debate you have heard from the Democrat side of the aisle, we collected less than one cent out of every dollar of taxes collected in America last year from the death tax.

Under the best of circumstances, we are not collecting very much money. Under more likely scenarios, we are not netting any money from the tax.

This policy of death tax is driven by collective greed. It is not driven by economics. It makes no sense to make people sell off their business, or destroy their farm, or tear up their life's work. And it hurts the economy to do it. But we continue to do it because of this collective envy that somehow there is something wrong about people accumulating.

Let me take the richest man in the world, Bill Gates. They say he is worth \$46 billion. But because Bill Gates has \$46 billion, I am richer. He changed the life of everybody on this planet with what he did in terms of information technology and the management of data. He created 10 or 100 times that wealth from which we have all benefited. He is giving over 90 percent of it away.

You might say that is a lot of money. Many of our colleagues will say, let us take it, we can spend it. But what moral right do we have to take it? He has already paid taxes on every dollar of it. He is the largest taxpayer in the world. I am not doing this for Bill Gates, but he is the extreme example.

The point is that this is not collecting very much money. Interestingly enough, one of the great paradoxes is the substitute that has been offered by Senator CONRAD raises the deduction immediately to \$3 million over the next 5 years and it would cost \$20 billion.

The way we phase out the repeal, our repeal over the next 5 years only costs \$6.8 billion, and the real cost comes in the 10th year. The incredible paradox is the substitute that is being offered takes money out of the Treasury exactly when we don't have it, and it doesn't take money out in 2010 when we are going to have a surplus, according to the estimates of the Congressional Budget Office projection I have in front of me, of \$653 billion.

In other words, in trying to prevent us from making the repeal of the death tax permanent, the Senator from North Dakota offers a substitute that actually drives the deficit up in the next 5 years, whereas by phasing out the death tax, the real large cost of our phaseout does not occur until a year where we have about \$600 billion of surplus. Why not give it back?

The point is, we voted to repeal the death tax. We all celebrated it. We talked about it all over the country. Now we have a quirk in the budget where it comes back in 10 years. Did we mean to repeal it or didn't we? I believe we did. I believe we should.

The second line of defense in all this is: But we don't have the money. We just don't have the money. We want to make the death tax repeal permanent, but we don't have the money.

The only point I make, and I don't want to be unkind to anybody, but why is this argument about not having money never made when we are spending money? Why is it only made when we are letting people keep more of what they earn?

I want to give you five examples. Whether it was good or whether it was bad—and my guess is some of it was good and some of it wasn't good—last Thursday we spent \$14 billion more than the President requested on non-emergency items. That is four times the amount it would cost over the next 2 years to make the death tax repeal permanent. So if last Thursday we had enough money to spend \$14 billion that the President did not request as an emergency, how come we don't have enough money to make the death tax permanent today?

On the farm bill, I voted against the farm bill because I thought it was completely larded. I thought it was abusive in its spending. But how come we had enough money to spend next year on the farm bill that is seven times as much as it would cost next year to make the death tax repeal permanent? We had seven times as much money to spend 3 months ago when we passed that bill, but we don't have one-seventh that amount to be sure that people don't have to sell their farm when their dad dies?

It is a matter of priorities. On the energy bill, we had more new tax cuts in that bill for the next year than it would cost to repeal the death tax.

The trade bill contains new entitlements, and we had several times as much new spending in that bill that we passed last month as would be required to pay for repealing the death tax.

In railroad retirement, we had 15 times as much in the first year as it would take to fund repealing the death tax.

And finally, in the stimulus bill, in the amount we spent above the President's request, we could have funded repeal of the death tax over twice over.

Here is my point: I am not saying that every one of these things was terrible and there weren't good things in them. I am just saying, here are five examples where we spent multiples of the amount of money that would be required this year for us to repeal the death tax. Nobody who today is saying we just don't have the money said that on any one of those five things I mentioned. I said it, I believe, on each and every one of them.

The point is, the people who are saying we don't have enough money to make the repeal of the death tax permanent are the same people who voted to spend all this money.

A final point on this issue: The Democrat budget that we voted on last week on the floor and not one Member of the Senate voted for—I guess every Democrat thought it didn't spend enough and every Republican thought it spent too much, but nobody voted for it—increased spending on the discretionary account. I am not talking about national security items. I am not talking about defense. I am talking about \$106 billion more than the President requested. That was more than enough to have funded the repeal of the death tax. The same people who

thought we needed that \$106 billion of spending now say we can't afford to repeal the death tax.

It is a matter of priorities. Many of our colleagues can never afford to let working people keep more of what they earn, but they can always afford to spend the money. That is what this debate is about.

It really boils down to this: First, we said we would repeal the death tax. It turns out it is coming back in 10 years. Should we make it permanent or not? Is it not wrong to force people to destroy the life work of their parents to give the Government 55 cents out of every dollar they have ever earned and accumulated even though they paid taxes on every penny of it?

Second, are these programs that we want to spend money on so valuable that it is worth tearing up family farms and family businesses and the life's work of our people to pay for it? I don't think so.

Finally, we have good, solid studies, including by our own Joint Economic Committee, that suggest we are not even collecting money on these taxes because they make the economy less efficient.

So this is really not even about money. This is about collective greed in that we want to redistribute wealth when people die. We don't believe death ought to be a taxable event. That is what it boils down to.

Let me sum up, and then I will yield the floor. What is the No. 1 reason that 70 percent of all family businesses do not survive into the second generation? Seventy percent of all small businesses that somebody founded do not survive into a successful operation by their children. Why? According to the National Federation of Independent Business, it is the death tax.

Eighty-seven percent of all small businesses fail before they get to the third generation of the family member who started them. Why? The NFIB says the No. 1 reason is the death tax.

And finally, 60 percent of all small business owners report that they would create new jobs over the coming year if estate taxes were eliminated. We have businesses that are buying great big insurance policies so their children won't have to sell the business. That money could be going into the business instead of being wasted economically. If you don't want to destroy small businesses, repeal the death tax.

My second point: Under the death tax, you are taxed once, you die, and then you are taxed again. Why is it right that you earn a dollar; the Government takes 40 cents out of the dollar; you plow what is left of the aftertax dollar back into your business or your farm; you die; and your children have to sell the business or farm to pay a tax on the 60 cents that you got to keep out of the original dollar? How is that right? It is not right.

No. 3, this is simple, it is clever, but it is just the truth, too. It is just the pitiful truth. No one should have to

visit the undertaker and the IRS on the same day. It is just not right. So often we debate these things over numbers and budgets and all these other things when this is an issue about right and wrong. This tax is wrong.

Finally, repealing the death tax would create jobs.

According to an article in the Wall Street Journal, "The True Cost of Dying," on July 28, 1999, they estimate that repealing the death tax would create 200,000 jobs. Now, it is true that some of our colleagues say if we take the tax cut back and we make people sell their farm or their business and give us 55 percent of its value, we can spend it on programs. But are those programs worth 200,000 jobs? I don't think so.

So we have before us a proposal that says let's repeal the death tax, but only for a few people. Let's raise the cost now when we have a deficit, but let's not eliminate the tax when we can afford it and when we have a huge surplus. It makes no sense. The plain truth is that a great bulk of the cost of making this tax cut permanent occurs in the year it expires, which is 2010, and by the most recent Congressional Budget Office projections our elimination of the death tax will occur in a year when we will have a surplus of \$653 billion. And \$335 billion of that will not belong to Social Security.

Why should we not repeal the death tax? Is there anything we can spend that money for that would be more valuable? I don't think so. I hope my colleagues will agree.

I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Arizona is recognized.

Mr. KYL. Madam President, I appreciate the fine explanation of my colleague from Texas. He has been an advocate of the repeal of the death tax for a long time. I am pleased to join with him in this amendment and to be able to say that we have finally been able to bring before the Senate the permanent repeal of the death tax.

I want to make several points. I see that the Senator from Oklahoma is here. Was he intending to make a point at this time?

Mr. NICKLES. I have about 7 or 8 minutes.

Mr. KYL. I will go ahead. Will the Chair let me know when I have spoken for 12 minutes?

The PRESIDING OFFICER. Yes.

Mr. KYL. I appreciate that. The first point the Senator from Texas made was that the death tax is bad tax policy. Let me explain a little bit more of what we mean by that. The Tax Code generally taxes you for voluntary conduct. If you sell property, you know there is going to be a capital gains tax on that. If you work, you know you are going to earn income and you are going to be taxed on that. People make decisions based upon tax consequences. But there are a few situations in our Tax Code that are treated as involuntary conversions.



If the Government condemns your property and pays you money for that, you don't want that money; you want your property. The Government recognizes that as an involuntary action on your part, so you don't pay ordinary income at that time on that money. If your house burns down and you collect money from an insurance policy, you didn't intend for that to happen. The Government doesn't treat those insurance proceeds to you as ordinary income. It is taxed in a different way. The same thing is what we are proposing to do with the estate tax. Nobody intends for your father, or whoever it might be, to die. He certainly doesn't. The money that you may get as a result of that is coming to you involuntarily. You didn't take some action in order for it to occur. So that money coming to you should be treated in a different way.

The way that it is treated under the amendment of the Senator from North Dakota is to take 50 percent of the amount over \$3 million. In other words, there is a \$3 million exemption and, after that, every other dollar is taxed at 50 percent. If it is over \$10 million, it is at 55 percent.

Now, that is bad tax policy. What we say instead is that the tax is not due on the date of death. Death is not a taxable event. Instead, the money passes to the heirs and, at that point, if they sell the property, there is a taxable event. You pay the capital gains on that property. In fact, the basis for the capital gain is the original basis on when the property was purchased by the decedent, not the value at the time of death. So, in effect, we are replacing one tax with another tax. Much of the revenue is not lost to the Treasury as a result. But at least as to the decision to pay Uncle Sam, the money comes from the voluntary act of people who inherited the property and who are willing to pay the capital gains tax if they sell the property, or part of it.

But what you don't have to do, as the Senator from Texas said, is visit the IRS the same day you visit the mortuary. That is wrong. That is why over 60 percent of the American people believe this is an unfair tax.

It is interesting that three-fourths of the people surveyed who say it is an unfair tax say they would favor its repeal, even though they don't believe that repeal would have any effect on them because they would not be receiving any of that money, or paying it, as an heir. So it is an unfair tax. As a matter of fact, the Senate agreed that it was unfair. We repealed it. A majority of Senators voted to repeal the estate tax.

Now, under the procedures under which that was done, no action that we took could last longer than 10 years. So the irony is after 10 years, none of our tax relief exists; it evaporates and we go back to where we were in 2001. Did we intend that? When we told our constituents we reduced the marriage penalty and reduced their individual in-

come-tax rate and repealed the estate tax, were we kidding or did we really mean it? We will find out tomorrow.

If we were just kidding, then we will defeat the Gramm-Kyl amendment, or adopt some other proposal. If we meant what we said, saying we meant to repeal it, to cast the vote to do that, and since that sunsets after 10 years, we are going to permanently repeal it with our vote today, you will support the Gramm-Kyl amendment.

Some say this doesn't affect many people. The fact is that it doesn't just affect the rich. The descendant—the rich person—died. He cannot be affected; he is gone. Most of the people who inherit the money are not rich, and certainly the employees of their companies or the farms are not rich. So most of the people who are affected by the death tax are not wealthy at all.

The question is, Do you want to take half of what they are going to get from the person who worked so hard during his or her life to provide it to them? According to the Treasury Department, 45,000 families paid some level of estate tax in 1999. That is families. If it is a family of four, multiply that by 4 to see the number of people who are immediately affected, and then you can add to that the people indirectly affected. What is not included in the statistics is twice as many people sell their business or their farms. Many more people are adversely impacted when jobs in the community are lost when a family-owned business is sold to pay the tax.

In addition, more than 2 percent of Americans bear the aggregate costs of this tax—fees to lawyers and accountants and life insurance agents. As a matter of fact, it costs just about exactly as much for the people who pay the lawyers and insurance agents and the accountants to avoid the total consequence of the tax as the Federal Government collects from those who actually end up paying. So it ends up being a double tax on Americans. Half pay the tax to Uncle Sam and the other half pay the lawyers. I don't know which is worse.

The death tax not only impacts more than 2 percent of Americans, it burdens family-owned businesses under \$100 million in value. According to the IRS, in 1999, 116,500 estate tax returns were filed; 60,700 of these returns were filed by estates with values of less than a million dollars. Estates valued between \$1 million and \$5 million filed 50,600 returns. There were 5,200 estates filed of more than 5 million. So even combined, the millionaires filing for the tax do not exceed the nonmillionaires.

The bottom line is that Americans recognize it is an unfair tax. It affects a lot more people than the person who had wealth when he died. The Senate recognized the same thing when it adopted the repeal of this tax.

Madam President, I was a bit surprised by the amendment of the Senator from North Dakota.

I know a lot of our colleagues on the other side of the aisle are opposed to

permanent repeal of the estate tax. I thought what they would do was offer a fairly generous package that would be tempting for our colleagues to vote for in lieu of the real repeal, which is the Gramm-Kyl repeal. As it turns out, that was not done. It is a very straightforward proposal which is not generous at all. As a matter of fact, it is worse—it is worse—than the status quo. People would be better off under the existing law, even without the ultimate repeal, than they would be taking the amendment of the Senator from North Dakota.

It is interesting that while he is concerned about the cost of repeal in the first 5 years, for which we have figures, the repeal of the proposal before us of the Senator from North Dakota would be about \$22 billion versus \$9 billion for our proposal at a time when we are in a deficit situation, as the Senator from Texas noted.

The only way this is made up is that in return for that, we immediately go from a reduced rate of taxes under our bill and under the status quo to a 50-percent rate under the amendment of the Senator from North Dakota. The exemption amount is \$3 million. The exemption under ours by the year 2009 is \$3.5 million and, of course, in the final year, there is no need for an exemption from the estate tax because the estate tax is repealed.

Under the substitution of the capital gains tax for the estate tax in the Gramm-Kyl proposal, we retain a \$5.6 million equivalent to an exemption so that nobody will pay a capital gains tax who would not have paid an estate tax. People are made whole, in other words.

Under no scenario would you be better off under the amendment of the Senator from North Dakota. You would be much better off under the amendment Senator GRAMM and I have proposed.

Let me make one other point. When we talk about the cost of this proposal, it is always a bit frustrating for me because we are talking about lost revenues to the Federal Treasury. To me, that is not a cost; that is an opportunity for Americans to keep more of their own money.

What we know from tax policy generally is if you reduce people's taxes, you improve the status of the economy. One thing we forget when we talk about the alleged cost of the repeal of the estate tax is the positive effect that has on the economy. A study conducted by Alan Sinai shows the GDP of our country could increase a total of \$150 billion over 10 years and job growth could increase 165,000 per year with repeal. The increase in household savings would be between \$800 and \$3,000 annually. So the impact on families and on the GDP would be significant from a repeal of the estate tax.

A Joint Economic Committee study estimates the existence of the tax has reduced the Nation's pool of savings by \$497 billion. An expert in this area testified before our Finance Committee



and said immediate repeal of the death tax would result in a \$40 billion economic stimulus.

If you really want to stimulate the economy, if you really want to create more jobs, if you want to enhance the GDP and if you want to enhance personal savings and personal income, then repeal the tax.

It is true that the Federal Government is a little worse off if we repeal the tax. It does not take in quite as much money. But American families have a lot left, and the American economy is a lot healthier as a result.

What happens when the economy grows? We all know that tax collections by the Government actually increase when the economy grows. We do not have an exact study on what Federal revenue increases would be, but we know they would be significant.

A final point: There is always the bottom line argument: when you cannot scare people any other way, say that Social Security might be affected.

There is zero effect; there can be no effect on Social Security by repeal of the death tax. The death tax has nothing to do with Social Security. The death tax goes to the general revenues. It is about 1 percent, 1.5 percent of general revenues. It has no impact on Social Security. It pays none of the Social Security benefits.

Today, in the year 2002, we will be taking in about \$624 billion in Social Security, and the payments to Social Security recipients are about \$465 billion, so we have about a \$175 billion surplus in Social Security funds.

No Social Security recipient could be affected by repeal of the death tax. Let's at least understand that and not scare people by suggesting there is an adverse impact on Social Security.

We have more points. I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, first, I compliment my friends, Senator KYL and Senator GRAMM, for their leadership in trying to eliminate one of the most unfair taxes in U.S. history. We have a chance to do it. We have two proposals that are before us. One is by Senator GRAMM and Senator KYL, of which I am a cosponsor, to repeal the death tax so there will not be a taxable event on somebody's death. Now there will be a taxable event when the property is sold, also known as a capital gains tax. That is 20 percent. That ought to be enough.

We are trying to make permanent the repeal in the year 2010. Let's make that permanent. That is our objective. Under that scenario, if there is property in an estate—let's say it is a business, a manufacturing company, maybe it is a farm or ranch, maybe it is a restaurant in downtown Washington, DC. That restaurant may sell for \$5 million. Maybe it is a second or third generation restaurant, Mortons, and it is worth several million dollars. If the son or daughter takes over that busi-

ness and they do not sell it, there is not a taxable event. But if they decide it is too much of a hassle and they do not want to continue the operation and they sell it, then there is a taxable event. It will be taxed as capital gains at 20 percent instead of under Senator CONRAD's proposal of 55 percent.

I probably shocked somebody when I said 55 percent. I read Senator CONRAD's proposal as 50 percent. He has an exemption of \$3 million, and in a few years \$3.5 million, but above that is taxable at 50 percent. If you have an estate between \$10 million and \$17 million, there is another 5 percent kicker, and so the Federal Government will get 55 percent.

Why in the world would the Federal Government be entitled to take over half of somebody's property for which they worked their entire lives? Should the Federal Government come in and take half or over half? That is what is in the Conrad proposal.

We have two competing proposals. What will the impact be? Look at the businesses in Washington, Oregon, or Maine. We can all think of very successful people who have built businesses and have employed a lot of people. A lot of those are worth more than \$3.5 million. Senator CONRAD's proposal says we want half of the property's worth when somebody passes away. I happen to think that is absolutely wrong. Whether the value of that business is \$3 million or \$100 million, if somebody wants to continue operating that business, why should the Government come in and say: No, stop, we want half; somebody died; stop; we want the Federal Government to come in and take half? That is what Senator CONRAD's proposal is. I object to that.

I learned the hard way. My grandfather started a business. My dad built it up. He died when he was pretty young, and the Government came in and said: Stop, we want half. We fought the Government for 7 years. Frankly, the business was a small, family-held business, and Uncle Sam said: We want half of it. We objected to that and we fought them for years. We ended up settling. They ended up getting a lot more than they should have.

The Government's purpose and function should be to protect our property, not confiscate it. If one thinks about it, under the Conrad proposal, if they get half—and let's say it is over \$3 million,—somebody passes away this year, and then in the next generation somebody else passes away 20 years later, and they get half again. What a disincentive to grow, build, and expand.

There are countless generations across the country trying to grow, build and expand by employing more people and creating more products. I think of a company in Perry, Oklahoma called Ditch Witch. They manufacture trench makers. These machines are used to lay cable, phone lines, pipelines, help build roads, among many other uses. Perry, OK, has a population probably of 12,000 people, of which

Ditch Witch employs a couple thousand. It is a great little family-owned business. Why should the Government come in and say: Stop, the proprietor passed away; we want half of it? What about those thousands of jobs?

Look at another company called Bama Pies. They make pies in Tulsa, OK. They make millions of pies, including all the pies for McDonald's. They employ hundreds, if not thousands, of people. It is a closely held business.

Why should the Government come in and take half because the entrepreneur who built that business happens to pass away and the value of the business is in the millions? I do not think they should.

That is what we are talking about. Should the Government come in and say, oh, well, you have been relatively successful, and because your estate is in the upper maybe 1 percent or 2 percent, it is okay if we sock it to you? What is right about that? What is fair about it? Where are the jobs that are in that kind of an ordeal? We think the Government can operate it better? Sorry, you have to sell it to pay estate taxes. We hope the company will survive in its next form. Maybe it will. Maybe it will not. There are a lot of operations that cannot withstand that type of a heavy tax.

A farm or a ranch is another good example. You might have a fairly decent farm or ranch maybe adjacent to a large city and so its property valuation is very high. This value could maybe exceed its agriculture valuation, or the profits or the money that would be generated from the agriculture. Just because it happens to be next to San Diego it is worth millions on the valuation sheets. Maybe somebody says, well, I want to continue farming it and ranching it; I am second or third generation. And we are going to say, no, we are sorry; we have valued this, and because it happens to be next to San Diego, it is worth millions of dollars so the Federal Government is entitled to take half. They cannot pay half by continuing their agricultural operation, so the only way they can pay taxes is to sell it. What kind of victory is that? We have just broken up a family business, a family farm, or a family ranch. Why? So Uncle Sam can take half that property? Maybe that property is not worth near as much in that present function. What right do we have to do that?

Some taxes are wrong, and this tax happens to be one of those that are wrong. The power to tax, it has often been said, is the power to destroy. If the Government can take half—and in the amendment of Senator CONRAD, the Government can take half. If you have a taxable estate over \$3 million, then they have taken away a lot of your—maybe destroyed a lot of incentive to build, grow, expand, and employ. I think of so many entrepreneurs who have built and expanded businesses that are now worth millions of dollars.

I look at this amendment and it says: Stop; do not grow anymore because Uncle Sam is going to come in and take half of it. We have decided that is our property and we can handle it better than you can. How many employees will the Government hire out of that type of operation?

I completely disagree with the premise espoused of, let's keep the rates at 50 or 55 percent. Again, I mention the rate. Under the proposal of Senator CONRAD, there is a maximum rate because he has this bonus 5 percent hit if your taxable estate is between \$10 million and \$17 million. Well, \$10 million and \$17 million sounds like a lot if that is your disposable income, but if that is your investment that you have grown in plant and equipment, and you are putting the money back in the business year after year, it may not be that big. You may not make that much money. You may have a business that is worth \$20 million but it may not make very much money. Yet, under Senator CONRAD's amendment, too bad: You pass away, we have a taxable event, and Uncle Sam gets half. If it is a \$20 million business, take away your \$3 million deductible and you have a \$17 million business. Under his proposal, half of it goes to Uncle Sam—actually, 55 percent of the \$17 million. The Government is going to get almost \$9 million out of a \$20 million business. Congratulations, you are really successful. If this is the case, where are the liquid assets in this \$20 million business? You do not have them. You have invested them in plant and equipment, in machinery, in jobs. You did not have them sitting around in CDs and cash, so you have to sell the business to pay the taxes.

That is what the amendment of the Senator from North Dakota is. It says, Government, you are entitled to take half; and many of us say, no, you are not. This tax is unfair. It needs to be repealed.

We took a giant step in that direction when we phased down the tax and repealed it in the year 2010. We need to make it permanent, and that is exactly what the Gramm-Kyl-Nickles amendment does, makes it permanent. Senator CONRAD's amendment says, no, we do not want to do that. We will increase the exemption a little bit and then the Government is entitled to get half.

I hope my colleagues will reject that type of unfair tax policy that needs to be repealed. Even if it applies to one small percentage of the American population, it is not right to take it. One can say, well, is it right to take 100 percent of somebody's property if it only affects a few? I think of that as theft, rather than good, sound tax policy.

I heard some people complain, what about the effects on deficits? I started looking at spending. I always hear when we talk about taxes, but when we talk about spending we do not hear about people talking about, what is the

impact on Social Security? What is the impact on future deficits? Between the years 2000 and 2001, budget authority went up from \$584 billion to \$664 billion. That is a 14-percent increase. Between the years 2001 and 2002, it went up to \$710 billion. That is a 7-percent increase. That was before we started working on the supplemental. The budget we are working on now that just passed—if we include the supplemental that just passed Congress—is \$768 billion. If we add that together, that is an 8-percent increase over the previous year. So we are compounding spending at 14, 7, 8 percent.

Then I look at some of the other requests. The farm bill that we passed about a month ago was \$82 billion over the baseline. We are paying cotton farmers 72 cents per pound when we look at cotton that is selling for 32 cents. The market price for cotton is 32 cents, but we are going to pay farmers 72 cents for 6 years.

Look at railroad retirement. We are writing out a check for \$15 billion for railroad retirement, something we have never done before.

The Trade Adjustment Assistance Program we passed had \$11 billion of new entitlements, where the Federal Government is going to pick up 60 percent of health care costs for people who happen to be uninsured, unemployed.

We are going to have a new wage entitlement insurance program under trade adjustment assistance. The supplemental was \$3.9 billion over the President's request. The supplemental was almost \$4 billion above the President's request. Trade adjustment assistance had \$11.1 billion over the President's request in new entitlements. The farm bill was \$82.8 billion over the baseline. Railroad retirement is \$15 billion. So there is a lot of new spending in excess of about \$120 billion that Congress has passed in the last few months. Where is the outrage on the impact on deficits on these bills?

When we start talking about not taking away half of somebody's property when they die and reject this tax policy, perhaps we should have the tax policy be enacted when their property is sold by their beneficiaries. Then there is a taxable event and that taxable event is taxed at the capital gains rate, which is 20 percent. With this method, you would eliminate these billions of dollars that are being spent presently to avoid the tax. To everyone who knows estate planning, the lawyers and the accountants, this is an enormous field, which in my opinion uses a lot of minds in a productive venture to avoid a very unfair tax.

If we said, let us have a tax on capital gains, it would simplify taxation. I think we would see a lot of businesses grow if they did not receive this signal, stop, do not grow anymore because we are going to take half of everything you have. The economy would respond in a very positive way. We would create thousands, maybe hundreds of thousands, of jobs if we could repeal this unfair tax.

I urge my colleagues, when we vote tomorrow, when we have final passage, to vote in favor of the Gramm-Kyl-Nickles amendment to repeal permanently this unfair death tax.

Mr. CONRAD. Madam President, I have been amazed at the argument from the other side, absolutely amazed. My amendment is not as good as the status quo? Their proposal is better? What math are they using?

I grew up in North Dakota, went to North Dakota schools where one and one is two; two and two is four; four and four is eight. That is the math I learned. I don't know what math they are talking about.

Let's talk about the difference between my proposal before the Senate and their proposal. Let's talk about current law. They say mine is not as good as current law. Under current law, next year the exemption will be \$1 million. That is 2003. Under my proposal, the exemption is \$3 million. So the rate for an individual who has an estate that is taxed next year below \$3 million, the rate is zero; their rate above \$1 million is 41 percent. Which is better? A zero rate up to \$3 million, as in my proposal? Or their proposal, which is a 41-percent rate over \$1 million? Can we do the math? Which proposal means less tax to the individual in the family? Zero percent up to \$3 million? Or their proposal that says a 41-percent rate over \$1 million.

Compare it to current law. My rate is zero percent up to \$3 million. They have zero up to \$1 million. That is current law. But over that the rate is 41 percent. Let's see, are you going to pay less tax under my proposal or their proposal? Are you going to pay less tax under my proposal or under current law? Come on. I am ready to have an honest debate but let's not twist things around and claim that my proposal taxes more than your proposal. That stands truth and logic on its head.

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

Mr. CONRAD. I yield.

Mr. KYL. I agree with the point in the first year there is a greater benefit for individuals but a higher cost to the Government. Would the Senator continue the timeline over the next 10 years?

Mr. CONRAD. I would be happy to do that.

The next year, 2004, their exemption is \$1.5 million for current law with a 41-percent rate. Their proposal is a \$1.5 million exemption with a 43-percent rate. My proposal is \$3 million, nothing, no tax. So you are higher in 2003; you are higher in 2004; you are higher in 2005; you are higher in 2006; you are higher in 2007. That is a long time in which my proposal is better than your proposal.

Not only is my proposal better in terms of the taxpayer for those years, my proposal is better for the Federal Government's Treasury and for fiscal responsibility and for Social Security because our proposal costs less over the

next decade than does theirs. Why is that? Because at the end of the decade they eliminate the estate tax completely. It does not matter how big. It does not matter if you have a \$50 billion estate, they say you pay no tax.

The Senator from Texas talked about what is fair and right. Let me give an example of why I think what he is proposing is less fair, is less right, than what I am proposing.

Under their proposal, someone with an estate of \$50 million—for example, Mr. Skilling, the executive who ran Enron. He would have his estate tax eliminated. The \$55 million he would save would be equivalent to all of the Social Security taxes paid in one year by 30,000 people earning \$30,000. In other words, in their idea of what is fair, it is more important to take Mr. Skilling off the tax rolls completely, even though his gains, many might say, are ill gotten, it is more important to take him off than to worry about the 30,000 Americans earning \$30,000 a year paying that amount of money into Social Security. Make no mistake, these things are directly related.

The proposal I have offered reforms the estate tax. It says nothing is paid starting next year if you are an individual with an estate of less than \$3 million, and for a couple that is up to \$6 million. You pay zero. That is much better for next year, and 2004, and 2005, and 2006, and 2007, than their proposal. But, at the same time, my proposal costs less because we do not eliminate the estate tax. So my proposal costs \$12.6 billion in the first decade; their proposal costs \$99.4 billion. That is a dramatic difference. It is at a time when we will be running deficits for the entire next decade. Let me repeat that. We will be running deficits for the entire next decade unless something changes. And just hours ago we had to increase the debt of the United States \$450 billion. They are proposing a cost in the second 10 years of \$740 billion.

Reform, not repeal, is the best thing for this country's economy, for our fiscal stability, and for fiscal responsibility. And interestingly enough, it is the best thing for taxpayers. It is the best thing for taxpayers because they get a better break now. We go from a \$1 million exemption to a \$3 million. Next year, that would be \$6 million for a couple.

This idea of repeal which they have proposed is a hoax. I don't think it will ever happen. They can pass it now, but I don't think it will happen. By some other name this tax will come back and we will have denied people the ability to plan and we will also have denied people the chance to get a greater exemption now, which is what I am proposing.

When I was raised, I was taught a bird in the hand is worth two in the bush. This proposal I am making is a bird in the hand, a \$3 million exemption, or a \$6 million exemption for a couple, starting next year, instead of the \$1 million exemption that exists in

current law and the \$1 million they have in their plan.

The choice is pretty clear, pretty simple, but pretty important.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, our dear colleague has a substitute which costs a "fraction" of a repeal but it is better. If his amendment sounds too good to be true, it is because it is too good to be true.

The first thing he never mentioned was if you are a small business or family farm and you are engaged in any estate planning, and we know that small businesses and family farms spend dollars in estate planning, this completely wipes all that out. I can show figures on a small business, a \$10 million small business, the tax would equally be higher next year under his proposal than under ours. But we do not have to get into all this gamesmanship. It really boils down to a simple question. We repeal the death tax for everybody.

Mr. CONRAD. Will the Senator yield on that last point?

Mr. GRAMM. I will yield. I only have a couple of minutes, so do it fast.

Mr. CONRAD. I would love to see the calculation the Senator has.

Mr. GRAMM. I will be glad to show him. I have someone from the Finance Committee here, the staff person who worked on this. She worked out the example of \$10 million, and I will send her over with it so your staff can take a look at it.

Mr. CONRAD. I would love to take a look at that.

Mr. GRAMM. Here is the point. We don't need to get into all this business about "he did," "he didn't," "he did," "he didn't." It boils down to this. We said we repeal the death tax and we repealed it. Only there is a trick: it comes back in 10 years.

Senator KYL and I want to repeal it so it is dead forever. We do not think death ought to be a taxable event. We don't think you ought to have to sell your family's farm, business, or estate to pay tax on money which you have already paid taxes on.

The Senator says let's do it for some people but not other people. Let's do it for some Americans but not other Americans. And let's, at the same time, ban all of the procedures whereby every small business in America and every family farm in America is planning for estate taxes to try to minimize their costs.

The bottom line is: Are you for a repeal for everybody or are you for a repeal for some of the people? It really boils down to that simple issue.

As for this argument about Social Security, I hope everybody understands that we collect a payroll tax for Social Security. The death tax collects less than 1 percent of revenues, and none of that money goes into Social Security. In fact, as I pointed out over and over and over, five times in the last 9 months we have spent cumulatively

about 20 times the amount that it would take to repeal the death tax. So, obviously, it is not a question of money. It is a question of priorities.

I yield the floor. We are through on our side.

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

The Senator from Arizona.

Mr. KYL. Might I address a question to the Senator from North Dakota since the Senator from Nevada is not here. It is our understanding under the unanimous consent agreement the next amendment that will be laid down will be laid down by Senator DORGAN or by Senator REID on his behalf?

Here is Senator REID. Perhaps we could get this underway now. If I could inquire of the Senator from Nevada, the time having expired under the unanimous consent agreement on the first amendment laid down, is the amendment of the Senator from North Dakota next? The next thing that will transpire is that the Senator from Nevada on behalf of the other Senator from North Dakota will lay down an amendment; is that right?

The PRESIDING OFFICER. The Senator from North Dakota still has 5 minutes.

Mr. KYL. I am sorry. I thought the Chair said all time had expired.

The PRESIDING OFFICER. The time of the Senator from Texas had expired.

Mr. KYL. If the Senator from North Dakota still has 5 minutes, I will yield the floor to the Senator from North Dakota. But if we could get a clarification about what is going to happen when that time has expired, I would appreciate it.

Mr. REID. If the Senator from North Dakota will yield without this time counting against his 5 minutes, I will respond to the question of the Senator from Arizona.

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

Mr. REID. I say to the Senator, at this time the Senator from North Dakota, Mr. DORGAN, is working on some minor changes in the amendment that he offered previously. That amendment, I cannot go into detail on.

Basically, what it does is exempt from the estate tax small farms and businesses that let descendants take over after the death of the party—the same amendment he offered previously that I think got 43 votes. Basically, that is the amendment.

I do say to my friend, I just talked to the cloakroom and he is making some changes. We were and are entitled to two second-degree amendments under the unanimous consent agreement. At this stage we may only offer one of them. Senator DORGAN is trying to change the one amendment so there may be one amendment rather than two. As soon as we get something in writing, we will let the Senator from Arizona know. I do not think there is any question that the amendment you are going to lay down is the same one we have seen before, just an outright repeal?

Mr. KYL. Also, not taking away the time of the Senator from North Dakota, the Senator from Nevada is correct. I just inquire, then, for the benefit of all Senators, when the Senator from North Dakota has completed his 5 minutes of concluding remarks, could the Senator from Nevada explain what happens at that point?

Mr. REID. I have spoken to the majority leader. We have the Prime Minister of Australia coming for a joint session of Congress tomorrow morning. We are going to do a limited amount of morning business in the morning. Then the escort committee would go with the Senators over to the House side and listen to that speech. That is expected to be completed and we will be back in session approximately 12:30 tomorrow afternoon.

At that time, Senator DORGAN will lay down his second-degree amendment with a 2-hour time limit. We would vote at approximately 2:30 on the Dorgan amendment, then the Conrad amendment, and then we would turn to the Senator from Texas. He would lay down his amendment which would probably be around 3:15. At 5:15 or 5:30, thereabouts, debate on that would be completed, and I hope on or about that time we could vote on the amendment of the Senator from Texas and be finished with this matter.

Mr. GRAMM. If the Senator will yield, let me just reaffirm so everybody knows, I will offer exactly the language that passed the House, repealing the death tax permanently. So if we did it, it would go right to the President, he would sign it into law.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, let me conclude this debate as I began. I believe our votes must be informed by the current fiscal condition of the country. As the President said to us last year, his budget was going to pay off \$2 trillion of debt over the next decade. He said, at that time, that would be the largest debt reduction of any country ever.

Now the President comes to us 1 year later and says: Whoops, forget about that. Forget about maximum paydown of the debt. Forget about paying down more debt than any country ever. Instead of paying down debt, I am asking you, Members of Congress, for the second biggest increase in the debt in our Nation's history.

The only bigger request for an increase in the debt was made by the current President's father when he was President. He asked for and received a \$915 billion increase in the national debt in one fell swoop, in November of 1990.

Now comes this President and he asks for a \$750 billion increase in the debt, the second biggest in our Nation's history.

We all have to think a moment about the changed circumstances. Just hours ago, this Chamber voted to increase this Nation's debt by \$450 billion. Now

our colleagues on the other side are here saying they want to increase the debt another \$100 billion in this 10 years, by another \$740 billion in the second decade.

Let's look at where we are and where we are headed. This chart shows that from 1992 to 2000 we pulled out of deficit. We got ourselves into circumstances in which we were running surpluses. Last year with the President's budget plan we plunged back into deficit, and we now are told that we can expect deficits the entire rest of the decade. That is before their proposal to dig the hole even deeper. And the outlook for the years beyond is even more serious.

That brings us to the question of what do we do on the estate tax. I acknowledge we need to reform the estate tax—\$1 million is too low for a tax to be imposed. So I proposed that next year we go to \$3 million of exemption for an individual estate; \$6 million for a couple. They would pay zero under my proposal. A couple would pay no estate tax up to \$6 million. Our friends on the other side, they don't get to \$3 million until 2009.

My proposal also freezes the maximum estate tax rate at 50 percent. It retains stepped-up basis. I know that is a confusing term, but it is an important one. What it means is that in the future, you will pay taxes on what you inherit based on the value at the time you inherit it, not what grandpa paid for the property, not what grandma paid for the property, but what it was worth when it passed to you.

That is a very important difference between their proposal and mine. While my proposal is more generous to taxpayers in the short term, it is also more fiscally responsible because we don't eliminate the estate tax completely as their proposal does. They are proposing to eliminate the estate tax completely after the year 2010. My proposal saves hundreds of billions of dollars that otherwise are going to come straight out of Social Security. There is no other place for it to come from. They deny it. They say this has no effect on Social Security. Really? Where is the money coming from? There is only one place it can come from; that is, straight out of Social Security.

My proposal will reduce the number of estates that are taxable from the current level, which is 2 percent. Only 2 percent of all estates in America have any tax. I would reduce that to three-tenths of 1 percent, but at the same time save the fiscal position of the country.

There is no question that what they are talking about—estate tax repeal—raids Social Security trust funds. Look at what it does. Their idea of fairness is to eliminate the estate taxes for somebody like Mr. Skilling, former CEO of Enron, who would save under their plan an estimated at \$55 million. That is equivalent to all of the Social Security taxes paid in a year by 30,000 American people earning \$30,000.

They say their proposal is fair. They say their proposal is equitable. I don't see it. Taking all of the taxes from 30,000 people earning \$30,000 a year to eliminate the estate taxes of Mr. Skilling is not fair.

I thank the Chair. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DAYTON). The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. DASCHLE. 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. DASCHLE. Mr. President, I wanted to announce that there will be no further votes today. I appreciate the vigorous debate we have had on the Conrad amendment, and appreciate Senators coming to the floor to move the schedule along.

It is my hope that we will have a vote at approximately 2:30 tomorrow, and it may be stacked with another amendment.

I urge Senators to offer their amendments because we will miss a window here, and we will then make a point of order on the bill itself sometime tomorrow.

We are not going to wait for Senators. They are either going to offer their amendments or they are going to miss the opportunity.

So those Senators who have amendments need to come to the floor and lay them down and have the debate, as Senator CONRAD did this afternoon.

We will pick up this debate again tomorrow morning.

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

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

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 10 minutes each.

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

#### TRIBUTE TO FLOYD CALVERT, JR.

Mr. NICKLES. Mr. President, I recognize an American who honorably served our Nation for nearly 40 years. At the age of 25, Lieutenant Floyd Calvert Jr., an Oklahoman and Cherokee Indian, served as a bomber pilot in the U.S. Army Air Corps flying B-29 aircraft in the Pacific Theater during World War II.

On June 1, 1945, Lt. Calvert and his crew of ten from the 504th Bomb Group took off from Tinian Island, in the Marianas to strike Osaka, Japan. Immediately after delivering his ordnance, his B-29 aircraft was hit and severely damaged by anti-aircraft artillery fire. Lt. Calvert's headset was blown off inflicting wounds in his scalp and left arm. His co-pilot was also wounded and unable to assist in flying the damaged B-29. With the right inboard engine on fire, Lt. Calvert placed his aircraft in a steep dive to extinguish the flames. With the fire out he tried in vain to feather the engine but the runaway propeller spun off and flew into the right outboard engine, creating a very grave situation with both engines on the right side inoperable. Lt. Calvert's crew decided to remain with the crippled B-29. Wounded and bleeding, Lt. Calvert flew solo toward the airfield at Iwo Jima. To reduce the aircraft's weight and extend its range, he proceeded to jettison all removable items, to include life rafts, reducing their chances of survival if they had to ditch the aircraft into the Pacific Ocean. Once over Iwo Jima, Lt. Calvert circled his bomber to permit other bomber aircraft to recover or bail out over the tiny island. In a feat of unprecedented airmanship and heroism, Lt. Calvert then flew a flawless approach and landing, bringing his crew to safety in an aircraft that would never fly again.

Like so many of his time, Lt. Calvert returned to Oklahoma and began a fifty-one year marriage and raised five children. He worked for 34 years as a federal employee at Tinker Air Force Base in Oklahoma City and served on his local school board and in his church. Today, at age 82, he resides with his youngest daughter, her husband and their two children, and he remains an inspiration to our generation as we look back and admire the heroes of our past. I thank him for his unwavering service and sacrifice to the United States of America. May God bless Floyd Calvert Jr. and his family.

#### RECOGNITION OF THE VALOR, DEDICATION, AND PATRIOTISM OF CHALDEAN AMERICAN VETERANS

Mr. LEVIN. Mr. President, later this month, on June 14th, people in my home state of Michigan will be gathering at a special ceremony to honor men and women of the U.S. armed forces who have served to preserve our nation's freedom. This ceremony held by the Chaldean American Ladies of Charity will pay tribute to Chaldean American men and women who have served or are currently serving in our Nation's military.

It is particularly poignant that people are gathering to honor Chaldean American veterans on the day set aside to honor our foremost symbol of freedom: the American flag. At a time when we are reminded of the priceless

value of our many freedoms, it is important that we do not forget the heroes who fought so fearlessly and valiantly in past conflicts to protect our nation and our freedoms. Such brave men and women have preserved our liberty and democratic values and safeguarded our freedom to pursue the American dream.

The Chaldeans are people who possess a long and fascinating history. They have traditionally spoken a form of Aramaic, the language in which the New Testament was written, and possess an interesting theological history that includes a reunion with the Roman Catholic Church in 1551 A.D. This reunion led to the establishment of the Chaldean rite of the Catholic Church.

Many Chaldeans immigrated to the United States from Iraq, and have played an important part in our nation's growth and success. Detroit is privileged to be home to the largest Chaldean community in the United States. In Detroit and throughout the nation, Chaldean Americans have dedicated themselves to the making a better life in America. Detroit, the State of Michigan and our nation have benefitted from their patriotism, hard work and dedication to community, faith and family. These many contributions have greatly benefitted our nation and have included the service of nearly two hundred Chaldean Americans in the United States Armed Forces.

The entire Chaldean American community can take pride in their long and honorable tradition of service to our nation, particularly their service in our nation's armed forces. I am sure that my Senate colleagues join me and the Chaldean American Ladies of Charity in paying tribute to Chaldean American veterans.

#### REMEMBERING THE MIA'S OF SULTAN YAQUB ON THE TWENTIETH ANNIVERSARY OF THEIR CAPTURE

Mr. SCHUMER. Mr. President, I rise today to ask my colleagues to join me in remembering the Israeli soldiers captured by the Syrians during the 1982 Israeli war with Lebanon. It is with great sadness that we mark today 20 long years of anguish for their families, who continue to desperately seek information about their sons.

On June 11, 1982, an Israeli unit battled with a Syrian armored unit in the Bekaa Valley in northeastern Lebanon. Sergeant Zachary Baumel, First Sergeant Zvi Feldman, and Corporal Yehudah Katz were captured by the Syrians that day. They were identified as an Israeli tank crew, and reported missing in Damascus. The Israeli tank, flying the Syrian and Palestinian flag, was greeted with cheers from bystanders.

Since that terrible day in 1982, the governments of Israel and the United States have been doing their utmost by working with the office of the International Committee of the Red Cross,

the United Nations, and other international bodies to obtain any possible information about the fate of the missing soldiers. According to the Geneva Convention, Syria is responsible for the fates of the Israeli soldiers because the area in Lebanon where the soldiers disappeared was continually controlled by Syria. To this day, despite promises made by the government of Syria and by the Palestinians, very little information has been released about the condition of Zachary Baumel, Zvi Feldman, and Yehudah Katz.

Today marks the anniversary of the day that these soldiers were reported missing in action. Twenty pain-filled years have passed since their families have seen their sons, and still Syria has not revealed their whereabouts nor provided any information as to their condition.

One of these missing soldiers, Zachary Baumel, is an American citizen from my home of Brooklyn, New York. An ardent basketball fan, Zachary began his studies at the Hebrew School in Boro Park. In 1979, he moved to Israel with other family members and continued his education at Yeshivat Hesder, where religious studies are integrated with army service. When the war with Lebanon began, Zachary was completing his military service and was looking forward to attending Hebrew University, where he had been accepted to study psychology. But fate decreed otherwise and on June 11, 1982, he disappeared with Zvi Feldman and Yehudah Katz.

During the 106th Congress, I co-sponsored and helped to pass Public Law 106-89, which specifies that the State Department must raise the plight of these missing soldiers in all relevant discussions and report findings to Congress regarding developments in the Middle East. We need to know that every avenue has been pursued in order to help bring about the speedy return of these young men. Therefore, I strongly feel that we must be sure to continue the full implementation of Public Law 106-89, so that information about these men can be brought to light.

Zachary's parents Yonah and Miriam Baumel have been relentless in their pursuit of information about Zachary and his compatriots. I have worked closely with the Baumels, as well as the Union of Orthodox Jewish Congregations of America, the American Coalition for Missing Israeli Soldiers, and the MIA Task Force of the Conference of Presidents of Major American Jewish Organizations. These groups have been at the forefront of this pursuit of justice. I want to recognize their good work and ask my colleagues to join me in supporting their efforts. For two decades these families have been without their children. Answers are long overdue.

I am not only saddened by the plight of Zachary Baumel, Zvi Feldman, and Yehudah Katz, but I am disheartened and angered by the fact that even as we

have continued to search for answers about their welfare, we have been forced to add more names to the list of those for whom we have no knowledge of their location, health, or safety.

IDF Soldier Guy Chever disappeared without a trace from his army base in the Golan on August 17th, 1997. Almost three years later, Colonel Elchanan Tanenbaum was kidnapped by Hezbollah while on a business trip in Europe on October 15th, 2000. Left behind are two more families who simply do not know what has become of their loved ones.

And at this time, I feel it is also appropriate to speak not only of those who remain missing, but for those who were unfairly taken from their families never to return. I am speaking of course of Sergeant Adi Avitan of Tiberias, Staff Sergeant Binyamin Avraham of Bnei Brak, and Staff Sergeant Omar Souad of Salma.

In a clear-cut violation of international law, these three Israeli soldiers were abducted by Hezbollah on October 7, 2000 while on operational duty along the border fence in the Dov Mountain range along Israel's border with Lebanon. It is believed that they were wounded during the incident.

According to an investigation by the IDF Northern Command, Hezbollah terrorists set two roadside bombs, then crossed through a gate near the fence, pulled the three soldiers out of their jeep and fired anti-armor missiles at the empty vehicle. The soldiers were then taken by the terrorists to the Lebanese side of the border. Although the United States called on Syria to assist in the timely release of these three soldiers, no information was given as to their conditions or whereabouts. The International Red Cross had also been requested to intervene by attempting to arrange for a visit with the three kidnapped IDF soldiers in order to ascertain their status.

After much soul searching and heartache, it was determined that the return of these men to their homes and loved ones could no longer be hoped for. Their families have grieved, and my heart goes out to them. The hope I hold now is that we will not allow the families of those who remain missing to suffer in the same way.

The agony of the families of these kidnapped Israeli soldiers is extreme. They have not heard a word regarding the fate of their sons who are being held captive for political ransom. We must pledge to do our utmost to bring these soldiers home, for the same of peace, decency and humanity.

#### VOTE EXPLANATION

Mr. LIEBERMAN. Mr. President, I regret I was not able to vote on S. Res. 272. My airline flight back to Washington, DC was delayed for many hours because of adverse weather conditions. I express my support for this measure and applaud its passage. A national referendum to support a more democratic

process based upon 10,000 signatures to the Cuban National Assembly is laudable. I ask that the record show that I would have voted in favor of S. Res. 272 and I support its passage. My vote did not affect the outcome because the resolution passed overwhelmingly.

#### SUPPORT OF AMERICAN SILVER EAGLE BULLION PROGRAM ACT

Mr. CRAPO. Mr. President, last week I introduced with my colleague from Nevada, Senator REID, the Support of American Silver Eagle Bullion Program Act. This legislation will preserve our most successful silver coin program, the American Silver Eagle Bullion Program.

From the inception of the program, the Silver Eagle coin has been the domestic and global market share leader in commemorative coin programs. It is also the largest of the United States Mint's silver coin programs. From Fiscal Year 1995–2001, the program has generated revenues of more than \$264 million. Profits from this program ultimately go into the Treasury General Fund, which reduces the government's debt.

Since 1986, the Mint, through interagency agreements with the Defense Logistics Agency, has been using the Strategic and Critical Materials Stockpile as a source of silver from the American Eagle Silver Bullion Program. The use of the Stockpile silver is a result of legislative mandates. This stockpile of silver, which had a beginning balance of 137.5 million ounces, is rapidly being depleted. At the current rate of depletion, the silver will be depleted in approximately two months.

With the depletion of silver reserves in the Defense Logistics Agency Stockpile, it has become necessary for the Department of the Treasury to acquire silver from other sources in order to continue the Silver Eagle Program. This bill adds a stockpile depletion contingency provision to the United States Code that allows the Secretary of the Treasury to obtain silver from other available sources, while not paying more than the average world price.

I rise today to introduce this legislation because it is vital to the economy in my home State of Idaho. The mines of the Silver Valley in North Idaho produce more than \$70 million of silver per year, along with employing over 3,000 Idahoans and contributing more than \$900 million to the overall Idaho economy.

Moreover, I am proud to recognize that the blanks used by the United States mint in their American Eagle Silver Bullion Program are produced by Sunshine Minting, Inc., in Coeur d'Alene, ID. Approximately 60 people at Sunshine Minting work directly on the U.S. Mint Silver Eagle Program.

Idaho's mining sector is a critical component of our national economy, and this bill makes certain that we preserve the Silver Eagle program and keep valuable mining jobs in Idaho and

other silver mining states. It is my hope that the Senate will move expeditiously to consider and pass this legislation before the stockpile is deleted.

#### ADDITIONAL STATEMENTS

#### FOUR SOUTH CAROLINA STUDENTS TO PRESENT HISTORY PROJECTS

• Mr. HOLLINGS. Mr. President, I wish to congratulate four Cheraw, SC, students who will be in Washington, DC tomorrow exhibiting their history projects as part of National History Day.

These young historians were selected out of more than half a million from across America, and they are bringing with them months of research. They earned the trip by showing they are the best of the best, and our State and Nation are better off for their hard work. When young people, on their own, want to understand the fundamental principles and values of our democracy, they are more likely to vote. They are more likely to participate in public service. They are more likely to take seriously the civic commitment this nation needs in the new century.

I wish the very best to Bryan Blair, whose exhibit is "The Orangeburg Massacre: Revolution, Reaction, and Reform in South Carolina"; and to Meagan Linton, Mary Hudson, and Jordan Thomas, whose exhibit is: "Tears of Sorrow or Tears of Joy: Reaction to the Assassination of Abraham Lincoln."•

#### IN HONOR OF W. RALPH GAMBER, FOUNDER OF DUTCH GOLD HONEY

• Mr. SANTORUM. Mr. President, Friday, June 14, is our National Flag Day. This year, Flag Day has special meaning for many in Lancaster, PA, it will be a day of remembrance for the life and work of W. Ralph Gamber. It is particularly appropriate that Ralph's legacy will be honored on Flag Day; in many ways, he lived the American dream through the kind of patriotism that is grounded in community involvement and love of family. The company Ralph founded in 1946, Dutch Gold Honey, Inc., will also be honored as part of his legacy and those who will gather at the site of his family business in Lancaster will dedicate a flagpole in his memory.

Ralph Gamber began his honey processing business with a \$27 investment in three beehives in the mid-1940s. What was initially a hobby of canning honey in the family garage grew to be a vehicle for innovation and a model for the success of hard work and family cooperation. Today, Dutch Gold Honey is one of the largest independent honey packers in the nation and, as an industry symbol of quality and partnership, remains family-owned and operated. The plastic honey bears seen on the shelves of every grocery store in America are Ralph's invention and their success led to the creation of the Gamber



Container Company. Ralph, his wife Luella, and his three children have made an incredible contribution to the Lancaster area through their business accomplishments. Ralph served a term as president of the National Honey Packers & Dealers and in 1992, was recognized as Pennsylvania Entrepreneur of the Year by Entrepreneur Magazine. Additionally, the Gamberes established the Gamber Foundation, a resource to support local charities and nonprofit organizations, honeybee research, and scholarships for the children of Dutch Gold Honey employees.

Ralph Gamber's legacy, however, is not limited to his honey-related work. His life's worth of community and family focus is what earns him particular attention on Flag Day. To Ralph, work was an extension of family togetherness and he firmly believed that when families pray together, they stay together. Evidently, a family that stays together is one that can also share in building a unique, successful business. Ralph would count his 66-year marriage, three children, eight grandchildren, and nine-great-grandchildren among his greatest accomplishments. He was involved with the Salvation Army and helped to found his local fire company. He was a veteran of the Second World War and, with a strong connection to his church, Ralph acted as Sunday school superintendent for many years, was a member of his church council, and later chaired the church's stewardship committee. Throughout his life and through his livelihood, Ralph has demonstrated his commitment to the community and people he cared so much about. I share his story today because I believe it is worthy of our admiration and it is evidence of how the American Dream continues to inspire us.

My thoughts will be with the family and friends of Ralph Gamber this Flag Day. When our national banner is raised over Dutch Gold Honey, it will be a reminder to all who see it that love, perseverance, and community are the keys to success in family and in life.●

#### AMERICA: A NATION OF IMMIGRANTS

● Mr. KENNEDY. Mr. President, each year the American Immigration Law Foundation and the American Immigration Lawyers Association sponsor a national writing contest on immigration. Thousands of fifth-grade students from across the country participate in the competition, responding to the statement, "Why I'm Glad America is a Nation of Immigrants."

These essays remind us that it is of great importance that we not forget our rich history and heritage as a nation of immigrants. Continued immigration is part of our national well-being, our identity as a nation, and our strength in today's world.

I had the privilege of serving as one of the judges for this year's contest,

and was very impressed by the young writers. In their essays, the students showed great pride in our Nation's diversity and its immigrant heritage, and many told the story of their own family's immigration.

I am pleased to announce that this year's winner is a Massachusetts resident, Nicole Florio, a fifth-grade student in Framingham, MA. In her poem, "Why Am I Glad," Nicole explores the value of her friends' cultures and how their diversity enhances her life. She describes the diverse traditions and treasures of her friends, from Ceilidh's Irish step-dancing to Anastasia's nesting dolls. In the final stanza, Nicole notes how she herself is a product of immigrants, as all of us are, and that without immigration, "there would be no me!"

Other students honored for their creative essays were Mike Duffy of Sarasota, FL, Emily Friedman of Los Angeles, CA, Christina Jundt of Norcross, GA, and Ilana Peña of North Miami Beach, FL.

I believe that these award-winning essays in the "Celebrate America" contest will be of interest to all of us in the Senate, and ask that they be printed in the RECORD.

The essays follow.

#### WHY AM I GLAD AMERICA IS A NATION OF IMMIGRANTS

(By Nicole Florio, Hemenway Elementary School, Framingham, MA, Grand Prize Winner)

People come to America from many different places, I have lots of friends of many different races. Ceilidh's from Ireland, we have loads of fun, she taught me Irish step-dancing we dance till day is done! Jessica's from Colombia, she speaks Spanish, to speak two languages is my wish.

Anastasia is from Russia, I adore her nesting dolls, I looked for them in all of the malls.

Cara and Cady are from China, Cady's grandma grows bamboo. They both love Chinese New Year and I do too!

Murat is from Turkey, his wedding I did love, when we left the fireworks blasted 'bove!

Nicole is from Israel, she is thirteen. When she had her Bat Mitzvah she looked like a queen!

If I didn't have these friends, how boring life would be! I'm glad America has immigrants as you can plainly see.

Mom's family is from Poland, Dad's from Italy, if my grandparents didn't come there would be no me!

Based on a true story!

#### WHY I AM GLAD AMERICA IS A NATION OF IMMIGRANTS

(By Mike Duffy, Pine View Elementary, Sarasota, FL, Runner-Up)

I am glad America is a nation of immigrants. When the original immigrants came to America, they came here seeking freedom of expression, religious freedom, and freedom from oppression. This helped to form our constitution, which gives us those same equal rights today.

The diverseness of the people who came here for opportunities brought about a culture that the world had not previously seen before. It also gave us ideas that would have never come to light otherwise.

Living with other cultures teaches us new things and makes us more tolerant and understanding of our fellow man. The education we gave each other makes us more open to new ideas and better technology. Our nation is the strongest and best because of our unity.

In America all religions are practiced freely. Our different beliefs are acknowledged and respected. This makes us strong and proud. Our way of life is often challenged though. Freedom is always at stake from those who wish to dominate. Brave immigrants past and present, who took the chance of coming here for a better life; help keep our country free and strong. Once they have enjoyed the freedom we have, they are willing to stand up and fight to keep that freedom.

Mutual respect, which all people can enjoy here in this country, is why we (all cultures) come together so readily, when any part of our nation is in trouble. It is living proof that despite our differences we are all Americans at heart.

#### A NATION OF IMMIGRANTS

(By Emily Friedman, Stephen S. Wise Elementary, Los Angeles, CA, AILA Southern California Chapter Contest Winner)

In early September my teachers asked, "Do you think America is a melting pot or a salad bowl?" After thinking about it, I decided America is neither. America is not like a melting pot because all the cultures do not blend together and become unnoticeable. However, America is not a salad bowl because cultures do not stay as distinct as lettuce and cucumbers in a salad. I thought America should be described as a chunky, minestrone soup. The ingredients stay distinct, but as the soup simmers, the ingredients like cultures interact and blend with each other.

The different spices and vegetables that go into minestrone soup are like the immigrants from different places around the world. The immigrants spice up the soup and make it flavorful. With the exception of Native Americans, we were all once immigrants. The best secret of a minestrone soup is that it never stays the same. As immigrants come from all over the world, they contribute to the taste of the soup. They bring their language, traditions, foods and customs and their various dreams for a better life for freedom and opportunity. They also add their ideas for a better America and make contributions to our society.

I am proud to live in a country where people can be free and where everyone can contribute. I am glad America is a nation of immigrants because without them, America wouldn't be a chunky bowl of delicious minestrone soup.

#### AMERICA—A NATION OF IMMIGRANTS

(By Christina Jundt, Simpson Elementary School, Norcross, GA, AILA Atlanta Chapter Contest Winner)

As Immigrants traveled over the rolling sea, checked in at Ellis Island, suffered

through minimum wage jobs, and endured criticism from the people around them, they had no idea they would change American people, and America itself forever.

America is like a giant mosaic—the most beautiful in the world. If the mosaic was all one color, the beauty would be gone. The pieces are all beautiful in their own way. Not one piece is more important than another. Not one piece shines more brightly than another. The mosaic is perfect, and without Immigrants, this could not have been accomplished. So much of our lives would be different if it wasn't for the diverse nationalities, and the Immigrants that traveled from those nations. Every time you eat a plate of spaghetti, think of an Italian Immigrant. Every time you bite into a bar of chocolate, think of a Mexican Immigrant. Every time you look around your community, and see people nationalities, who have different religions, who have different customs, think of an Immigrant who bravely traveled from their hometown, to bring us those unique ways of life. These Immigrants enriched and influenced our lives in so many positive ways.

#### WHY I'M GLAD AMERICA IS A NATION OF IMMIGRANTS

(By Ilana Peña, Oaks Elementary School, North Miami Beach, FL, AILA Southern Florida Chapter Contest Winner)

Tomatoes, cucumbers, lettuce . . . Russians, Cubans, Asians . . . This is America, a nation of immigrants. Many people say America is a melting pot, everybody coming from different nations but melting into America. We are all proud to be Americans, but I think of us not as a melting pot, but as a salad bowl.

A salad bowl is made up of different vegetables, each with its own distinct flavor. When you take a bite, you still taste each individual vegetable, but mixed all together, the salad is delicious. Each American has his own distinct identity yet mixes together to create our wonderful America, a country made up of different people, with different cultures and backgrounds.

Being a country of immigrants makes America a dynamic place to live. We are rich with unique cultures. I have a friend whose family comes from India, and I am fascinated by her stories about her family's home country. Because of immigrants, there are different foods in our country, different clothing, different songs, and different ways of dancing.

My father and his family came from Cuba, and my mother's family came from Russia. I am grateful that my country welcomed them here in the United States of America. On our Thanksgiving table is not only the traditional turkey, but frijoles negros, and kugel pudding. It makes me realize what a remarkable country I live in, as we all, Jews and Cubans, sit around a long table with the salad in the center representing our country, and share our cultures.●

#### TRIBUTE TO DAN KUNSMAN

● Mr. THOMAS. Mr. President, I rise today to say good-bye to a good friend who has worked with me for over 10 years.

Dan Kunsman has been my Communications Director for the last eight years, adding to some 3 years of assisting me on the House side when I was the lone congressman from Wyoming. Also a native son of Wyoming, his work for me and the great State extends deeply into the heart and soul of the

West and will continue long into the future.

Dan joined my office in the U.S. House of Representatives in 1991 right out of school. Dan did a great job for me and was promoted to Communications Director when I was elected to the U.S. Senate in 1994.

Dan has not only been valuable in Washington, he was also a crucial part of three, statewide, victorious campaigns. He also took time from our efforts on sabbatical to assist with the success of my good friend and colleague, Senator ENZI, on his initial election effort in 1996.

We're part of a team, my staff and I. Along with my wife, Susan, we feel strongly bound to service for the people of Wyoming. As we say in the West, Dan's a good hand. That's a high compliment. It means that he's part of the team, reliable in a storm or any circumstance. In the House, Senate and on the campaign trail, Dan has proved to be one of the brightest and most effective public policy communicators and political strategists in Wyoming and Washington.

Dan has decided to join Brimmer Communications and will lead a new Washington, DC office for the public relations firm based in Jackson Hole, Wyoming. While it's always hard to see good people move on, in this case, I'm glad Dan plans to go to a strong firm at home and stay close to Wyoming people.

I'm not always the best at saying good-bye. I don't like to say it. So I'll just say see you, and I hope that's true. I'll look forward to it.

To our friend, Dan, I wish him and his wife, Isabel, the best of luck, and I know the Senate does as well.●

#### COMMEMORATION OF KING KAMEHAMEHA I

● Mr. AKAKA. Mr. President, I rise today in commemoration of the birthday of Hawaii's first monarch, King Kamehameha I. More than two centuries since his birth, Kamehameha is a legendary, indeed, mythical figure renowned worldwide for his bravery and martial brilliance. He commands the respect of Hawaii's people for his wise and just leadership, and his accomplishments continue to influence and govern Hawaii today.

Historically, Kamehameha is notable because of his brilliance as a military strategist and political leader. Kamehameha adapted Western innovation, weaponry, and science to gain a decisive advantage in his drive to unify the Hawaiian Islands. For Native Hawaiians and the people of Hawaii, Kamehameha is beloved for his concern and attention to the well-being of his subjects and for his commitment to do what was just and right for the people.

Kamehameha's wisdom, even more than his strength, stature, and daring, is his greatest and most enduring legacy for Hawaii's indigenous peoples—the Native Hawaiians, the people of Ha-

waii, and all students of history. Mamalohoe, the Law of the Splintered Paddle, is the most prominent example of Kamehameha as a wise and just leader. Mamalohoe is Hawaii's first Bill of Rights protecting the common people from assault, and it is still part of our State's constitution.

One hundred and ninety years ago, in the summer of 1812, Kamehameha returned to the Kona Coast. Having unified the islands and established peace and stability, Kamehameha worked to build prosperity for his people by increasing agricultural production and foreign trade.

The first observance of a day honoring King Kamehameha was proclaimed by King Kamehameha V on June 11, 1872, in the Kingdom of Hawaii. It remains an annual holiday in the State of Hawaii. This year marks the 130th anniversary of the only holiday in the United States created to honor a once-reigning monarch in the only state that was once a kingdom, the State of Hawaii.●

#### MISSION OF PEACE HOUSING COUNSELING AGENCY

● Mr. LEVIN. Mr. President, I have come today to ask the Senate to join with me in paying tribute to the Mission of Peace Housing Counseling Agency which is located in the City of Flint, in my home state of Michigan.

Home ownership has long been one of the best ways for individuals and families to acquire capital, build equity and secure entry into the middle class. Mission of Peace Housing Counseling Agency was founded in 1997 by Reverend Elmira Smith-Vincent to assist those who desire to own their own home thereby gaining further control over their financial futures. As a real estate agent, Reverend Smith-Vincent saw a need to educate people and provide them with the skills needed to purchase a home. A faith-based, non profit agency, Mission of Peace Housing Counseling Agency provides assistance to families and individuals in the skills needed to purchase a home.

Since its inception, Mission of Peace Housing Counseling Agency has developed strong working relationships with the Department of Housing and Urban Development, The Fannie Mae Corporation, the Fannie Mae Foundation, the United States Department of the Treasury, the Federal Reserve Bank, area banks and lenders, local governments, schools, and the faith-based community. These strong relationships have enabled the Mission of Peace Housing Counseling Agency to have accomplished many great things since its inception only five years ago.

In 2001, they formed a partnership with Fannie Mae to offer the Mission of Peace Faith-Based Home ownership Initiative. As well, they implemented with great success an Individual Development Account program which allows participants to open an account at the Fifth Third Bank to save toward the

down payment and closing cost of home purchase. Most recently, the United States Department of the Treasury announced that Mission of Peace Housing Counseling Agency is a recipient of a First Accounts Program Grant to assist "unbanked" people. Through this grant, they will provide services in Genesee, Lapeer, Oakland, Saginaw and Shiawassee Counties.

Mission of Peace Housing Counseling Agency is a leader in helping people take control of their financial well-being and has been recognized numerous times for their achievements. Some of the agencies awards include the Local and National HUD Best Practices Award, the Congress of National Bank Churches Client Volume Award, Homeowners and Outstanding Achievement Awards, Fannie Mae Partner Award, State of Michigan Special Tribute Award, the City of Flint Peppy Rosenthal Human Service Award and the Project Zero Partner of the Year Family Independence Agency of Genesee County Award. I know my Senate colleagues join me in congratulating Mission of Peace Housing Counseling Agency on the work that they have done, and in wishing them well in the years to come.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. 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.)

#### REPORT ON THE PARTICIPATION OF THE UNITED STATES IN THE UNITED NATIONS AND ITS AFFILIATED AGENCIES DURING CALENDAR YEAR 2000—PM 91

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 Foreign Relations:

*To the Congress of the United States:*

I am pleased to transmit herewith the final version of a report, prepared by my Administration, on the participation of the United States in the United Nations and its affiliated agencies during the calendar year 2000. The report is submitted pursuant to the United Nations Participation Act (Public Law 264, 79th Congress) (22 U.S.C. 287b).

GEORGE BUSH.  
THE WHITE HOUSE, June 11, 2002.

#### MESSAGE FROM THE HOUSE

##### ENROLLED BILL SIGNED

At 2:22 p.m. a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1372. An act to reauthorize the Export-Import Bank of the United States.

The enrolled bill was signed subsequently by the President pro tempore (Mr. BYRD).

##### ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 11, 2002, she had presented to the President of the United States the following enrolled bill:

S. 1372. An act to reauthorize the Export-Import Bank of the United States.

#### 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-7387. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the Visiting Committee on Advanced Technology of the National Institution of Standards and Technology (NIST) for 2001; to the Committee on Commerce, Science, and Transportation.

EC-7388. A communication from the General Counsel, Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Protective Orders in Immigration Administrative Proceedings" (RIN1125-AA38) received on June 5, 2002; to the Committee on the Judiciary.

EC-7389. A communication from the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Adjustment of Status under Legal Immigration Family Equity (LIFE) Act Legalization Provisions and LIFE Act Amendments Family Unity Provisions" (RIN1115-AG06) received on June 6, 2002; to the Committee on the Judiciary.

EC-7390. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-7391. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-7392. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-7393. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a

proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-7394. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office reports for March 2002; to the Committee on Governmental Affairs.

EC-7395. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the lists of the General Accounting Office for February 2002; to the Committee on Governmental Affairs.

EC-7396. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-377, "Government Attorney Certificate of Good Standing Filing Requirement Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-7397. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-380, "Omnibus Anti-Terrorism Act of 2002"; to the Committee on Governmental Affairs.

EC-7398. 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 "Extension of Import Restrictions Imposed on Archaeological and Ethnological Materials from Peru" (RIN1515-AD12) received on June 4, 2002; to the Committee on Finance.

EC-7399. 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 "Civil Aircraft" (RIN1515-AC59) received on June 4, 2002; to the Committee on Finance.

EC-7400. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update Notice" (Notice 2002-38) received on June 5, 2002; to the Committee on Finance.

EC-7401. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Revenue Procedure for GUST Non-Amenders" (Rev. Proc. 2002-35) received on June 5, 2002; to the Committee on Finance.

EC-7402. A communication from the Chairman of the Medicare Payment Advisory Commission, transmitting, pursuant to law, a report relative to paying for outpatient services in cancer hospitals dated November 2001; to the Committee on Finance.

EC-7403. A communication from the Chairman of the Medicare Payment Advisory Commission, transmitting, pursuant to law, a report relative to reducing Medicare complexity and regulatory burden, a report concerning blood safety in hospitals and Medicare inpatient payment, and a report concerning paying for interventional pain services in ambulatory settings dated December 2001; to the Committee on Finance.

EC-7404. A communication from the Office of Congressional Affairs, Office of the Executive Director for Operations, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Enhancing Public Participation in NRC Meetings; Policy Statement" received on June 4, 2002; to the Committee on Environment and Public Works.

EC-7405. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Visible Emissions and Open Fire Amendments" (FRL7220-1) received on June 6, 2002;

to the Committee on Environment and Public Works.

EC-7406. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Motor Vehicle Inspection and Maintenance Program—Request for Delay in the Incorporation of On-Board Diagnostics Testing" (FRL7224-8) received on June 6, 2002; to the Committee on Environment and Public Works.

EC-7407. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to the Air Resource Regulations" (FRL7211-7) received on June 6, 2002; to the Committee on Environment and Public Works.

EC-7408. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Marine; Negative Declaration" (FRL7227-1) received on June 6, 2002; to the Committee on Environment and Public Works.

EC-7409. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of an Air Quality Implementation Plan Revision; South Dakota; Rapid City Street Sanding Regulations to Protect the National Ambient Air Quality Standards for PM-10" (FRL7216-1) received on June 6, 2002; to the Committee on Environment and Public Works.

EC-7410. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Consolidated Emissions Reporting" (FRL7223-8) received on June 6, 2002; to the Committee on Environment and Public Works.

EC-7411. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Municipal Solid Waste Landfill Location Restrictions for Airport Safety" (FRL7227-9) received on June 6, 2002; to the Committee on Environment and Public Works.

EC-7412. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Great Basin Unified Air Pollution Control District and South Coast Air Quality Management District" (FRL7224-1) received on June 6, 2002; to the Committee on Environment and Public Works.

EC-7413. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Underground Injection Control Program—Notice of Final Determination of Class V Wells" (FRL7225-8) received on June 6, 2002; to the Committee on Environment and Public Works.

EC-7414. A communication from the Assistant Secretary of Defense, Force Management Policy, transmitting, pursuant to law, the report of a notice of a proposed demonstration project; to the Committee on Armed Services.

EC-7415. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report of the Office of the Inspector General for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC-7416. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determination" (Doc. No. FEMA-B-7428) received on June 6, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-7417. A communication from the Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled "Prohibition Against Use of Interstate Branches Primarily for Deposit Production" (12 CFR Part 25) received on June 7, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-7418. A communication from the Assistant Secretary for Housing, Federal Housing Commissioner, Department of Housing and Urban Affairs, transmitting, pursuant to law, the final report on Portfolio Re-engineering Demonstration Program (PREDemo) dated December 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-7419. A communication from the President of the Perkins County Rural Water System, Inc., transmitting, pursuant to law, the Final Engineering Report; to the Committee on Energy and Natural Resources.

EC-7420. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Triflurosulfuron Methyl; Pesticide Tolerance" (FRL7180-8) received on June 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7421. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Carboxin; Pesticide Tolerance" (FRL7180-6) received on June 10, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7422. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Carfentrazon-ethyl; Pesticide Tolerances for Emergency Exemptions" (FRL7178-1) received on June 10, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7423. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Spinosad; Time-Limited Pesticide Tolerance" (FRL7182-1) received on June 10, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7424. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Triflurozole; Pesticide Tolerance" (FRL7180-5) received on June 10, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7425. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants" (FRL7229-4) received on June 10, 2002; to the Committee on Environment and Public Works.

EC-7426. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production" (FRL7225-6) received on June 10, 2002; to the Committee on Environment and Public Works.

EC-7427. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants" (FRL7229-5) received on June 10, 2002; to the Committee on Environment and Public Works.

EC-7428. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Nevada: Final Authorization of State Hazardous Waste Management Program Revisions" (FRL7228-1) received on June 10, 2002; to the Committee on Environment and Public Works.

EC-7429. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, a report relative to Development Assistance and Child Survival and Health Programs Allocations for Fiscal Year 2002; to the Committee on Foreign Relations.

EC-7430. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC-7431. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Technical Revisions to Medical Criteria for Determinations of Disability" (RIN0960-AE99) received on May 8, 2002; to the Committee on Finance.

EC-7432. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Announcement 2002-34" (NOT-113496-02) received on June 6, 2002; to the Committee on Finance.

EC-7433. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Replacement Cost for Automobile Dealers" (Rev. Proc. 2002-17) received on June 6, 2002; to the Committee on Finance.

EC-7434. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rev. Proc. 2002-20" received on June 6, 2002; to the Committee on Finance.

EC-7435. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Procedures for Service-imposed Changes in Methods of Accounting" (Rev. Proc. 2002-18) received on June 6, 2002; to the Committee on Finance.

EC-7436. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Revenue Ruling 2002-33" received on June 7, 2002; to the Committee on Finance.

EC-7437. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule

entitled "Medicare Program: Modifications to Managed Care Rules Based on Provisions of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, and Technical Corrections" (RIN0938-AK90) received on June 6, 2002; to the Committee on Finance.

EC-7438. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling; Nutrient Content Claims, Definition of Sodium Levels for the Term "Healthy"; Extension of Partial Stay" (RIN0910-AA19) received on June 6, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-7439. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Orthopedic Devices: Reclassification of the Hip Joint Metal/Polymer Constrained Cemented or Uncemented Prosthesis" (Doc. No. 99P-1864) received on June 6, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-7440. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medical Devices; Ear, Nose, and Throat Devices; Reclassification of the Endolymphatic Shunt Tube with Valve" (Doc. No. 97P-0210) received on June 6, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-7441. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Interim Final Rule to Implement Restrictions under the Northeast Multispecies Fishery Management Plan" (RIN0648-AP78) received on June 6, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7442. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Parts and Accessories Necessary for Safe Operation; Trailer Conspicuity; Final Rule; Partial Suspension of Deadline" (Doc. No. FMCSA-1997-2222) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7443. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Parts and Accessories Necessary for Safe Operation; Manufactured Home Tires; Final Rule; Denial of Petitions for Rulemaking and for Extension of Deadline" (Doc. No. FMCSA-97-2341) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7444. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Signal and Train Control: Miscellaneous Amendments" (RIN2130-AB06) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7445. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Railroad Workplace Safety" (RIN2130-AA48) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7446. A communication from the Trial Attorney, Federal Railroad Administration,

Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Reinvention of Regulations Addressing Discontinuance or Modification of Signal Systems" (RIN2130-AB05) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7447. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Grade Crossing Signal System Safety" (RIN2130-AA97) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7448. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Control of Alcohol and Drug Use: Changes to Conform to New DOT Transportation Workplace Testing Procedures" (RIN2130-AB43) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7449. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Back River, ME" ((RIN2115-AE47)(2002-0054)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7450. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Operation Native Atlas 2002, Waters Adjacent to Camp Pendleton, California" ((RIN2115-AA97)(2002-0083)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7451. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: Gulf Intracoastal Waterway, Boca Grande, Charlotte County, Florida" ((RIN2115-AE47)(2002-0055)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7452. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Liquid Natural Gas Carrier Transits and Anchorage Operations, Boston Marine Inspection Zone and Captain of the Port Zone" ((RIN2115-AA97)(2002-0085)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7453. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regulated Navigation Areas; Chesapeake Bay Entrance and Hampton Roads, VA and Adjacent Waters" ((RIN2115-AE84)(2002-0008)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7454. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Calvert Cliffs Nuclear Power Plant, Chesapeake Bay, Calvert County, MD" ((RIN2115-AA97)(2002-0084)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7455. A communication from Chief of the Regulations and Administrative Law,

United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; Chesapeake Bay Near Annapolis, MD" ((RIN2115-AE46)(2002-0013)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7456. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Mississippi River, Iowa and Illinois" ((RIN2115-AE47)(2002-0052)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7457. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Mississippi River, Iowa and Illinois" ((RIN2115-AE47)(2002-0053)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7458. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Protection of Naval Vessels (LANT AREA-01-001 and PAC AREA-01-001)" (RIN2115-AG23) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7459. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Protection of Naval Vessels (LANT AREA-01-001 and PAC AREA-01-001)" (RIN2115-AG23) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7460. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Discharge of Effluents in Certain Alaskan Waters by Cruise Vessel Operations" (RIN2115-AG12) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7461. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations (including 10 regulations)" ((RIN2115-AE46)(2002-0014)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7462. A communication from Chief of the Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations (including 197 regulations)" ((RIN2115-AA97)(2002-0086)) received on June 7, 2002; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Governmental Affairs, without amendment:

H.R. 577: A bill to amend title 44, United States Code, to require any organization that is established for the purpose of raising funds for creating, maintaining, expanding, or conducting activities at a Presidential archival depository or any facilities relating to a Presidential archival depository to disclose the sources and amounts of any funds raised, and for other purposes. (Rept. No. 107-160).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2039: A bill to expand aviation capacity in the Chicago area. (Rept. No. 107-161).

### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN:

S. 2607. A bill to authorize the Secretary of the Interior and the Secretary of Agriculture to collect recreation fees on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HOLLINGS (for himself, Mr. GREGG, Mr. KERRY, Ms. SNOWE, Mr. INOUE, Mr. REED, Mr. BREAUX, Mr. CLELAND, Mr. DEWINE, Mr. SARBANES, Mr. BIDEN, Mr. KENNEDY, Ms. MIKULSKI, Mr. COCHRAN, Mr. TORRICELLI, Mrs. MURRAY, Ms. LANDRIEU, Mr. CORZINE, and Mr. LIEBERMAN):

S. 2608. A bill to amend the Coastal Zone Management Act of 1972 to authorize the acquisition of coastal areas in order better to ensure their protection from conversion or development; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY (for himself and Mr. SCHUMER):

S. 2609. A bill to require the Federal Trade Commission to promulgate a rule to establish requirements with respect to the release of prescriptions for contact lenses; to the Committee on Commerce, Science, and Transportation.

By Mr. WELLSTONE (for himself and Mr. CORZINE):

S. 2610. A bill to amend part A of title IV of the Social Security Act to include efforts to address barriers to employment as a work activity under the temporary assistance to needy families program, and for other purposes; to the Committee on Finance.

By Mr. REED (for himself, Mr. KENNEDY, Ms. COLLINS, Mr. JEFFORDS, Mr. FRIST, Mr. COCHRAN, Mr. LEVIN, Mr. CHAFEE, Ms. LANDRIEU, Mr. DAYTON, and Mr. WELLSTONE):

S. 2611. A bill to reauthorize the Museum and Library Services Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID (for himself and Mr. ENSIGN):

S. 2612. A bill to establish wilderness areas, promote conservation, improve public land, and provide for high quality development in Clark County, Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

### ADDITIONAL COSPONSORS

S. 471

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 471, a bill to amend the Elementary and Secondary Education Act of 1965 to provide grants for the renovation of schools.

S. 572

At the request of Mr. CHAFEE, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 572, a bill to amend title XIX of the Social Security Act to extend modifica-

tions to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 701

At the request of Mr. BAUCUS, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 701, a bill to amend the Internal Revenue Code of 1986 to provide special rules for the charitable deduction for conservation contributions of land by eligible farmers and ranchers, and for other purposes.

S. 905

At the request of Mr. HARKIN, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 905, a bill to provide incentives for school construction, and for other purposes.

S. 913

At the request of Ms. SNOWE, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 917

At the request of Ms. COLLINS, the names of the Senator from Virginia (Mr. WARNER), the Senator from Ohio (Mr. DEWINE), and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 917, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1022

At the request of Mr. WARNER, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 1022, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 1140

At the request of Mr. HATCH, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1140, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1152

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1152, a bill to ensure that the business of the Federal Government is conducted in the public interest and in a manner that provides for public accountability, efficient delivery of services, reasonable cost savings, and prevention of unwarranted Government expenses, and for other purposes.

S. 1204

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1204, a bill to amend title XVIII of the Social Security Act to provide adequate coverage for immunosuppressive drugs furnished to beneficiaries under the medicare program that have received an organ transplant.

S. 1339

At the request of Mr. CAMPBELL, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 1339, a bill to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 1383

At the request of Mrs. CLINTON, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1383, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of incentive stock options and employee stock purchases.

S. 1394

At the request of Mr. ENSIGN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1394, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 1395

At the request of Mr. ENSIGN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1395, a bill to amend title XVIII of the Social Security Act to make a technical correction in the definition of outpatient speech-language pathology services.

S. 1707

At the request of Mr. JEFFORDS, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. 1785

At the request of Mr. CLELAND, the names of the Senator from North Carolina (Mr. EDWARDS), the Senator from Louisiana (Mr. BREAUX), the Senator from Washington (Ms. CANTWELL), the Senator from South Dakota (Mr.



DASCHLE), and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 1785, a bill to urge the President to establish the White House Commission on National Military Appreciation Month, and for other purposes.

S. 1867

At the request of Mr. LIEBERMAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1867, a bill to establish the National Commission on Terrorist Attacks Upon the United States, and for other purposes.

S. 2006

At the request of Mr. GRAHAM, the names of the Senator from Nevada (Mr. ENSIGN) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of S. 2006, a bill to amend the Internal Revenue Code of 1986 to clarify the eligibility of certain expenses for the low-income housing credit.

S. 2119

At the request of Mr. WELLSTONE, his name was added as a cosponsor of S. 2119, a bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of inverted corporate entities and of transactions with such entities, and for other purposes.

S. 2194

At the request of Mr. MCCONNELL, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2194, a bill to hold accountable the Palestine Liberation Organization and the Palestinian Authority, and for other purposes.

S. 2215

At the request of Mr. SANTORUM, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

At the request of Mrs. BOXER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2215, *supra*.

S. 2233

At the request of Mr. THOMAS, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2233, a bill to amend title XVIII of the Social Security Act to establish a medicare subvention demonstration project for veterans.

S. 2246

At the request of Mr. DODD, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 2246, a bill to improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, and for other purposes.

S. 2317

At the request of Mr. DURBIN, the name of the Senator from Oregon (Mr.

WYDEN) was added as a cosponsor of S. 2317, a bill to provide for fire safety standards for cigarettes, and for other purposes.

S. 2386

At the request of Mrs. LINCOLN, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 2386, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to diagnose, evaluate, and treat medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 2426

At the request of Mr. SCHUMER, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 2426, a bill to increase security for United States ports, and for other purposes.

S. 2490

At the request of Mr. TORRICELLI, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 2490, a bill to amend title XVIII of the Social Security Act to ensure the quality of, and access to, skilled nursing facility services under the medicare program.

S. 2520

At the request of Mr. HATCH, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 2520, a bill to amend title 18, United States Code, with respect to the sexual exploitation of children.

S. 2558

At the request of Mr. REED, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 2558, a bill to amend the Public Health Service Act to provide for the collection of data on benign brain-related tumors through the national program of cancer registries.

S. 2560

At the request of Mr. ALLARD, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2560, a bill to provide for a multi-agency cooperative effort to encourage further research regarding the causes of chronic wasting disease and methods to control the further spread of the disease in deer and elk herds, to monitor the incidence of the disease, to support State efforts to control the disease, and for other purposes.

S. 2577

At the request of Mr. FITZGERALD, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2577, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the exclusion from Federal income tax for restitution received by victims of the Nazi Regime.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 2607. A bill to authorize the Secretary of the Interior and the Secretary of Agriculture to collect recreation fees on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today I am introducing legislation to authorize the Federal land management agencies, the National Park Service, U.S. Fish and Wildlife Service, Bureau of Land Management and Forest Service, to collect visitor recreation fees, and to use the proceeds from the fees to continue to fund high priority resource protection and maintenance backlog needs.

Following enactment of the Recreation Fee Demonstration Program in 1996, the Federal agencies have been authorized to experiment with various fee collection proposals. That program also authorized the Federal agencies, for the first time, to retain all of the fee revenues and to use those funds, without the need for further appropriation, on maintenance backlog and other funding needs.

The Recreation Fee Demonstration Program has been extended each year, most recently through September 30, 2004. For the most part, the fee demonstration program has been very successful. However, unlike the previous fee authority in the Land and Water Conservation Fund Act, the fee demonstration program contained no guidance to the agencies or limitations on the types of fees that could be collected. As a result, the program has generated some controversy, especially with respect to certain Forest Service and Bureau of Land Management lands where fees had not historically been charged.

The bill I am introducing today builds upon the positive results from the Recreation Fee Demonstration Program, while including new criteria to ensure that fees are not imposed inappropriately. The bill provides the Secretary of the Interior and the Secretary of Agriculture with considerable discretion to administer the program while ensuring that recreational access to Federal lands remains available to all Americans. Most importantly, the bill maintains the existing requirement that a majority of the fees be retained for expenditure at the site where collected.

I believe there is strong support for enacting permanent fee authority. The Committee on Energy and Natural Resources will hold a hearing on this bill on June 19, and I hope it will be ready for consideration by the full Senate in the near future.

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. 2607

*Be it enacted in 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 “Federal Lands Recreation Fee Authority Act”.

**SEC. 2. RECREATION FEES ON FEDERAL LANDS.**

(a) **GENERAL AUTHORITY.**—Except as provided in subsection (b):

(1) The Secretary of the Interior is authorized to collect recreation fees, including entrance and use fees, on the following lands administered by the Secretary:

(A) Units of the National Park System;

(B) Units of the National Wildlife Refuge System; and

(C) National monuments and national conservation areas administered by the Bureau of Land Management.

(2) The Secretary of Agriculture is authorized to collect recreation fees, including entrance and use fees, on the following National Forest System lands administered by the Secretary:

(A) National monuments;

(B) National volcanic monuments;

(C) National scenic areas; and

(D) National recreation areas.

(3) The Secretary of the Interior, with respect to lands administered by the Bureau of Land Management, and the Secretary of Agriculture, with respect to National Forest System lands, is also authorized to collect fees at areas not described in paragraphs (1) and (2) if—

(A) such area is managed primarily for outdoor recreation purposes and contains at least one major recreation attraction;

(B) such area has had substantial Federal investments, as determined by the appropriate Secretary, in—

(i) providing facilities or services to the public; or

(ii) restoring resource degradation caused by public use; and

(C) public access to the area is provided in such a manner that entrance fees can be efficiently collected at one or more centralized locations.

(5) The Secretary of the Interior or the Secretary of Agriculture, as appropriate, may reduce or waive any fee authorized under this Act, as appropriate.

(6) For each unit or area collecting an entrance fee, the appropriate Secretary shall establish at least one day each year during periods of high visitation as a “Fee Free Day” when no entrance fee shall be charged.

(7) No recreation fees of any kind shall be imposed or collected for outdoor recreation purposes on Federal lands under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture, except as provided in this Act.

(b) **PROHIBITION ON FEES.**—(1) No recreation fees shall be charged under this Act—

(A) for travel by private, noncommercial vehicle over any national parkway or any road or highway established as a part of the National Federal Aid System, as defined in section 101 of title 23, United States Code, which is commonly used by the public as a means of travel between two places, either or both of which are outside of the fee area;

(B) for travel by private, noncommercial vehicle over any road or highway to any land in which a person has any property right if such land is within the unit or area at which recreation fees are charged;

(C) for any person who has a right of access for hunting or fishing privileges under a specific provision of law or treaty; or

(D) for any person who is engaged in the conduct of official business within the unit or area at which recreation fees are charged.

(2) Entrance fees shall not be charged—

(A) for any person under 16 years of age;

(B) for admission of organized school groups or outings conducted for education purposes by schools or other bona fide educational institutions;

(C) for any area containing deed restrictions on charging fees;

(D) for any person entering a national wildlife refuge who is the holder of a valid migratory bird hunting and conservation stamp issued under section 2 of the Act of March 16, 1934 (16 U.S.C. 718b) (commonly known as the Duck Stamp Act);

(E) for any person holding a valid Golden Eagle Passport, Golden Age Passport, Golden Access Passport, or for entrance to units of the National Park System, a National Parks Passport; and

(F) at the following areas administered by the National Park Service:

(i) U.S.S. Arizona Memorial;

(ii) Independence National Historical Park;

(iii) any unit of the National Park System within the District of Columbia or the Arlington House—Robert E. Lee National Memorial in Virginia; and

(iv) any unit of the National Park System located in Alaska, with the exception of Denali National Park and Preserve (notwithstanding section 203 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 410hh-2)); and

(G) in Smoky Mountains National Park, unless entrance fees are charged on main highways and thoroughfares, no fees shall be charged for entrance on other routes into the park, or any part thereof.

(c) **FEE CONSIDERATIONS.**—(1) Recreation fees charged by the Secretary of the Interior or the Secretary of Agriculture shall be fair and equitable, taking into consideration—

(A) the direct and indirect cost to the Federal agency involved;

(B) the benefits and services provided to the visitor;

(C) the public policy and management objectives served;

(D) costs to the visitor;

(E) the effect of multiple fees charged within the same area;

(F) fees charged at comparable sites by other public agencies; and

(G) the economic and administrative feasibility of fee collection at the site.

(2) The Secretary of the Interior and the Secretary of Agriculture shall work cooperatively to ensure that comparable fees and services are established on Federal lands under each Secretary’s jurisdiction, and that guidelines for assessing the type and amount of recreation fees are consistent between areas under each Secretary’s jurisdiction.

(3) The Secretary of the Interior and the Secretary of Agriculture shall, to the extent practicable, seek to minimize multiple fees within specific units or areas.

(d) **RECREATION USE FEES.**—(1) The Secretary of the Interior and the Secretary of Agriculture may provide for the collection of recreation use fees where the Federal agency develops, administers, provides, or furnishes at Federal expense, specialized outdoor recreation sites, facilities, equipment, or services.

(2) As used in this subsection, the term “specialized outdoor recreation sites, facilities, equipment, or services” includes—

(A) a developed campground;

(B) a swimming site;

(C) a boat launch facility;

(D) a managed parking lot;

(E) facility or equipment rental;

(F) an enhanced interpretive program;

(G) a reservation service; or

(H) a transportation service.

(3) Recreation use fees may not be charged for—

(A) general access to an area;

(B) access to a visitor center;

(C) a dispersed area with little or no Federal investment;

(D) a scenic overlook or wayside;

(E) drinking fountains or restrooms;

(F) undeveloped parking;

(G) picnic tables (when not part of a developed campground or recreation area);

(H) special attention or extra services necessary to meet the needs of the disabled; or

(I) any nonrecreational activity authorized under a valid permit issued under any other Act.

(e) **SPECIAL RECREATION PERMIT FEE.**—The Secretary of the Interior or the Secretary of Agriculture may require a special recreation permit and may charge a special recreation permit fee for recreation use involving a group activity, a commercial tour, a commercial aircraft tour, a recreation event, use by a motorized recreation vehicle, a competitive event, and an activity where a permit is required to ensure resource protection or public safety.

**SEC. 3. ANNUAL PASSES.**

(a) **IN GENERAL.**—The Secretary of the Interior and the Secretary of Agriculture shall jointly establish procedures for the issuance of, and make available the following passes:

(1) **GOLDEN EAGLE PASSPORT.**—An annual admission permit, to be known as the “Golden Eagle Passport”, to be valid for a period of one year for admission into any unit or area collecting an entrance fee under this Act.

(2) **GOLDEN AGE PASSPORT.**—A lifetime admission permit to any citizen of, or person domiciled in the United States sixty-two years of age or older, entitling the permittee to admission into any unit or area collecting an entrance fee under this Act.

(3) **GOLDEN ACCESS PASSPORT.**—A lifetime admission permit to any citizen of, or person domiciled in the United States who is blind or permanently disabled, to be issued without cost.

(4) **OTHER PASSES.**—The Secretary of the Interior and the Secretary of Agriculture may develop such other annual, regional or site-specific passes as they deem appropriate.

(b) **TERMS AND CONDITIONS.**—

(1) Unless determined otherwise by the Secretary of the Interior and the Secretary of Agriculture, the passes authorized under this section shall be issued under the same terms and conditions as existed for such passes as of the date of enactment of this Act.

(2) The Secretaries shall develop such terms and conditions for the passes authorized in this section as they deem necessary.

(c) **NATIONAL PARK PASSPORT.**—Nothing in this Act affects the authority of the Secretary of the Interior to issue national park passports, as authorized in title VI of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5991 et seq.).

**SEC. 4. ADMINISTRATION.**

(a) **IN GENERAL.**—The Secretary of the Interior and the Secretary of Agriculture shall establish guidelines identifying the process by which the agencies under each Secretary’s jurisdiction shall establish and change the amounts charged for any recreation fee, including entrance fees, recreation use fees, or special recreation permit fees collected under this Act. Such guidelines shall require that the agencies coordinate with each other, to the extent practicable, when establishing or changing fees.

(b) **NOTICE.**—The Secretary of the Interior or the Secretary of Agriculture, as appropriate, shall post clear notice of any entrance fee and available passes at appropriate locations within each area where a recreation fee is charged. Notice shall also be included in publications distributed at the unit or area where the fee is collected. The Secretaries shall jointly take such actions as may be necessary to provide information to the public on all available passes authorized by this Act.

(c) NOTICE OF RECREATION FEE PROJECTS.—The Secretary of the Interior and the Secretary of Agriculture shall, to the extent practicable, post clear notice of where work is being done using fee revenues collected under this Act.

(d) FEE MANAGEMENT AGREEMENTS.—Notwithstanding the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301 et seq.), the Secretary of the Interior and the Secretary of Agriculture may enter into fee management agreements, that provide for reasonable commissions or reimbursements, with any governmental or nongovernmental entities to provide fee collection and processing services, including visitor reservation services.

(e) VOLUNTEERS.—The Secretary of the Interior and the Secretary of Agriculture may use volunteers, as appropriate, to collect fees and sell passes authorized by this Act.

#### SEC. 5. EXPENDITURE OF FEES.

(a) SPECIAL ACCOUNT.—The Secretary of the Treasury shall establish a separate special account in the Treasury for each Federal agency collecting recreation fees under this Act. Amounts collected by each agency under this Act shall be deposited into its special account in the Treasury, and shall be available for expenditure by the appropriate agency, without further appropriation, to remain available until expended.

(b) DISTRIBUTION.—(1) Eighty percent of the amounts collected at a specific unit or area shall remain available for expenditure without further appropriation, at the unit or area where the fees were collected, except that the Secretary of the Interior or the Secretary of Agriculture, as appropriate, may reduce the local allocation amount to not less than 60 percent of the fees collected if the Secretary determines that the unit or area's revenues in any specific fiscal year exceed its reasonable needs for which expenditures may be made.

(2) Amount not retained at the site or area collecting the fee shall remain available for expenditure without further appropriation to the Federal agency administering the site, for distribution in accordance with national priority needs within such agency.

(3) Revenues from the sale of annual passes shall be distributed in accordance with revenue sharing agreements developed by the Secretary of the Interior and the Secretary of Agriculture.

(c) USE OF FEE REVENUES.—Amounts made available under subsection (b)(1) for expenditure at a specific unit or area shall be accounted for separately from amounts available under (b)(2). Both amounts shall be used for resource preservation, backlogged repair and maintenance projects (including projects related to health and safety), interpretation, signage, habitat for facility enhancement, law enforcement related to public use, maintenance, and direct operating or capital costs associated with the recreation fee program.

#### SEC. 6. CONFORMING AMENDMENTS.

(a) REPEAL OF OTHER FEE AUTHORITIES.—Section 4 of the Land and Water Conservation Fund Act (16 U.S.C. 4601–4a) and section 315 of Public Law 104–134, as amended (16 U.S.C. 4601–4a note), are repealed, except that the repeal of such provisions shall not affect the expenditure of revenues already obligated. All unobligated amounts as of the date of enactment of this Act shall be transferred to the appropriate special account established under this Act and shall be available as provided in this Act.

(b) FEDERAL AND STATE LAW UNAFFECTED.—Nothing in this Act shall be construed—

(1) to authorize Federal hunting or fishing licenses or fees;

(2) to authorize charges for commercial or other activities not related to recreation;

(3) to affect any rights or authority of the States with respect to fish and wildlife;

(4) to repeal or modify any provision of law that provides that any fees or charges collected at specific Federal areas be used for, or created to specific purposes or special funds as authorized by that provision of law; or

(5) to repeal or modify any provision of law authorizing States or political subdivisions thereof to share in revenues from Federal lands.

By Mr. HOLLINGS (for himself, Mr. GREGG, Mr. KERRY, Ms. SNOWE, Mr. INOUE, Mr. REED, Mr. BREAUX, Mr. CLELAND, Mr. DEWINE, Mr. SARBANES, Mr. BIDEN, Mr. KENNEDY, Ms. MIKULSKI, Mr. COCHRAN, Mr. TORRICELLI, Mrs. MURRAY, Ms. LANDRIEU, Mr. CORZINE, and Mr. LIEBERMAN):

S. 2608. A bill to amend the Coastal Zone Management Act of 1972 to authorize the acquisition of coastal areas in order better to ensure their protection from conversion or development; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, I rise today with my colleague Senator GREGG to introduce the Coastal and Estuarine Land Protection Act of 2002. I would like to thank our cosponsors, Senators KERRY, SNOWE, INOUE, J. REED, BREAUX, CLELAND, DEWINE, SARBANES, BIDEN, KENNEDY, MIKULSKI, COCHRAN, TORRICELLI, MURRAY, and LANDRIEU for their support of this bill, which marks another important chapter of our thirty year effort to put coastal and ocean issues at the forefront of environmental policy.

When I was Governor of South Carolina over 30 years ago, I experienced first hand the need for Federal direction and assistance to the States to enable them to effectively and sustainably manage coastal development. My experiences during a series of coastal hearings and continued research in the Senate led me to write the Coastal Zone Management Act of 1972, which provided clear policy objectives for states to establish coordinated coastal zone management programs to help balance coastal development with protection. Since the CZMA became law, 34 of the 35 coastal states have established approved programs to help preserve and utilize their precious resources, and the program has proven to be a successful partnership between the Federal government and our states.

But we appear to need more tools to help States continue the job we started in 1972. In the year 2002, as our population grows, more and more people are moving to the coast to enjoy its beauty and recreational opportunities. In fact, by 2010, an estimated 60 percent of Americans will live along our coasts, which represent less than 17 percent of our land area. More than 3,000 people move to coastal areas everyday, and fourteen of the Nation's 20 largest cities are on the coast, and are five times

more densely populated than the interior of the country. As these good folks move to take advantage of coastal living, we have to be careful that we don't destroy the natural resources and quality of life that draw them to our shores. Big changes are coming to all of our coastal counties, and we must make some careful and smart decisions if we want to keep the very resources we depend on.

In particular, estuaries and wetlands have many unique attributes that make them important to both our natural resources and our economy. Estuaries, and the watersheds that flow into them, support fisheries and wildlife and contribute immensely to the coastal area economies. Wetlands are critical to many life cycles of organisms and help improve surface water quality by filtering our wastes. But these ecologically and economically important watersheds are also under the most threat from land development and conversion away from their natural state. The Forest Service's recently released Southern Forest Resource Assessment shows that coastal urbanization trends are particularly strong in the southeastern areas. In my state alone, the natural forests of the coastal plain are projected to decrease by 1.9 million acres in the next 40 years—a 35 percent loss of South Carolina's forests. These findings and future trends tell me that for the good of our coastal communities we need some fast, targeted action to protect ecologically important coastal areas most threatened with development or conversion.

Now more than ever, the pressures of urbanization and pollution along our Nation's coasts threaten to impair watersheds, impact wildlife habitat and cause irreparable damage to the fragile coastal ecology. This year the Environmental Protection Agency rated the overall condition of our coastal waters as fair to poor, with 44 percent of estuarine areas impaired for human or aquatic life use. While some areas of the country are seeing some improvement as a result of control on industry, the experts predict that the more pristine areas like the Southeast, which as some of the best water quality in the Nation, will experience degradation of water quality due primarily to runoff of pollutants from rapid development in our coastal watersheds. This is very bad news for the shrimpers, oystermen, and recreational users who depend on these waters for their livelihood and quality of life.

We see strong signals of what continuing down this path will bring us: sustained beach closings due to excess sewage drainage; shellfish bed closings and fish consumption advisories resulting from toxic runoff or bacteria; fish kills due to lack of oxygen from nutrient runoff; marine mammal diseases; and human health impacts. The National Research Council reports that over the next 20 years over 70 percent of our estuaries will experience more of

these low oxygen, or "eutrophic" conditions, such as the Gulf "Death Zone." If this trend continues, our coastal economies will suffer and perhaps never recover. I know in my state the economy would falter greatly from the lack of fishing, shrimping and tourism opportunities, and this is true up and down the Atlantic coast, which contains 37 percent of the Nation's estuarine areas.

The good news is that there are ways we can make a difference, and we have some good models we can turn to. I am proud to say my home state of South Carolina is a leader in this area. The past decade I have led an extensive cooperative conservation effort, bringing together the State of South Carolina, private landowners, groups like the Nature Conservancy, Ducks Unlimited and Federal partners like NOAA and the Fish and Wildlife Service to protect the ACE Basin. It is now the largest pristine estuarine reserve on the East Coast, a 350,000-acre area at the convergence of the Edisto, Ashepoo and Combahee Rivers, which comprises many ecologically important habitats that are home to many fish and bird species, including a number of endangered species. An outcome of these efforts is that the ACE Basin, already home to a National Wildlife Refuge, was declared a National Estuarine Research Reserve in 1992, and has been growing in size ever since. In building the ACE Basin, the partners worked creatively and in a coordinated manner, and we successfully obtained land acquisition funds through a variety of federal sources, including the Forest Legacy Program.

What became clear, however, is that there is no federal program explicitly setting aside funding for conservation of coastal lands, where the needs are clearly the greatest. That is exactly what the Coastal and Estuarine Land Protection Act of 2002 will do. The bill, which is strongly supported by The Trust for Public Land, Coastal States Organization, The Nature Conservancy and Land Trust Alliance, amends the CZMA to authorize a competitively matching grant program in NOAA to enable states to permanently protect important coastal areas. Under this NOAA program, coastal states can compete for matching funds of up to 75 percent to acquire land or easements for the protection of endangered coastal areas that have considerable conservation, recreation, ecological, historical or aesthetic values threatened by development or conversion. The bill also provides funding for a regional watershed demonstration project that can be used as a model for future watershed-scale programs. The program is authorized at \$60 million for fiscal year 2003 and beyond, with an additional \$5 million for the regional watershed demonstration project.

By establishing a plan for the preservation of our coastal areas, the Coastal and Estuarine Land Protection Act will build on the foundation laid down

by the CZMA, all in stride with the changing times, growing number of people, and limited resources available today. When it comes to the environment, rules and regulations sometimes can't do it all. Sometimes cooperative actions work better and we can turn to models that encourage joint conservation projects among folks who all want the same thing, sustainable coasts.

Partnership programs among federal government, state agencies, local governments, private landowners and non-profits, like the ACE Basin Project, work and we need to encourage these partnerships in all our coastal areas if we are to prevent degradation of our coastal resources. The good news is that we can make a difference today by providing the funding for land conservation partnerships provided for by Coastal and Estuarine Land Protection Act. I am proud to be a sponsor of this bill, which will not only improve the quality of the coastal areas and marine life it supports, but also sustain surrounding communities and their way of life.

Mr. GREGG. Mr. President, I rise today along with Senator HOLLINGS to introduce S. 2608, the Coastal and Estuarine Land Protection Act. We are introducing this much needed coastal protection act along with Senators COCHRAN, DEWINE, SNOWE, BIDEN, CARPER, CLELAND, INOUE, BREAU, LANDRIEU, SARBANES, MIKULSKI, KENNEDY, KERRY, TORRICELLI, and MURRAY. In addition, this legislation is supported by the Coastal States Organization, the National Estuarine Research Reserve Association, the Trust for Public Lands, The National Conservancy, and the Land Trust Alliance.

The Coastal and Estuarine Land Protection Act promotes coordinated land acquisition and protection efforts in coastal and estuarine areas by fostering partnerships between non-governmental organizations and federal, state, and local governments. With Americans rapidly moving to the coast, pressures to develop critical coastal ecosystems are increasing. There are fewer and fewer undeveloped and pristine areas left in the nation's coastal and estuarine watersheds. These areas provide important nursery habitat for two-thirds of the nation's commercial fish and shellfish, provide nesting and foraging habitat for coastal birds, harbor significant natural plant communities, and serve to facilitate coastal flood control and pollutant filtration.

The Coastal and Estuarine Land Protection Act pairs willing sellers through community-based initiatives with sources of federal funds to enhance environmental protection. Lands can be acquired in full or through easements, and none of the lands purchased through this program would be held by the federal government. S. 2608 puts land conservation initiatives in the hands of state and local communities. This new program, authorized through the National Oceanic and Atmospheric Administration at \$60,000,000 per year,

would provide federal matching funds to states with approved coastal management programs or to National Estuarine Research Reserves through a competitive grant process. Federal matching funds may not exceed 75% of the cost of a project under this program, and non-federal sources may count in-kind support toward their portion of the cost share.

This coastal land protection program provides much needed support for local coastal conservation initiatives throughout the country. In my role as the Ranking Member of the Commerce, Justice, State Appropriations Subcommittee, I have been able to secure significant funds for the Great Bay estuary in New Hampshire. This estuary is the jewel of the seacoast region, and is home to a wide variety of plants and animal species that are particularly threatened by encroaching development and environmental pollutants. By working with local communities to purchase lands or easements on these valuable parcels of land, New Hampshire has been able to successfully conserve the natural and scenic heritage of this vital estuary.

Programs like the Coastal and Estuarine Land Protection program will now enable other states to participate in these community-based conservation efforts in coastal areas. This program was modeled after the U.S. Department of Agriculture's successful Forest Legacy Program, which has conserved millions of acres of productive and ecologically significant forest land around the country.

I welcome the opportunity to offer this important legislation, with my close friend, Senator HOLLINGS. I am thankful for his strong leadership on this issue, and look forward to working with him to make the vision for this legislation a reality, and to successfully conserve our ecologically, historically, recreational, and aesthetically important coastal lands.

By Mr. LEAHY (for himself and Mr. SCHUMER):

S. 2609. A bill to require the Federal Trade Commission to promulgate a rule to establish requirements with respect to the release of prescriptions for contact lenses; to the Committee on Commerce, Science, and Transportation.

Mr. LEAHY. Mr. President, the Contact Lens Prescription Release Act of 2002 will rectify a troubling anomaly in competition and health care law: Eye doctors have long been required to provide patients with the prescriptions for their eyeglasses, but not for contact lenses. This bill will require ophthalmologists and optometrists to release contact lens prescriptions to their patients, just as they have long been required to do for eyeglass wearers.

Since 1973, when the Federal Trade Commission issued a regulation requiring the automatic release of eyeglass prescriptions, the millions of citizens who wear glasses have had access to,

and the use of, their own prescriptions. They have long been able to “shop around” for the best provider of eyeglasses for themselves, but contact lens wearers are often forced to purchase their contacts from their eye doctors, because they have been denied possession of their own prescriptions.

The contact lens industry was in its infancy in 1973, and thus was excluded from the FTC’s regulation. Now that 35 million Americans wear contact lenses, the industry is profoundly different. Thirty years ago, it made sense that the FTC did not extend its rule to cover contact lenses, but now that so many patients wear contacts, it seems the time is ripe for the law to reflect this growing health care trend. In addition, because patients’ prescriptions can be exclusively held by their doctors, anticompetitive behavior among some eye doctors has escalated, to the detriment of consumers and competition.

In some instances, doctors can effectively force their patients to buy contact lenses from their doctors who can also require them to come in for eye exams before they receive replacement lenses, even if there is no change to the prescription. Patients must then pay for medical services they do not want, and cannot shop around for the best price or most convenient delivery service for their contact lens, like on-line ordering, or discount dealers. In fact, thirty-two State Attorneys General have recently settled an antitrust suit against the American Optometric Association and Johnson & Johnson, maker of ACUVUE disposable contact lenses, in which the attorneys general alleged that defendants conspired to force patients to buy their lenses only from eye doctors, and to eliminate competition from alternative distributors of contact lenses.

The Contact Lens Prescription Release Act would require the FTC to amend its trade regulation rule on ophthalmic practice to require a contact lens prescriber to release to the patient, or her agent, a copy of the prescription, and it would make it an unfair practice for any contact lens supplier to represent that the lenses could be obtained without a valid prescription. This bill would put contact lens wearers in the same position as their bespectacled brethren: They could have control of their own medical information, and be able to choose the right supplier, from a more competitive marketplace of suppliers, for themselves.

By Mr. WELLSTONE (for himself and Mr. CORZINE):

S. 2610. A bill to amend part A of title IV of the Social Security Act to include efforts to address barriers to employment as a work activity under the temporary assistance to needy families program, and for other purposes; to the Committee on Finance.

Mr. WELLSTONE. Mr. President, I rise today to introduce the Chance to Succeed Act of 2002 on behalf of myself and my colleagues Senator CORZINE.

The research is clear that many of the parents still receiving Temporary Assistance for Needy Families, TANF, cash assistance have barriers, often multiple barriers, that make it harder, sometime impossible, for them to work. These barriers include mental and physical impairments including learning disabilities, domestic and sexual violence, substance abuse, limited English proficiency, and hopelessness. In some cases, parents are caring for a child with disabilities and this inhibits their ability to meet the State’s work requirements.

In my own State of Minnesota, we are beginning to see compelling evidence that many families receiving TANF, have significant barriers to employment. A recent study done by Lifetrack Resources looked at welfare recipients participating in a transitional jobs program. This research found that individuals participating in the program had an average of seven barriers to employment, ranging from a lack of reliable transportation to limited education to domestic violence issues. Welfare offices in Ramsey and Hennepin Counties, where the bulk of families approaching their 5 year lifetime limit live, found similar results as they have begun testing TANF recipients for learning problems, mental illness, physical limitations and other disabilities. They found that: about two-thirds of the parents in each county have problems severe enough to qualify for benefits extension; In Ramsey county, testers who have worked with several hundred parents, have found the average IQ for English speakers was 82. An IQ of 100 is considered average; and Hennepin County found that 24 percent of a sample of 66 parents reaching their time limits had a mental illness.

With additional help, many of these families in Minnesota and elsewhere, will be better able to maximize their potential and move toward greater financial independence. In order to be able to better help these families address such barriers and move toward work, States need to have in place policies and procedures that help identify these families and the barriers they face and provide them with the services and supports they will need to eventually succeed in the workplace. There is no need for these policies and procedures to be identical—one size does not fit all for states or families. But, the failure to have any such procedures results in families with barriers being inappropriately sanctioned while also unable to work. It also means that States are not using their limited TANF resources most efficiently to ensure accurate matching of families’ barriers with program to help to address those barriers. Inadequate screening and assessment impedes states’ ability to better tailor their programs and the individual’s responsibility plan to meet a family’s needs.

Some States have already taken steps along the lines proposed in this

bill. The purpose of the provisions in this bill is to put into place a skeletal structure in each State, leaving the States with flexibility in terms of exactly how the various provisions are implemented, will help to ensure that both states and families have the tools they need to ultimately ensure that more low-income families succeed in the workplace. The Chance to Succeed Act encourages states to better serve the needs of TANF recipients with barriers to employment by: giving states broad flexibility to place TANF recipients in barrier-removal activities and count recipients participating in such activities toward federal work participation rates for at least three months; improving service delivery for families with barriers by developing a screening, assessment and service delivery process; providing technical assistance to states to develop model practices, standards and procedures for screening, assessment and addressing barriers to move individuals into employment; and providing funding for state-level advisory panels to improve state policies and procedures for assisting families with barriers to work; helping TANF recipients with barriers to employment move into the workforce by creating personal responsibility plans that outline an employment goal for moving an individual into stable employment; the obligations of the individual to work toward becoming and remaining employed in the private sector; the individual’s long-term career goals and the specific work experience, education, or training needed to reach them; and the services the State will offer based on screening and assessment; and developing sanction, conciliation and follow-up procedures that address barriers and improve compliance.

TANF recipients want to work and be able to provide for themselves and their children. To be poor in this country is difficult enough, but to be poor and on welfare carries with it a stigma that makes life nearly impossible. States like Minnesota and others are only now coming to understand the true depth and extent of the kinds of barriers to employment that many TANF recipients face. It takes a tremendous commitment of effort and resources to provide individuals with the services and supports they need to address these barriers so that they may successfully transition into the workforce. It is critical that our federal TANF policies do all that is possible to help those states that are already making this kind of commitment. I believe this bill does just that, and I urge each of my colleagues to support it. I look forward to working with my colleagues on the Finance Committee and others to ensure that the provisions in this bill are included in the Senate TANF reauthorization bill.

By Mr. REED (for himself, Mr. KENNEDY, Ms. COLLINS, Mr. JEFFORDS, Mr. FRIST, Mr. COCHRAN,

Mr. LEVIN, Mr. CHAFEE, Ms. LANDRIEU, Mr. DAYTON, and Mr. WELLSTONE):

S. 2611. A bill to reauthorize the Museum and Library Services Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, today I introduce the Museum and Library Services Act of 2002. I am pleased to be joined by Senators KENNEDY, COLLINS, JEFFORDS, FRIST, COCHRAN, LEVIN, CHAFEE, LANDRIEU, and DAYTON in introducing this legislation to strengthen museum and library services.

Museums and libraries are rich centers of learning, woven into the fabric of our communities, big and small, urban and rural.

Today's library is not simply a place where books are read and borrowed. It is a place where a love for reading is born and renewed again and again, and where information is sought and discovered. American libraries also coordinate and provide comprehensive services to meet the needs of their communities and people of all ages. They provide Internet access, family literacy classes, homework help, mentoring programs, English as A Second Language, ESL, classes, job training, and resume writing workshops.

America's museums bring wonderment and joy to young and old alike, encouraging discovery and celebrating our heritage and our heroes. Today's museums bring everyday objects, art, music, science, technology, and much more to life. Museums help us preserve our past, understand our present, and plan our future.

The Federal Government has a long history of supporting our Nation's libraries and museums, providing direct aid to public libraries since the adoption of the Library Services and Construction Act, LSCA, in 1956 and funding to museums since the enactment of the Museum Services Act in 1976.

The Museum and Library Services Act was enacted in 1996, reauthorizing federal library and museum programs under a newly created, independent federal agency called the Institute for Museum and Library Services, IMLS. The Museum and Library Services Act consists of two main subtitles, the Library Services and Technology Act and the Museum Services Act. Senator KENNEDY, Senator JEFFORDS, and my predecessor, former Senator Claiborne Pell, were instrumental in the development and enactment of this law.

Under the Library Services and Technology Act, LSTA, IMLS funds four grant programs for libraries to improve access to information through technology, to ensure equity of access and to help bring resources to underserved audiences. These programs serve all types of our nation's 122,000 libraries: public, academic, research, school, and archive.

In Rhode Island, LSTA funding allows libraries to provide summer reading programs for students and partici-

pate in the Rhode Island Family Literacy Initiative that helps families with limited English language skills. Last fall, the Providence Public Library was one of 6 museums and libraries recognized by IMLS with a National Award for Museum and Library Service.

Under the Museum Service Act, IMLS provides funding and technical assistance to museums for preservation of museum collections, new technologies for exhibits, and general operations. Approximately 15,000 U.S. museums from aquariums to arboreta and botanical gardens, to art museums, to historic houses and sites, to nature centers, to science and technology centers, to zoological parks benefit from the IMLS's existence. Several Rhode Island museums have received IMLS funding, including the Children's Museum of Rhode Island, the Museum of Art at the Rhode Island School of Design, and the Slater Mill Historic Site in Pawtucket.

The legislation we are introducing today is based on the testimony we heard at an April 10 hearing of the Health, Education, Labor, and Pensions Committee, which I chaired, as well as proposals that the museum and library communities each crafted using a cooperative and collaborative process. We are grateful for their efforts to come together on proposals so the law meets the future needs of museum and library users.

The Museum and Library Services Act of 2002, which extends the authorization of museum and library services for six years, makes several important modifications to current law. The bill ensures that library activities are coordinated with the school library program I authored and contained within the No Child Left Behind Act of 2001. It establishes a Museum and Library Services Board to advise the Director of IMLS, and it authorizes IMLS to award a National Award for Library Service as well as a National Award for Museum Service. The bill also ensures a portion of administrative funds are used to analyze annually the impact of museum and library services to identify needs and trends of services provided under museum and library programs, and it establishes a reservation of 1.75 percent of funds for museum services for Native Americans (a similar reservation is currently provided for library services under the Library Services and Technology subtitle). Lastly, the bill updates the uses of funds for library and museum programs, and it increases the authorization of LSTA from \$150 million to \$350 million and Museum Services from \$28.7 million to \$65 million.

I want to specifically highlight one other provision in the legislation. The Museum and Library Services Act of 2002 doubles the minimum State allotment under the Library Services and Technology Act to \$680,000. The minimum State allotment has remained flat at \$340,000 since 1971, hampering

the literacy and cultural efforts of our Nation's smaller states. An analysis prepared by the staff of the Joint Economic Committee shows that it would take \$1.5 million for our small States to keep pace with inflation. The library community has instead suggested a modest, but essential doubling of the minimum State allotment to \$680,000. This will enable every State to benefit and implement the valuable services and programs that larger States have been able to put in place. We heard about the importance of this change from David Macksam, Director of the Cranston Public Library, during the April 10 hearing. I will be fighting to retain this provision as we work with the House to put this legislation on the President's desk for his signature.

The House Committee on Education and the Workforce has already taken action on a reauthorization bill. Last year, during the reauthorization of the Elementary and Secondary Education Act (ESEA), I was pleased to work with Senator COLLINS, Chairman KENNEDY, and others to secure funding for school libraries for the first time in twenty years. I hope we can also move forward on a similar bipartisan basis on a swift reauthorization of the Museum and Library Services Act.

I urge my colleagues to cosponsor this important legislation and work for its passage.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 2611

*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 "Museum and Library Services Act of 2002".

#### **TITLE I—GENERAL PROVISIONS**

##### **SEC. 101. GENERAL DEFINITIONS.**

Section 202 of the Museum and Library Services Act (20 U.S.C. 9101) is amended—

(1) by striking paragraphs (1) and (4);

(2) by redesignating paragraph (2) as paragraph (1);

(3) by inserting after paragraph (1), as redesignated by paragraph (2) of this section, the following:

“(2) **INDIAN TRIBE.**—The term ‘Indian tribe’ means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.”; and

(4) by adding at the end the following:

“(4) **MUSEUM AND LIBRARY SERVICES BOARD.**—The term ‘Museum and Library Services Board’ means the National Museum and Library Services Board established under section 207.”.

##### **SEC. 102. INSTITUTE OF MUSEUM AND LIBRARY SERVICES.**

Section 203 of the Museum and Library Services Act (20 U.S.C. 9102) is amended—

(1) in subsection (b), by striking the last sentence; and



(2) by adding at the end the following:

“(c) MUSEUM AND LIBRARY SERVICES BOARD.—There shall be a National Museum and Library Services Board within the Institute, as provided under section 207.”

**SEC. 103. DIRECTOR OF THE INSTITUTE.**

Section 204 of the Museum and Library Services Act (20 U.S.C. 9103) is amended—

(1) in subsection (e), by adding at the end the following: “Where appropriate, the Director shall ensure that activities under subtitle B are coordinated with activities under section 1251 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6383).”; and

(2) by adding at the end the following:

“(f) REGULATORY AUTHORITY.—The Director may promulgate such rules and regulations as are necessary and appropriate to implement the provisions of this title.”

**SEC. 104. NATIONAL MUSEUM AND LIBRARY SERVICES BOARD.**

The Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended—

(1) by redesignating section 207 as section 208; and

(2) by inserting after section 206 the following:

**“SEC. 207. NATIONAL MUSEUM AND LIBRARY SERVICES BOARD.**

“(a) ESTABLISHMENT.—There is established in the Institute a board to be known as the ‘National Museum and Library Services Board’.

“(b) MEMBERSHIP.—

“(1) NUMBER AND APPOINTMENT.—The Museum and Library Services Board shall be composed of the following:

“(A) The Director.

“(B) The Deputy Director for the Office of Library Services.

“(C) The Deputy Director for the Office of Museum Services.

“(D) The Chairman of the National Commission on Libraries and Information Science.

“(E) 10 members appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States and who are specially qualified in the area of library services by virtue of their education, training, or experience.

“(F) 11 members appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States and who are specially qualified in the area of museum services by virtue of their education, training, or experience.

“(2) SPECIAL QUALIFICATIONS.—

“(A) LIBRARY MEMBERS.—Of the members of the Museum and Library Services Board appointed under paragraph (1)(E)—

“(i) 5 shall be professional librarians or information specialists, of whom—

“(I) at least 1 shall be knowledgeable about electronic information and technical aspects of library and information services and sciences; and

“(II) and at least 1 other shall be knowledgeable about the library and information service needs of underserved communities; and

“(ii) the remainder shall have special competence in, or knowledge of, the needs for library and information services in the United States.

“(B) MUSEUM MEMBERS.—Of the members of the Museum and Library Services Board appointed under paragraph (1)(F)—

“(i) 5 shall be museum professionals who are or have been affiliated with—

“(I) resources that, collectively, are broadly representative of the curatorial, conservation, educational, and cultural resources of the United States; or

“(II) museums that, collectively, are broadly representative of various types of museums, including museums relating to science, history, technology, art, zoos, botanical gardens, and museums designed for children; and

“(ii) the remainder shall be individuals recognized for their broad knowledge, expertise, or experience in museums or commitment to museums.

“(3) GEOGRAPHIC AND OTHER REPRESENTATION.—Members of the Museum and Library Services Board shall be appointed to reflect persons from various geographic regions of the United States. The Museum and Library Services Board may not include, at any time, more than 3 appointive members from a single State. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and persons with disabilities who are involved with museums and libraries.

“(4) VOTING.—The Director, the Deputy Director of the Office of Library Services, and the Deputy Director of the Office of Museum Services shall be nonvoting members of the Museum and Library Services Board.

“(c) TERMS.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, each member of the Museum and Library Services Board appointed under subparagraph (E) or (F) of subsection (b)(1) shall serve for a term of 5 years.

“(2) INITIAL BOARD APPOINTMENTS.—

“(A) TREATMENT OF MEMBERS SERVING ON EFFECTIVE DATE.—Notwithstanding subsection (b), each individual who is a member of the National Museum Services Board on October 1, 2002, may, at the individual's election, complete the balance of the individual's term as a member of the Museum and Library Services Board.

“(B) FIRST APPOINTMENTS.—Notwithstanding subsection (b), any appointive vacancy in the initial membership of the Museum and Library Services Board existing after the application of subparagraph (A), and any vacancy in such membership subsequently created by reason of the expiration of the term of an individual described in subparagraph (A), shall be filled by the appointment of a member described in subsection (b)(1)(E). When the Museum and Library Services Board consists of an equal number of individuals who are specially qualified in the area of library services and individuals who are specially qualified in the area of museum services, this subparagraph shall cease to be effective and the members of the Museum and Library Services Board shall be appointed in accordance with subsection (b).

“(C) AUTHORITY TO ADJUST TERMS.—The terms of the first members appointed to the Museum and Library Services Board shall be adjusted by the President as necessary to ensure that the terms of not more than 4 members expire in the same year. Such adjustments shall be carried out through designation of the adjusted term at the time of appointment.

“(3) VACANCIES.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

“(4) REAPPOINTMENT.—No appointive member of the Museum and Library Services Board who has been a member for more than 7 consecutive years shall be eligible for reappointment.

“(5) SERVICE UNTIL SUCCESSOR TAKES OFFICE.—Notwithstanding any other provision of this subsection, an appointive member of the Museum and Library Services Board shall serve after the expiration of the term of the member until the successor to the member takes office.

“(d) DUTIES AND POWERS.—

“(1) IN GENERAL.—The Museum and Library Services Board shall advise the Director on general policies with respect to the duties, powers, and authority of the Institute relating to museum and library services, including financial assistance awarded under this title.

“(2) NATIONAL AWARDS.—The Museum and Library Services Board shall assist the Director in making awards under section 209.

“(e) CHAIRPERSON.—The Director shall serve as Chairperson of the Museum and Library Services Board.

“(f) MEETINGS.—

“(1) IN GENERAL.—The Museum and Library Services Board shall meet not less than 2 times each year and at the call of the Director.

“(2) VOTE.—All decisions by the Museum and Library Services Board with respect to the exercise of its duties and powers shall be made by a majority vote of the members of the Board who are present and authorized to vote.

“(g) QUORUM.—A majority of the voting members of the Museum and Library Services Board shall constitute a quorum for the conduct of business at official meetings, but a lesser number of members may hold hearings.

“(h) COMPENSATION AND TRAVEL EXPENSES.—

“(1) COMPENSATION.—Each member of the Museum and Library Services Board who is not an officer or employee of the Federal Government may be compensated at a rate to be fixed by the President, but not to exceed the daily equivalent of the maximum annual rate of pay authorized for a position above grade GS-15 of the General Schedule under section 5108 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Museum and Library Services Board. Members of the Museum and Library Services Board who are full-time officers or employees of the Federal Government may not receive additional pay, allowances, or benefits by reason of their service on the Board.

“(2) TRAVEL EXPENSES.—Each member of the Museum and Library Services Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

“(i) COORDINATION.—The Director, with the advice of the Museum and Library Services Board, shall take steps to ensure that the policies and activities of the Institute are coordinated with other activities of the Federal Government.”

**SEC. 105. AWARDS; ANALYSIS OF IMPACT OF SERVICES.**

The Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended by inserting after section 208 (as redesignated by section 104 of this Act) the following:

**“SEC. 209. AWARDS.**

“The Director, with the advice of the Museum and Library Services Board, may annually award National Awards for Library Service and National Awards for Museum Service to outstanding libraries and outstanding museums, respectively, that have made significant contributions in service to their communities.

**“SEC. 210. ANALYSIS OF IMPACT OF MUSEUM AND LIBRARY SERVICES.**

“From amounts described in sections 214(c) and 274(b), the Director shall carry out and publish analyses of the impact of museum and library services. Such analyses—

“(1) shall be conducted in ongoing consultation with—

“(A) State library administrative agencies;

“(B) State, regional, and national library and museum organizations; and

“(C) other relevant agencies and organizations;

“(2) shall identify national needs for, and trends of, museum and library services provided with funds made available under subtitles B and C;

“(3) shall report on the impact and effectiveness of programs conducted with funds made available by the Institute in addressing such needs; and

“(4) shall identify, and disseminate information on, the best practices of such programs to the agencies and entities described in paragraph (1).”.

## TITLE II—LIBRARY SERVICES AND TECHNOLOGY

### SEC. 201. PURPOSE.

Section 212 of the Library Services and Technology Act (20 U.S.C. 9121) is amended by striking paragraphs (2) through (5) and inserting the following:

“(2) to promote improvement in library services in all types of libraries in order to better serve the people of the United States;

“(3) to facilitate access to resources in all types of libraries for the purpose of cultivating an educated and informed citizenry; and

“(4) to encourage resource sharing among all types of libraries for the purpose of achieving economical and efficient delivery of library services to the public.”.

### SEC. 202. DEFINITIONS.

Section 213 of the Library Services and Technology Act (20 U.S.C. 9122) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2), (3), (4), (5), and (6) as paragraphs (1), (2), (3), (4), and (5), respectively.

### SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

Section 214 of the Library Services and Technology Act (20 U.S.C. 9123) is amended—

(1) by amending subsection (a) to read as follows:

“(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle \$350,000,000 for fiscal year 2003 and such sums as may be necessary for fiscal years 2004 through 2008.”; and

(2) in subsection (c), by striking “3 percent” and inserting “3.5 percent”.

### SEC. 204. RESERVATIONS AND ALLOTMENTS.

Section 221(b)(3) of the Library Services and Technology Act (20 U.S.C. 9131(b)(3)) is amended to read as follows:

“(3) MINIMUM ALLOTMENTS.—

“(A) IN GENERAL.—For purposes of this subsection, the minimum allotment for each State shall be \$340,000, except that the minimum allotment shall be \$40,000 in the case of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

“(B) RATABLE REDUCTIONS.—Notwithstanding subparagraph (A), if the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year is insufficient to fully satisfy the requirement of subparagraph (A), each of the minimum allotments under such subparagraph shall be reduced ratably.

“(C) EXCEPTION.—

“(i) IN GENERAL.—Notwithstanding subparagraph (A), if the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year exceeds the aggregate of the allotments for all States under this subsection for fiscal year 2002—

“(I) the minimum allotment for each State otherwise receiving a minimum allotment of \$340,000 under subparagraph (A) shall be increased to \$680,000; and

“(II) the minimum allotment for each State otherwise receiving a minimum allot-

ment of \$40,000 under subparagraph (A) shall be increased to \$60,000.

“(ii) INSUFFICIENT FUNDS TO AWARD ALTERNATIVE MINIMUM.—If the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year exceeds the aggregate of the allotments for all States under this subsection for fiscal year 2002 yet is insufficient to fully satisfy the requirement of clause (i), such excess amount shall first be allotted among the States described in clause (i)(I) so as to increase equally the minimum allotment for each such State above \$340,000. After the requirement of clause (i)(I) is fully satisfied for any fiscal year, any remainder of such excess amount shall be allotted among the States described in clause (i)(II) so as to increase equally the minimum allotment for each such State above \$40,000.

“(D) SPECIAL RULE.—

“(i) IN GENERAL.—Notwithstanding any other provision of this subsection and using funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this subsection, the Director shall award grants to the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subtitle in accordance with the provisions of this subtitle that the Director determines are not inconsistent with this subparagraph.

“(ii) AWARD BASIS.—The Director shall award grants pursuant to clause (i) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

“(iii) ADMINISTRATIVE COSTS.—The Director may provide not more than 5 percent of the funds made available for grants under this subparagraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subparagraph.”.

### SEC. 205. STATE PLANS.

Section 224 of the Library Services and Technology Act (20 U.S.C. 9134) is amended—

(1) in subsection (a)(1), by striking “not later than April 1, 1997.” and inserting “once every 5 years, as determined by the Director.”; and

(2) in subsection (f)—

(A) by striking “this Act” each place such term appears and inserting “this subtitle”;

(B) in paragraph (1)—

(i) by striking “1934,” and all that follows through “Act, may” and inserting “1934 (47 U.S.C. 254(h)(6)) may”; and

(ii) by striking “section 213(2)(A) or (B)” and inserting “section 213(1)(A) or (B)”;

(C) in paragraph (7)—

(i) in the matter preceding subparagraph (A), by striking “section:” and inserting “subsection:”; and

(ii) in subparagraph (D), by striking “given” and inserting “applicable to”.

### SEC. 206. GRANTS TO STATES.

Section 231 of the Library Services and Technology Act (20 U.S.C. 9141) is amended—

(1) in subsection (a), by striking paragraphs (1) and (2) and inserting the following:

“(1) expanding services for learning and access to information and educational resources in a variety of formats, in all types of libraries, for individuals of all ages;

“(2) developing library services that provide all users access to information through local, State, regional, national, and international electronic networks;

“(3) providing electronic and other link-

ages among and between all types of libraries;

“(4) developing public and private partnerships with other agencies and community-based organizations;

“(5) targeting library services to individuals of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to individuals with limited functional literacy or information skills; and

“(6) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.”; and

(2) in subsection (b), by striking “between the two purposes described in paragraphs (1) and (2) of such subsection,” and inserting “among such purposes.”.

### SEC. 207. NATIONAL LEADERSHIP GRANTS, CONTRACTS, OR COOPERATIVE AGREEMENTS.

Section 262(a)(1) of the Library Services and Technology Act (20 U.S.C. 9162(a)(1)) is amended by striking “education and training” and inserting “education, recruitment, and training”.

## TITLE III—MUSEUM SERVICES

### SEC. 300. SHORT TITLE.

Subtitle C of the Museum and Library Services Act (20 U.S.C. 9171 et seq.) is amended by inserting before section 271 the following:

#### “SEC. 270. SHORT TITLE.

“This subtitle may be cited as the ‘Museum Services Act’.”.

#### SEC. 301. PURPOSE.

Section 271 of the Museum and Library Services Act (20 U.S.C. 9171) is amended to read as follows:

#### “SEC. 271. PURPOSE.

“It is the purpose of this subtitle—

“(1) to encourage and support museums in carrying out their public service role of connecting the whole of society to the cultural, artistic, historical, natural, and scientific understandings that constitute our heritage;

“(2) to encourage and support museums in carrying out their educational role, as core providers of learning and in conjunction with schools, families, and communities;

“(3) to encourage leadership, innovation, and applications of the most current technologies and practices to enhance museum services;

“(4) to assist, encourage, and support museums in carrying out their stewardship responsibilities to achieve the highest standards in conservation and care of the cultural, historic, natural, and scientific heritage of the United States to benefit future generations;

“(5) to assist, encourage, and support museums in achieving the highest standards of management and service to the public, and to ease the financial burden borne by museums as a result of their increasing use by the public; and

“(6) to support resource sharing and partnerships among museums, libraries, schools, and other community organizations.”.

#### SEC. 302. DEFINITIONS.

Section 272(1) of the Museum and Library Services Act (20 U.S.C. 9172(1)) is amended by adding at the end the following: “Such term includes aquariums, arboretums, botanical gardens, art museums, children’s museums, general museums, historic houses and sites, history museums, nature centers, natural history and anthropology museums, planetariums, science and technology centers, specialized museums, and zoological parks.”.

**SEC. 303. MUSEUM SERVICES ACTIVITIES.**

Section 273 of the Museum and Library Services Act (20 U.S.C. 9173) is amended to read as follows:

**“SEC. 273. MUSEUM SERVICES ACTIVITIES.**

“(a) **IN GENERAL.**—The Director, subject to the policy advice of the Museum and Library Services Board, may enter into arrangements, including grants, contracts, cooperative agreements, and other forms of assistance to museums and other entities as the Director considers appropriate, to pay for the Federal share of the cost—

“(1) to support museums in providing learning and access to collections, information, and educational resources in a variety of formats (including exhibitions, programs, publications, and websites) for individuals of all ages;

“(2) to support museums in building learning partnerships with the Nation’s schools and developing museum resources and programs in support of State and local school curricula;

“(3) to support museums in assessing, conserving, researching, maintaining, and exhibiting their collections, and in providing educational programs to the public through the use of their collections;

“(4) to stimulate greater collaboration among museums, libraries, schools, and other community organizations in order to share resources and strengthen communities;

“(5) to encourage the use of new technologies and broadcast media to enhance access to museum collections, programs, and services;

“(6) to support museums in providing services to people of diverse geographic, cultural, and socioeconomic backgrounds and to individuals with disabilities;

“(7) to support museums in developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and State institutions;

“(8) to support professional development and technical assistance programs to enhance museum operations at all levels, in order to ensure the highest standards in all aspects of museum operations;

“(9) to support museums in research, program evaluation, and the collection and dissemination of information to museum professionals and the public; and

“(10) to encourage, support, and disseminate model programs of museum and library collaboration.

“(b) **FEDERAL SHARE.**—

“(1) **50 PERCENT.**—Except as provided in paragraph (2), the Federal share described in subsection (a) shall be not more than 50 percent.

“(2) **GREATER THAN 50 PERCENT.**—The Director may use not more than 20 percent of the funds made available under this subtitle for a fiscal year to enter into arrangements under subsection (a) for which the Federal share may be greater than 50 percent.

“(3) **OPERATIONAL EXPENSES.**—No funds for operational expenses may be provided under this section to any entity that is not a museum.

“(c) **REVIEW AND EVALUATION.**—The Director shall establish procedures for reviewing and evaluating arrangements described in subsection (a) entered into under this subtitle. Procedures for reviewing such arrangements shall not be subject to any review outside of the Institute.

“(d) **SERVICES FOR NATIVE AMERICANS.**—From amounts appropriated under section 274, the Director shall reserve 1.75 percent to award grants to, or enter into contracts or cooperative agreements with, Indian tribes and to organizations that primarily serve and represent Native Hawaiians (as defined

in section 7207 of the Native Hawaiian Education Act (20 U.S.C. 7517)) to enable such tribes and organizations to carry out the activities described in subsection (a).”.

**SEC. 304. REPEALS.**

Sections 274 and 275 of the Museum and Library Services Act (20 U.S.C. 9174 and 9175) are repealed.

**SEC. 305. AUTHORIZATION OF APPROPRIATIONS.**

Section 276 of the Museum and Library Services Act (20 U.S.C. 9176)—

(1) is redesignated as section 274 of such Act; and

(2) is amended, in subsection (a), by striking “\$28,700,000 for the fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2002.” and inserting “\$65,000,000 for fiscal year 2003 and such sums as may be necessary for fiscal years 2004 through 2008.”.

**TITLE IV—NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE ACT****SEC. 401. AMENDMENT TO CONTRIBUTIONS.**

Section 4 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1503) is amended by striking “accept, hold, administer, and utilize gifts, bequests, and devises of property,” and inserting “solicit, accept, hold, administer, invest in the name of the United States, and utilize gifts, bequests, and devises of services or property.”.

**SEC. 402. AMENDMENT TO MEMBERSHIP.**

Section 6(a) of the National Commission on Libraries and Information Science Act (20 U.S.C. 1505(a)) is amended—

(1) in the second sentence, by striking “and at least one other of whom shall be knowledgeable with respect to the library and information service and science needs of the elderly”;

(2) by amending the fourth sentence to read as follows: “A majority of members of the Commission who have taken office and are serving on the Commission shall constitute a quorum for conduct of business at official meetings of the Commission”; and

(3) in the fifth sentence, by striking “five years, except that” and all that follows through the period and inserting “five years, except that—

“(1) a member of the Commission appointed to fill a vacancy occurring prior to the expiration of the term for which the member’s predecessor was appointed, shall be appointed only for the remainder of such term; and

“(2) any member of the Commission may continue to serve after an expiration of the member’s term of office until such member’s successor is appointed, has taken office, and is serving on the Commission.”.

**TITLE V—TECHNICAL CORRECTIONS; CONFORMING AMENDMENT; REPEALS; EFFECTIVE DATE****SEC. 501. TECHNICAL CORRECTIONS.**

(a) **TITLE HEADING.**—The title heading for the Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended to read as follows:

**“TITLE II—MUSEUM AND LIBRARY SERVICES”.**

(b) **SUBTITLE A HEADING.**—The subtitle heading for subtitle A of the Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended to read as follows:

**“Subtitle A—General Provisions”.**

(c) **SUBTITLE B HEADING.**—The subtitle heading for subtitle B of the Museum and Library Services Act (20 U.S.C. 9121 et seq.) is amended to read as follows:

**“Subtitle B—Library Services and Technology”.**

(d) **SUBTITLE C HEADING.**—The subtitle heading for subtitle C of the Museum and Li-

brary Services Act (20 U.S.C. 9171 et seq.) is amended to read as follows:

**“Subtitle C—Museum Services”.**

(e) **CONTRIBUTIONS.**—Section 208 of the Museum and Library Services Act (20 U.S.C. 9106) (as redesignated by section 104 of this Act) is amended by striking “property of services” and inserting “property or services”.

(f) **STATE PLAN CONTENTS.**—Section 224(b)(5) of the Library Services and Technology Act (20 U.S.C. 9134(b)(5)) is amended by striking “and” at the end.

(g) **NATIONAL LEADERSHIP GRANTS, CONTRACTS, OR COOPERATIVE AGREEMENTS.**—Section 262(b)(1) of the Library Services and Technology Act (20 U.S.C. 9162(b)(1)) is amended by striking “cooperative agreements, with,” and inserting “cooperative agreements with.”.

**SEC. 502. CONFORMING AMENDMENT.**

Section 170(e)(6)(B)(i)(III) of the Internal Revenue Code of 1986 (relating to the special rule for contributions of computer technology and equipment for educational purposes) is amended by striking “section 213(2)(A) of the Library Services and Technology Act (20 U.S.C. 9122(2)(A))” and inserting “section 213(1)(A) of the Library Services and Technology Act (20 U.S.C. 9122(1)(A))”.

**SEC. 503. REPEALS.**

(a) **NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE ACT.**—Section 5 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1504) is amended by striking subsections (b) and (c) and redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively.

(b) **MUSEUM AND LIBRARY SERVICES ACT OF 1996.**—Sections 704 through 707 of the Museum and Library Services Act of 1996 (20 U.S.C. 9102 note, 9103 note, and 9105 note) are repealed.

**SEC. 504. EFFECTIVE DATE.**

The amendments made by this Act shall take effect on October 1, 2002.

By Mr. REID (for himself and Mr. ENSIGN):

S. 2612. A bill to establish wilderness areas, promote conservation, improve public land and provide for high quality development in Clark County, Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, today I rise with my good friend Senator ENSIGN to introduce a bill that is important to Las Vegas, important to Clark County, important to Nevada, and important to America. The Clark County Conservation of Public Land and Natural Resources Act of 2002, known as the Clark County Conservation PLAN, provides a solution for southern Nevada’s growth and conservation challenges.

The Clark County Conservation PLAN balances the needs for infrastructure development, recreational opportunities, and conservation of our precious natural resources in southern Nevada.

Our bill is a broad-based compromise. We do not expect everyone to advocate every provision of this bill. Indeed, we know that many people will oppose various components of our legislation. The complaints we receive will reflect the tendency for people to fear change, protect the status quo, and miss the forest for the trees in this case, the Joshua trees.

Before I discuss each title of the Clark County Conservation PLAN, I will take a few moments to describe the profound challenge that public land issues pose for Nevada. 87 percent of the land in Nevada, that is nearly 9 out of every 10 acres in our State, is owned and managed by the Federal Government. This includes land managed by the U.S. Forest Service, the Bureau of Reclamation, the Bureau of Land Management, the Department of Energy, the National Park Service, the Fish and Wildlife Service, the U.S. Army, the U.S. Navy, and the U.S. Air Force.

The Secretaries of Interior, Agriculture, Defense and Energy bear tremendous responsibilities for the management, development, and conservation of natural resources in Nevada. Unlike most of America where land use decisions are made by communities, in Nevada, many land use decisions require concurrence of Federal officials and, in some cases, the passage of Federal laws. This is a circumstance that very few Senators understand from experience, but I know that my colleagues can imagine the tremendous challenge inherent in this system regardless of the State they represent.

The challenge of Federal land ownership is not unique to Nevada, in fact it characterizes much of the West. However, this situation is compounded in Clark County where the fastest growing population in America springs from the heart of one of the most extreme and fragile regions in North America, the Mojave Desert.

Many people believe that this scenario embodies an impossible challenge. Some believe that guiding growth in Southern Nevada and protecting our desert for future generations are mutually exclusive. Some believe that protecting our air and water quality and setting aside some open space as wilderness are overly costly barriers to growth that unnecessarily restrict recreation and development. Some believe that the Federal Government's management of public land is too strict; others believe it is too lenient. Some believe that every acre of Clark County should be privatized. Some believe that not a single acre more should be auctioned from the public domain. As different as these views are, what they have in common is that they are passionately held by Nevadans.

By describing the fundamental context within which Senator ENSIGN and I are working, I hope I have demonstrated why compromise is not just necessary but warranted. We fully expect to be criticized for what this bill is not, for example it does not designate all of the 2 million acres in Clark County that the Nevada Wilderness Coalition advocates nor does it release all the wilderness study areas in Nevada as others advocate. We do not need to apologize for this compromise, rather we will advocate for what it is, a fair-minded, forward-looking framework for the future development and

protection of public land in Clark County.

The Clark County Conservation PLAN reflects three complementary goals: 1. Enhancing our quality of life; 2. Protecting our environment for our children and grandchildren; and 3. Making public land available for quality development consistent with these two principles.

The remainder of my statement today will explain how the Clark County Conservation PLAN will improve the quality of life and enhance economic opportunities for Nevadans while enriching and protecting the awe-inspiring natural resources that bless southern Nevada for the benefit of future generations of Nevadans and all Americans.

When Congress passed the Southern Nevada Public Lands Management Act in 1998, we made the decision that it was in the public interest to transition away from Federal-private land exchanges and competitively auction those parcels of land deemed by the BLM to be disposable. This decision has proven to be quite effective and fair and likely represents the future of land privatization in Nevada and the West. However, at the time the law was enacted, Congress did contemplate that a limited number of ongoing land exchanges would be completed. One of these exchanges is familiarly known as the Red Rock Canyon Howard Hughes exchange. This exchange would be completed by Title I of the Clark County Conservation PLAN.

In the Red Rock Exchange, the Bureau of Land Management will acquire roughly 1,070 acres of land owned by the Howard Hughes Corporation. This land forms promontories above the gently-sloping bajada in the foothills of the La Madre Mountains on the western border of the Red Rock Canyon National Conservation Area. This acreage affords spectacular views of the Las Vegas Valley but development there would degrade the Red Rock NCA and diminish the beauty of the view from Las Vegas to the west, a view many Las Vegans treasure.

This bill provides that the lands I have described will become part of the Red Rock NCA once acquired by the federal government. In exchange for the Red Rock lands, the Howard Hughes Corporation will receive acreage of equal value, as determined by a government-certified appraiser, within the Las Vegas Valley. Finally, the Howard Hughes Corporation will convey some of their acquired acreage to Clark County for use as a county park and for inclusion in a regional trail system. As I mentioned earlier, this proposal has been around for a number of years and enjoys unusually broad support ranging from the County to the environmental community. The time when this exchange should have reached completion through the administrative process has long since passed and a legislative resolution is now in order.

Nevada has nearly 100 wilderness study areas on Federal land across the State. These areas, which are primarily owned by the Bureau of Land Management, are managed to protect wilderness character of the lands under current law. These areas remain as de facto wilderness until Congress passes a bill changing wilderness study status by either designating the land as wilderness or releasing the land from wilderness study area consideration.

Although there is broad support for addressing Nevada's wilderness study areas through federal legislation, there is no consensus regarding how to do so. Those who advocate for wilderness designation and those who oppose further additions to the wilderness system hold strong and, in many cases, irreconcilable views on this issue.

Those of us who wrote this bill likewise hold different views regarding wilderness. In developing the wilderness component of this bill, Senator ENSIGN, Congressman GIBBONS and I made compromises that will likely cause heartburn for all interested parties. We believe, however, that this is a critical step toward addressing the outstanding wilderness study issues in the state of Nevada. Our bill designates wilderness and releases wilderness study areas. It creates 20 wilderness areas: 6 managed by the BLM; 4 jointly managed by the Park Service and BLM; 7 managed by the Park Service; and 3 jointly managed by the BLM and the Forest Service.

In addition to the wilderness described earlier, our bill releases from wilderness study area status acreage associated with each of the BLM and forest service areas we address. In fact, we release three BLM study areas in their entirety. Two of these areas will eventually accommodate growth at the north end of the Las Vegas Valley and help provide jobs for decades into the future. These lands might be conservatively valued at about \$1 billion.

We have provided for wilderness management protocols that address the particular circumstances of southern Nevada. For example, we explicitly require the Secretary of the Interior to allow for the construction, maintenance and replacement of water catchments known as guzzlers when and where that action will enhance wilderness wildlife resources. In addition, we believe that the use of motor vehicles should be allowed to achieve these purposes when there is no reasonable alternative and it does not require the creation of new roads.

Some wilderness purists argue that these man-made guzzler tanks disturb the naturally functioning ecosystems of the Mojave Desert. I respect this view, but I believe that these water projects actually help restore more natural function to ecosystems that have been forever fragmented by development including roads. These projects which are privately funded by dedicated sportsmen have a legitimate place in southern Nevada wilderness and this bill is clear on that point.

In our effort to create a fair wilderness designation, we have benefitted from the advice and suggestions of many Nevadans representing a range of views. These advocates include the Nevada Land Users Coalition, The Sierra Club, The Virgin Valley Sportsmen's Association, The Nevada Wilderness Project, The Fraternity of Desert Big-horns, the Nevada Mining Association, Red Rock Audubon, and Partners in Conservation, to name just a few. We appreciate their help and believe that this compromise honors our commitment to listen carefully to all parties. We are also grateful for the help we have received from the Federal land managers in Clark County and look forward to working with them to improve this bill to help make their jobs easier and the public experience on public land better.

Early in the development of this bill we decided not to address wilderness issues within the Desert National Wildlife Range. I recognize that this is a major disappointment to many in the environmental community who view the wilderness resources in the Range as some of the best in the Mojave Desert. Wilderness in the Range is, however, beyond the scope of this bill.

The Clark County Conservation PLAN does transfer the management responsibility of three wilderness study areas, totaling more than 49,000 acres, from the Bureau of Land Management to the Fish and Wildlife Service. These areas lie between State Highway 93 and the Range so this transfer helps rationalize the federal land ownership pattern in northern Clark County.

In addition, this bill transfers a small parcel of land from the Bureau of Land Management to the National Park Service for use as an administrative site on the road between Searchlight and Cottonwood Cove. This transfer will save taxpayer dollars by allowing the Park Service to consolidate two planned administrative sites into one and manage the Lake Mead National Recreation Area more effectively.

When Congress passed the Southern Nevada Public Lands Management Act of 1998, it established a new paradigm for the sale of public lands in Clark County, Nevada. One of the core principles of this new way of doing business was that the proceeds from the sale of Federal lands should be reinvested in federal, state, and local environmental protection and recreational enhancements in the state in which the lands are sold.

The Clark County Conservation PLAN Act modifies the Southern Nevada Public Lands Management Act and expands the so-called Las Vegas valley disposal boundary. This expansion will make an additional 25,000 acres of BLM land available for auction and development years into the future. The proceeds from the sale of this Federal land will continue to accrue to the Southern Nevada Public Lands Special Account and be invested in the purchase of environmentally sensitive

land, the development of Federal land infrastructure, the implementation of the Clark County Multi-Species Habitat Conservation Plan, and local government open space, recreation and conservation projects. Our bill further provides that at least one-quarter of the Special Account be dedicated to the last of these purposes.

One of the most important infrastructure issues facing southern Nevada is siting a new international airport. The County's preferred and likely site is in a dry lake bed between Jean and Primm, Nevada south of the Las Vegas Valley in the Interstate 15 transportation corridor near the California border. Congress made federal land at that site available for use as an airport, pending environmental reviews.

The Clark County Conservation PLAN complements that law in two important ways. First, our bill conveys federal land adjacent to the proposed airport to the Clark County Airport Authority so that it can promote compatible development within the area impacted by the noise of the airport. Any proceeds derived from sale of these Airport Authority lands would be distributed similarly to lands sold within the Las Vegas Valley Disposal Boundary.

Second, our bill directs the Bureau of Land Management to reserve a right-of-way for non-exclusive utility and transportation corridors between the Las Vegas valley and the proposed airport. This corridor is important because for the new airport to remain economical will require significant utility development to come from the north. Our bill does not dictate exactly where, when, how, or by whom this infrastructure will be developed; it simply reserves land explicitly to serve this purpose.

One of the most precious areas in southern Nevada is a relatively nondescript canyon near Henderson. It is an area graced with hundreds of wonderful and curious petroglyphs. Under ordinary circumstances, I would not reveal the location of this site because public knowledge of prehistoric rock art sites commonly leads to their destruction. In this case, however, this canyon is in desperate need of protection because it is within a short walk of the Las Vegas valley. Similar resources elsewhere in the desert Southwest have been destroyed by urban growth and lack of intensive management.

The Clark County Conservation PLAN designates the Sloan petroglyphs site and the area that comprises most of its watershed as the North McCullough Mountains Wilderness. This wilderness combined with about 32,000 acres of open space comprises the proposed Sloan Canyon National Conservation Area. The NCA and wilderness will provide critical protection for the Sloan petroglyphs, preserve open space near Henderson's rapidly growing neighborhoods and together represent a legacy of cultural

and natural resource conservation our grandchildren will value dearly one day.

The sheer number of public lands bill requests Senator ENSIGN and I receive is staggering. If we chose to introduce stand-alone legislation to address each legitimate issue that constituents bring to our attention, we would create an awkward patchwork of new Federal laws. In the Clark County Conservation PLAN, we have attempted to provide a comprehensive vision and framework for conservation and development in southern Nevada by balancing competing interests.

The final title of our bill includes a select few of the many important public interest land conveyances. For example, we include two land grants to further the higher education mission of Nevada's university system. One provides land to the UNLV research foundation for the development of a technology park. The other provides land for the planned Henderson State College.

We convey a small active shooting range to the Las Vegas Metropolitan Police Department for training purposes. We grant a modest parcel of land to the City of Las Vegas for the development of affordable housing. We provide for the conveyance of the Sunrise Landfill from the Bureau of Land Management to Clark County pending completion of the environmental clean-up at the site. We convey park and open space land to the City of Henderson and provide for a cooperatively managed zone comprised of federal land around Henderson Executive airport. These are relatively small but important actions that help our communities, law enforcement, and educational system better serve southern Nevada.

The Clark County Conservation PLAN Act that Senator ENSIGN and I introduce today promises a better tomorrow for our public lands in southern Nevada, for the more than 1.5 million people who call Clark County home, and for the millions of Americans who visit southern Nevada every year. This constructive compromise provides land for development, land grants for public purposes, wilderness for conservation in perpetuity, and a new national conservation area to celebrate and protect the wonderful natural and cultural resources of the North McCullough Mountains including the Sloan petroglyph site.

Senator ENSIGN and I have been working on this bill since he came to the Senate a year and a half ago. We are proud of the progress we've made together and with Congressman GIBBONS and believe that this public lands bill should serve as a model for bipartisan cooperation and constructive compromise. We look forward to working with Chairman BINGAMAN and the Energy and Natural Resources Committee to perfect this bill so that we can enact the Clark County Conservation PLAN into law this year.

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. 2612

*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 “Clark County Conservation of Public Land and Natural Resources Act of 2002”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

## TITLE I—RED ROCK CANYON NATIONAL CONSERVATION AREA LAND EXCHANGE AND BOUNDARY ADJUSTMENT

Sec. 101. Short title.

Sec. 102. Findings and purposes.

Sec. 103. Definitions.

Sec. 104. Red Rock Canyon land exchange.

Sec. 105. Status and management of acquired land.

Sec. 106. General provisions.

## TITLE II—WILDERNESS AREAS

Sec. 201. Findings.

Sec. 202. Additions to National Wilderness Preservation System.

Sec. 203. Administration.

Sec. 204. Adjacent management.

Sec. 205. Overflights.

Sec. 206. Native American cultural and religious uses.

Sec. 207. Release of wilderness study areas.

Sec. 208. Wildlife management.

Sec. 209. Wildfire management.

Sec. 210. Climatological data collection.

Sec. 211. Authorization of appropriations.

## TITLE III—TRANSFERS OF ADMINISTRATIVE JURISDICTION

Sec. 301. Transfer of administrative jurisdiction to the United States Fish and Wildlife Service.

Sec. 302. Transfer of administrative jurisdiction to the National Park Service.

## TITLE IV—AMENDMENTS TO THE SOUTHERN NEVADA PUBLIC LAND MANAGEMENT ACT

Sec. 401. Disposal and exchange.

## TITLE V—IVANPAH CORRIDOR

Sec. 501. Interstate Route 15 south corridor.

## TITLE VI—SLOAN CANYON NATIONAL CONSERVATION AREA

Sec. 601. Short title.

Sec. 602. Purpose.

Sec. 603. Definitions.

Sec. 604. Establishment.

Sec. 605. Management.

Sec. 606. Sale of Federal parcel.

Sec. 607. Authorization of appropriations.

## TITLE VII—PUBLIC INTEREST CONVEYANCES

Sec. 701. Definition of map.

Sec. 702. Conveyance to the University of Nevada at Las Vegas Research Foundation.

Sec. 703. Conveyance to the Las Vegas Metropolitan Police Department.

Sec. 704. Conveyance to the city of Henderson for the Nevada State College at Henderson.

Sec. 705. Conveyance to the city of Las Vegas, Nevada.

Sec. 706. Henderson Economic Development Zone.

Sec. 707. Conveyance of Sunrise Mountain landfill to Clark County, Nevada.

Sec. 708. Open space land grants.

Sec. 709. Relocation of right-of-way corridor located in Clark and Lincoln Counties in the State of Nevada.

## SEC. 2. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term “Agreement” means the Agreement entitled “Interim Cooperative Management Agreement Between the United States Department of the Interior-Bureau of Land Management and Clark County”, dated November 4, 1992.

(2) COUNTY.—The term “County” means Clark County, Nevada.

(3) SECRETARY.—The term “Secretary” means—

(A) in the case of land in the National Forest System, the Secretary of Agriculture; and

(B) in the case of land not in the National Forest System, the Secretary of the Interior.

(4) STATE.—The term “State” means the State of Nevada.

## TITLE I—RED ROCK CANYON NATIONAL CONSERVATION AREA LAND EXCHANGE AND BOUNDARY ADJUSTMENT

### SEC. 101. SHORT TITLE.

This title may be cited as the “Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002”.

### SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Red Rock Canyon National Conservation Area is a natural resource of major significance to the people of the State and the United States, and must be protected and enhanced for the enjoyment of future generations;

(2) in 1990, Congress enacted the Southern Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.), which provides for the protection and enhancement of the conservation area;

(3) the Howard Hughes Corporation, which owns much of the private land outside the eastern boundary of the conservation area, is developing a large-scale master-planned community on the land;

(4) included in the land holdings of the Corporation are 1,087 acres of high-ground land adjacent to the eastern edge of the conservation area that were originally intended to be included in the conservation area, but as of the date of enactment of this Act, have not been acquired by the United States;

(5) the protection of the high-ground land would preserve an important element of the western Las Vegas Valley viewshed; and

(6) the Corporation is willing to convey title to the high-ground land to the United States so that the land can be preserved to protect and expand the boundaries of the conservation area.

(b) PURPOSES.—The purposes of this title are—

(1) to authorize the United States to exchange Federal land for the non-Federal land of the Corporation referred to in subsection (a)(6);

(2) to protect and enhance the conservation area;

(3) to expand the boundaries of the conservation area; and

(4) to carry out the purposes of—

(A) the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.); and

(B) the Southern Nevada Public Land Management Act of 1998 (Public Law 105-263; 112 Stat. 2343).

### SEC. 103. DEFINITIONS.

In this title:

(1) CONSERVATION AREA.—The term “conservation area” means the Red Rock Canyon

National Conservation Area established by section 3(a) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc-1(a)).

(2) CORPORATION.—The term “Corporation” means the Howard Hughes Corporation, an affiliate of the Rouse Company, which has its principal place of business at 10000 West Charleston Boulevard, Las Vegas, Nevada.

(3) FEDERAL PARCEL.—The term “Federal parcel” means the approximately 1000 acres of Federal land in the State proposed to be exchanged for the non-Federal parcel, as depicted on the map.

(4) MAP.—The term “Map” means the map entitled “Southern Nevada Public Land Management Act”, dated June 10, 2002.

(5) NON-FEDERAL PARCEL.—The term “non-Federal parcel” means the approximately 1,085 acres of non-Federal land in the State owned by the Corporation that is proposed to be exchanged for the Federal parcel, as depicted on the Map.

(6) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

### SEC. 104. RED ROCK CANYON LAND EXCHANGE.

(a) IN GENERAL.—The Secretary shall accept an offer of the Corporation to convey all right, title, and interest in the non-Federal parcel to the United States in exchange for the Federal parcel.

(b) CONVEYANCE.—Not later than 60 days after the date on which the Corporation makes an offer under subsection (a), the Secretary shall convey—

(1) a portion of the Federal parcel, depicted on the Map as “Public land selected for exchange” to the Corporation; and

(2) subject to subsection (f), a portion of the Federal parcel, depicted on the Map as “Proposed BLM transfer for County park”, to the County.

(c) VALUATION.—An appraiser approved by the Secretary shall determine—

(1) the value and exact acreage of the Federal parcel; and

(2) the value of the non-Federal parcel.

(d) TIMING.—The exchange of the Federal parcel and the non-Federal parcel under this section shall occur concurrently.

(e) MAP.—

(1) REVISION.—As soon as practicable after the date of enactment of this Act, the Secretary shall prepare a revised map reflecting the modifications to the boundary of the conservation area under this section.

(2) PUBLIC AVAILABILITY.—A copy of the Map and the revised map shall be on file and available for public inspection in—

(A) the Office of the Director of the Bureau of Land Management;

(B) the Office of the State Director of the Bureau of Land Management of the State; and

(C) the Las Vegas District Office of the Bureau of Land Management.

(3) TECHNICAL CORRECTIONS.—The Secretary may correct clerical and typographical errors in the Map and the revised map.

(f) LAND TRANSFERRED TO COUNTY.—

(1) IN GENERAL.—The portion of the Federal parcel conveyed to the County under subsection (b)(2) shall be used by the County as—

(A) a public park; or

(B) part of a public regional trail system.

(2) REVERSION.—The portion of the Federal parcel conveyed to the County shall revert to the United States if the County—

(A) transfers, or attempts to transfer, the portion of the Federal parcel; or

(B) uses the portion of the Federal parcel in a manner inconsistent with paragraph (1).

### SEC. 105. STATUS AND MANAGEMENT OF ACQUIRED LAND.

(a) ADMINISTRATION.—The non-Federal parcel acquired by the United States in the land



exchange under section 104 shall be added to, and administered by the Secretary as part of, the conservation area in accordance with—

(1) the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.);

(2) the Southern Nevada Public Land Management Act of 1998 (Public Law 105-263; 112 Stat. 2343); and

(3) other applicable law.

(b) **BOUNDARY ADJUSTMENT.**—If any part of the non-Federal parcel acquired under section 104 lies outside the boundary of the conservation area, the Secretary—

(1) shall adjust the boundary of the conservation area to include that part of the non-Federal parcel; and

(2) shall prepare a map depicting the boundary adjustment, which shall be on file and available for public inspection in accordance with section 104(e)(2).

(c) **CONFORMING AMENDMENT.**—Section 3(a)(2) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc-1(a)(2)) is amended by inserting before the period at the end the following: “and such additional areas as are included in the conservation area under the Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002, the exact acreage of which shall be determined by a final appraisal conducted by an appraiser approved by the Secretary”.

#### **SEC. 106. GENERAL PROVISIONS.**

(a) **VALID EXISTING RIGHTS.**—Each conveyance under section 104 shall be subject to valid existing rights, leases, rights-of-way, and permits.

(b) **WITHDRAWAL OF AFFECTED LAND.**—Subject to valid existing rights, the Secretary may withdraw the Federal parcel from operation of the public land laws (including mining laws).

### **TITLE II—WILDERNESS AREAS**

#### **SEC. 201. FINDINGS.**

Congress finds that—

(1) public land in the County contains unique and spectacular natural resources, including—

(A) priceless habitat for numerous species of plants and wildlife; and

(B) thousands of acres of pristine land that remain in a natural state; and

(2) continued preservation of those areas would benefit the County and all of the United States by—

(A) ensuring the conservation of ecologically diverse habitat;

(B) conserving primitive recreational resources; and

(C) protecting air and water quality.

#### **SEC. 202. ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM.**

(a) **ADDITIONS.**—The following land in the State is designated as wilderness and as components of the National Wilderness Preservation System:

(1) **ARROW CANYON WILDERNESS.**—Certain Federal land managed by the Bureau of Land Management, comprising approximately 27,495 acres, as generally depicted on the map entitled “Arrow Canyon”, dated June 5, 2002, which shall be known as the “Arrow Canyon Wilderness”.

(2) **BLACK CANYON WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 17,220 acres, as generally depicted on the map entitled “El Dorado/Spirit Mountain”, dated June 10, 2002, which shall be known as the “Black Canyon Wilderness”.

(3) **BLACK MOUNTAIN WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area, comprising approximately

14,625 acres, as generally depicted on the map entitled “Muddy Mountains”, dated June 5, 2002, which shall be known as the “Black Mountain Wilderness”.

(4) **BRIDGE CANYON WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area, comprising approximately 7,761 acres, as generally depicted on the map entitled “El Dorado/Spirit Mountain”, dated June 10, 2002, which shall be known as the “Bridge Canyon Wilderness”.

(5) **EL DORADO WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 31,950 acres, as generally depicted on the map entitled “El Dorado/Spirit Mountain”, dated June 10, 2002, which shall be known as the “El Dorado Wilderness”.

(6) **HAMBLIN MOUNTAIN WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area, comprising approximately 17,047 acres, as generally depicted on the map entitled “Muddy Mountains”, dated June 5, 2002, which shall be known as the “Hamblin Mountain Wilderness”.

(7) **IRETEBA PEAKS WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 31,321 acres, as generally depicted on the map entitled “El Dorado/Spirit Mountain”, dated June 10, 2002, which shall be known as the “Ireteba Peaks Wilderness”.

(8) **JIMBILNAN WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area, comprising approximately 18,879 acres, as generally depicted on the map entitled “Muddy Mountains”, dated June 5, 2002, which shall be known as the “Jimbilnan Wilderness”.

(9) **JUMBO SPRINGS WILDERNESS.**—Certain Federal land managed by the Bureau of Land Management, comprising approximately 4,631 acres, as generally depicted on the map entitled “Gold Butte”, dated June 5, 2002, which shall be known as the “Jumbo Springs Wilderness”.

(10) **LA MADRE MOUNTAIN WILDERNESS.**—Certain Federal land within the Toiyabe National Forest and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 46,634 acres, as generally depicted on the map entitled “Spring Mountains”, dated June 5, 2002, which shall be known as the “La Madre Mountain Wilderness”.

(11) **LIME CANYON WILDERNESS.**—Certain Federal land managed by the Bureau of Land Management, comprising approximately 16,710 acres, as generally depicted on the map entitled “Gold Butte”, dated June 5, 2002, which shall be known as the “Lime Canyon Wilderness”.

(12) **MT. CHARLESTON WILDERNESS ADDITIONS.**—Certain Federal land within the Toiyabe National Forest and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 13,598 acres, as generally depicted on the map entitled “Spring Mountains”, dated June 5, 2002, which shall be included in the Mt. Charleston Wilderness.

(13) **MUDDY MOUNTAINS WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of land managed by the Bureau of Land Management, comprising approximately 48,019 acres, as generally depicted on the map entitled “Muddy Mountains”, dated June 5, 2002, which shall be known as the “Muddy Mountains Wilderness”.

(14) **NELLIS WASH WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area, comprising approximately 16,423 acres, as generally depicted on the map

entitled “El Dorado/Spirit Mountain”, dated June 10, 2002, which shall be known as the “Nellis Wash Wilderness”.

(15) **NORTH MCCULLOUGH WILDERNESS.**—Certain Federal land managed by the Bureau of Land Management, comprising approximately 14,763 acres, as generally depicted on the map entitled “McCulloughs”, dated June 10, 2002, which shall be known as the “North McCullough Wilderness”.

(16) **PINE CREEK WILDERNESS.**—Certain Federal land within the Toiyabe National Forest and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 25,375 acres, as generally depicted on the map entitled “Spring Mountains”, dated June 5, 2002, which shall be known as the “Pine Creek Wilderness”.

(17) **PINTO VALLEY WILDERNESS.**—Certain Federal land within the Toiyabe National Recreation Area and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 6,912 acres, as generally depicted on the map entitled “Muddy Mountains”, dated June 5, 2002, which shall be known as the “Pinto Valley Wilderness”.

(18) **SOUTH MCCULLOUGH WILDERNESS.**—Certain Federal land managed by the Bureau of Land Management, comprising approximately 44,245 acres, as generally depicted on the map entitled “McCulloughs”, dated June 10, 2002, which shall be known as the “South McCullough Wilderness”.

(19) **SPIRIT MOUNTAIN WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 34,261 acres, as generally depicted on the map entitled “El Dorado/Spirit Mountain”, dated June 10, 2002, which shall be known as the “Spirit Mountain Wilderness”.

(20) **WEE THUMP JOSHUA TREE WILDERNESS.**—Certain Federal land managed by the Bureau of Land Management, comprising approximately 6,050 acres, as generally depicted on the map entitled “McCulloughs”, dated June 10, 2002, which shall be known as the “Wee Thump Joshua Tree Wilderness”.

(b) **BOUNDARY.**—The boundary of any portion of a wilderness area designated by subsection (a) that is bordered by Lake Mead, Lake Mohave, or the Colorado River shall be 300 feet inland from the high water line.

(c) **MAP AND LEGAL DESCRIPTION.**—

(1) **IN GENERAL.**—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of each wilderness area designated by subsection (a) with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) **EFFECT.**—Each map and legal description shall have the same force and effect as if included in this section, except that the Secretary may correct clerical and typographical errors in the map or legal description.

(3) **AVAILABILITY.**—Each map and legal description shall be on file and available for public inspection in (as appropriate)—

(A) the Office of the Director of the Bureau of Land Management;

(B) the Office of the State Director of the Bureau of Land Management of the State;

(C) the Las Vegas District Office of the Bureau of Land Management;

(D) the Office of the Director of the National Park Service; and

(E) the Office of the Chief of the Forest Service.

#### **SEC. 203. ADMINISTRATION.**

(a) **WILDERNESS AREA ADMINISTRATION.**—Subject to valid existing rights, including

rights to access the area, each area designated as wilderness by this title shall be administered by the Secretary in accordance with the provisions of the Wilderness Act (16 U.S.C. 1131 et seq.) governing areas designated by that Act as wilderness, except that any reference in the provisions to the effective date shall be considered to be a reference to the date of enactment of this Act.

(b) **LIVESTOCK.**—Within the wilderness areas designated under this title, the grazing of livestock in areas in which grazing is allowed on the date of enactment of this Act shall be allowed to continue subject to such reasonable regulations, policies, and practices that—

(1) the Secretary considers necessary; and  
(2) conform to and implement the intent of Congress regarding grazing in those areas as such intent is expressed in—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.);

(B) section 101(f) of the Arizona Desert Wilderness Act of 1990 (104 Stat. 4473); and

(C) Appendix A of House Report No. 101-405 of the 101st Congress.

(c) **INCORPORATION OF ACQUIRED LAND AND INTERESTS.**—Any land or interest in land within the boundaries of an area designated as wilderness by this title that is acquired by the United States after the date of enactment of this Act shall be added to and administered as part of the wilderness area within which the acquired land or interest in land is located.

(d) **AIR QUALITY DESIGNATION.**—Notwithstanding sections 162 and 164 of the Clean Air Act (42 U.S.C. 7472, 7474), any wilderness area designated under this title shall retain a Class II air quality designation and may not be redesignated as Class I.

#### SEC. 204. ADJACENT MANAGEMENT.

(a) **IN GENERAL.**—Congress does not intend for the designation of wilderness in the State pursuant to this title to lead to the creation of protective perimeters or buffer zones around any such wilderness area.

(b) **NONWILDERNESS ACTIVITIES.**—The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness designated under this title shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area.

#### SEC. 205. OVERFLIGHTS.

Nothing in this title restricts or precludes—

(1) overflights, including low-level overflights, over the areas designated as wilderness by this title, including military overflights that can be seen or heard within the wilderness areas;

(2) flight testing and evaluation; or

(3) the designation or creation of new units of special use airspace, or the establishment of military flight training routes, over the wilderness areas.

#### SEC. 206. NATIVE AMERICAN CULTURAL AND RELIGIOUS USES.

In recognition of the past use of portions of the areas designated as wilderness by this title by Native Americans for traditional cultural and religious purposes, the Secretary shall ensure, from time to time, non-exclusive access by Native Americans to the areas for those purposes, including wood gathering for personal use and the collecting of plants or herbs.

#### SEC. 207. RELEASE OF WILDERNESS STUDY AREAS.

(a) **FINDING.**—Congress finds that, for the purposes of sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1782), the public land in the County administered by the Bureau of Land Management and the Forest Service in the following areas have been adequately studied for wilderness designation:

(1) The Garrett Buttes Wilderness Study Area.

(2) The Quail Springs Wilderness Study Area.

(3) The Nellis A.B.C Wilderness Study Area.

(4) Any portion of the wilderness study areas—

(A) not designated as wilderness by section 202(a); and

(B) designated for release on—

(i) the map entitled “Muddy Mountains” and dated June 5, 2002;

(ii) the map entitled “Spring Mountains” and dated June 5, 2002;

(iii) the map entitled “Arrow Canyon” and dated June 5, 2002;

(iv) the map entitled “Gold Butte” and dated June 5, 2002;

(v) the map entitled “McCullough Mountains” and dated June 10, 2002;

(vi) the map entitled “El Dorado/Spirit Mountain” and dated June 10, 2002; or

(vii) the map entitled “Southern Nevada Public Land Management Act” and dated June 10, 2002.

(b) **RELEASE.**—Except as provided in subsection (c), any public land described in subsection (a) that is not designated as wilderness by this title—

(1) shall not be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(2) shall be managed in accordance with—

(A) land management plans adopted under section 202 of that Act (43 U.S.C. 1712); and

(B) the Clark County Multi-Species Habitat Conservation Plan, including any amendments to the plan.

(c) **LAND NOT RELEASED.**—The following land is not released from the wilderness study requirements of sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1782):

(1) Meadow Valley Mountains Wilderness Study Area.

(2) Million Hills Wilderness Study Area.

(3) Mt. Stirling Wilderness Study Area.

(4) Mormon Mountains Wilderness Study Area.

(5) Sunrise Mountain Instant Study Area.

(6) Virgin Mountain Instant Study Area.

(d) **RIGHT-OF-WAY GRANTS.**—

(1) **SUNRISE MOUNTAIN.**—

(A) **IN GENERAL.**—To facilitate energy security and the timely delivery of new energy supplies to the States of Nevada and California and the Southwest, notwithstanding section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)), the Secretary shall issue to the State-regulated sponsor of the Centennial Project a right-of-way grant for the construction and maintenance of 2 500-kilovolt electrical transmission lines.

(B) **LOCATION.**—The transmission lines described in subparagraph (A) shall be constructed within the 1,400-foot-wide utility right-of-way corridor in the Sunrise Mountain Instant Study Area in the County.

(2) **MEADOW VALLEY MOUNTAINS WILDERNESS STUDY AREA.**—The Secretary shall issue to the developers of the proposed Meadow Valley generating project a right-of-way grant for the construction and maintenance of electric and water transmission lines in the Meadow Valley Mountains Wilderness Study Area in Clark and Lincoln Counties in the State.

#### SEC. 208. WILDLIFE MANAGEMENT.

(a) **IN GENERAL.**—The Secretary shall conduct such management activities as are necessary to maintain or restore fish and wildlife populations and fish and wildlife habitats in the areas designated as wilderness by this title.

(b) **HUNTING, FISHING, AND TRAPPING.**—

(1) **IN GENERAL.**—The Secretary shall permit hunting, fishing, and trapping on land and water in wilderness areas designated by this title in accordance with applicable Federal and State laws.

(2) **LIMITATIONS.**—

(A) **REGULATIONS.**—The Secretary may designate by regulation areas in which, and establish periods during which, for reasons of public safety, administration, or compliance with applicable laws, no hunting, fishing, or trapping will be permitted in the wilderness areas designated by this title.

(B) **CONSULTATION.**—Except in emergencies, the Secretary shall consult with, and obtain the approval of, the appropriate State agency before promulgating regulations under subparagraph (A) that close a portion of the wilderness areas to hunting, fishing, or trapping.

(c) **MOTORIZED VEHICLES.**—

(1) **IN GENERAL.**—The Secretary shall authorize the occasional and temporary use of motorized vehicles in the wilderness areas, including the uses described in paragraph (2), if the use of motorized vehicles would—

(A) as determined by the Secretary, enhance wilderness values by promoting healthy, viable, and more naturally distributed wildlife populations and other natural resources; and

(B) accomplish the purposes for which the use is authorized while causing the least amount of damage to the wilderness areas, as compared with the alternatives.

(2) **AUTHORIZED USES.**—The uses referred to in paragraph (1) include—

(A) the use of motorized vehicles by—

(i) a State agency responsible for fish and wildlife management; or

(ii) a designee of such a State agency;

(B) the use of aircraft to survey, capture, transplant, and monitor wildlife populations;

(C) when necessary to protect or rehabilitate natural resources in the wilderness areas, access by motorized vehicles for the—

(i) repair, maintenance, and reconstruction of water developments, including guzzlers, in existence on the date of enactment of this Act; and

(ii) the installation, repair, maintenance, and reconstruction of new water developments, including guzzlers; and

(D) the use of motorized equipment, including aircraft, to manage and remove, as appropriate, feral stock, feral horses, and feral burros.

(d) **WILDLIFE WATER DEVELOPMENT PROJECTS.**—The Secretary shall authorize the construction of structures and facilities for wildlife water development projects, including guzzlers, in the wilderness areas designated by this title if—

(1) the construction activities will, as determined by the Secretary, enhance wilderness values by promoting healthy, viable, and more naturally distributed wildlife populations; and

(2) the visual impacts of the construction activities on the wilderness areas can reasonably be minimized.

(e) **BUFFER.**—A road in the State that is bordered by a wilderness area designated by this title shall include a buffer on each side of the road that is the greater of—

(1) 100 feet wide; or

(2) the width of the buffer on the date of enactment of this Act.

(f) **EFFECT.**—Nothing in this title diminishes the jurisdiction of the State with respect to fish and wildlife management, including regulation of hunting and fishing on public land in the State.

**SEC. 209. WILDFIRE MANAGEMENT.**

Nothing in this title precludes a Federal, State, or local agency from conducting wildfire management operations (including operations using aircraft or mechanized equipment) to manage wildfires in the wilderness areas designated by this title.

**SEC. 210. CLIMATOLOGICAL DATA COLLECTION.**

Subject to such terms and conditions as the Secretary may prescribe, nothing in this title precludes the installation and maintenance of hydrologic, meteorologic, or climatological collection devices in the wilderness areas designated by this title if the facilities and access to the facilities are essential to flood warning, flood control, and water reservoir operation activities.

**SEC. 211. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this title.

### TITLE III—TRANSFERS OF ADMINISTRATIVE JURISDICTION

**SEC. 301. TRANSFER OF ADMINISTRATIVE JURISDICTION TO THE UNITED STATES FISH AND WILDLIFE SERVICE.**

(a) IN GENERAL.—The Secretary of the Interior shall transfer to the United States Fish and Wildlife Service administrative jurisdiction over the parcel of land described in subsection (b) for inclusion in the Desert National Wildlife Range.

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the approximately 49,817 acres of Bureau of Land Management land, as depicted on the map entitled “Arrow Canyon” and dated June 5, 2002.

**(c) WILDERNESS RELEASE.—**

(1) FINDING.—Congress finds that the parcel of land described in subsection (b) has been adequately studied for wilderness designation for the purposes of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)).

(2) RELEASE.—The parcel of land described in subsection (b)—

(A) shall not be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(B) shall be managed in accordance with—

(i) land management plans adopted under section 202 of that Act (43 U.S.C. 1712); and

(ii) the Clark County Multi-Species Habitat Conservation Plan.

(d) USE OF LAND.—To the extent not prohibited by Federal or State law, the parcel of land described in subsection (b) shall be available for the extraction of mineral resources.

**SEC. 302. TRANSFER OF ADMINISTRATIVE JURISDICTION TO THE NATIONAL PARK SERVICE.**

(a) IN GENERAL.—The Secretary of the Interior shall transfer to the National Park Service administrative jurisdiction over the parcel of land described in subsection (b) for inclusion in the Lake Mead National Recreation Area.

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the approximately 10 acres of Bureau of Land Management land, as depicted on the map entitled “El Dorado/Spirit Mountain” and dated June 10, 2002.

(c) USE OF LAND.—The parcel of land described in subsection (b) shall be used by the National Park Service for administrative facilities.

**TITLE IV—AMENDMENTS TO THE SOUTHERN NEVADA PUBLIC LAND MANAGEMENT ACT****SEC. 401. DISPOSAL AND EXCHANGE.**

(a) IN GENERAL.—Section 4 of the Southern Nevada Public Land Management Act of 1998 (Public Law 105-263; 112 Stat. 2344) is amended—

(1) in the first sentence of subsection (a), by striking “entitled ‘Las Vegas Valley, Nevada, Land Disposal Map’, April 10, 1997” and inserting “entitled ‘Southern Nevada Public Land Management Act’, dated June 10, 2002”; and

(2) in subsection (e)(3)—

(A) in subparagraph (A)(iv), by inserting “or regional governmental entity” after “local government”; and

(B) by striking subparagraph (C) and inserting the following:

“(C) ADMINISTRATION.—Of the amounts available to the Secretary from the special account in any fiscal year (determined without taking into account amounts deposited under subsection (g)(4))—

“(i) not more than 25 percent of the amounts may be used in any fiscal year for the purposes described in subparagraph (A)(ii); and

“(ii) not less than 25 percent of the amounts may be used in any fiscal year for the purposes described in subparagraph (A)(iv).”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on January 31, 2003.

**TITLE V—IVANPAH CORRIDOR****SEC. 501. INTERSTATE ROUTE 15 SOUTH CORRIDOR.**

(a) MANAGEMENT OF INTERSTATE ROUTE 15 CORRIDOR LAND.—

(1) IN GENERAL.—The Secretary shall manage the land located along the Interstate Route 15 corridor south of the Las Vegas Valley to the border between the States of California and Nevada, as generally depicted on the map entitled “Clark County Conservation of Public Land and Natural Resources Act of 2002” and dated June 10, 2002, in accordance with the Southern Nevada Public Land Management Act of 1998 (Public Law 105-263; 112 Stat. 2343) and this section.

(2) AVAILABILITY OF MAP.—The map described in paragraph (1) shall be on file and available for public inspection in—

(A) the Office of the Director of the Bureau of Land Management;

(B) the Office of the State Director of the Bureau of Land Management of the State; and

(C) the Las Vegas District Office of the Bureau of Land Management.

(3) MULTIPLE USE MANAGEMENT.—Subject to any land management designations under the 1998 Las Vegas District Resource Management Plan or the Clark County Multi-Species Conservation Plan, land depicted on the map described in paragraph (1) shall be managed for multiple use purposes.

(4) TERMINATION OF ADMINISTRATIVE WITHDRAWAL.—The administrative withdrawal of the land identified as the “Interstate 15 South Corridor” on the map entitled “Clark County Conservation of Public Land and Natural Resources Act of 2002” and dated June 10, 2002, from mineral entry dated July 23, 1997, and as amended March 9, 1998, is terminated.

(5) TRANSPORTATION AND UTILITIES CORRIDOR.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary, in accordance with this section and other applicable law and subject to valid existing rights, shall establish a 2,640-foot wide corridor between the Las Vegas valley and the proposed Ivanpah Airport for the placement, on a nonexclusive basis, of utilities and transportation.

(b) IVANPAH AIRPORT ENVIRONS OVERLAY DISTRICT LAND TRANSFER.—

(1) IN GENERAL.—Subject to paragraph (2) and valid existing rights, on request by the County, the Secretary shall transfer to the County, without consideration, all right,

title, and interest of the United States in and to the land identified on the map entitled “Clark County Conservation of Public Land and Natural Resources Act of 2002” and dated June 10, 2002.

(2) CONDITIONS FOR TRANSFER.—As a condition of the transfer under paragraph (1), the County shall agree—

(A) to manage the transferred land in accordance with section 47504 of title 49, United States Code (including regulations promulgated under that section); and

(B) that if any portion of the transferred land is sold, leased, or otherwise conveyed or leased by the County—

(i) the sale, lease, or other conveyance shall be—

(I) subject to a limitation that requires that any use of the transferred land be consistent with the Agreement and section 47504 of title 49, United States Code (including regulations promulgated under that section); and

(II) for fair market value; and

(ii) of any gross proceeds received by the County from the sale, lease, or other conveyance of the land, the County shall—

(I) contribute 85 percent to the special account established by section 4(e)(1)(C) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105-263; 112 Stat. 2345);

(II) contribute 5 percent to the State for use in the general education program of the State; and

(III) reserve 10 percent for use by the Clark County Department of Aviation for airport development and noise compatibility programs.

**(c) WITHDRAWAL OF LAND.—**

(1) IN GENERAL.—Subject to valid existing rights, the corridor described in subsection (a)(5) and the land transferred to the County under subsection (b)(1) are withdrawn from location and entry under the mining laws, and from operation under the mineral leasing and geothermal leasing laws, until such time as—

(A) the Secretary terminates the withdrawal; or

(B) the corridor or land, respectively, is patented.

(2) AREAS OF CRITICAL ENVIRONMENTAL CONCERN.—Subject to valid existing rights, any Federal land in an area of critical environmental concern that is designated for segregation and withdrawal under the 1998 Las Vegas Resource Management Plan is segregated and withdrawn from the operation of the mining laws in accordance with that plan.

**TITLE VI—SLOAN CANYON NATIONAL CONSERVATION AREA****SEC. 601. SHORT TITLE.**

This title may be cited as the “Sloan Canyon National Conservation Area Act”.

**SEC. 602. PURPOSE.**

The purpose of this title is to establish the Sloan Canyon National Conservation Area to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the cultural, archaeological, natural, wilderness, scientific, geological, historical, biological, wildlife, education, and scenic resources of the Conservation Area.

**SEC. 603. DEFINITIONS.**

In this title:

(1) CONSERVATION AREA.—The term “Conservation Area” means the Sloan Canyon National Conservation Area established by section 604(a).

(2) FEDERAL PARCEL.—The term “Federal parcel” means the parcel of Federal land consisting of approximately 500 acres that is identified as “Tract A” on the map entitled “Southern Nevada Public Land Management Act” and dated June 10, 2002.

(3) **MANAGEMENT PLAN.**—The term “management plan” means the management plan for the Conservation Area developed under section 605(b).

(4) **MAP.**—The term “map” means the map submitted under section 604(c).

#### SEC. 604. ESTABLISHMENT.

(a) **IN GENERAL.**—For the purpose described in section 602, there is established in the State a conservation area to be known as the “Sloan Canyon National Conservation Area”.

(b) **AREA INCLUDED.**—The Conservation Area shall consist of approximately 47,000 acres of public land in the County, as generally depicted on the map.

(c) **MAP AND LEGAL DESCRIPTION.**—

(1) **IN GENERAL.**—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to Congress a map and legal description of the Conservation Area.

(2) **EFFECT.**—The map and legal description shall have the same force and effect as if included in this section, except that the Secretary may correct minor errors in the map or legal description.

(3) **PUBLIC AVAILABILITY.**—A copy of the map and legal description shall be on file and available for public inspection in—

(i) the Office of the Director of the Bureau of Land Management;

(ii) the Office of the State Director of the Bureau of Land Management of the State; and

(iii) the Las Vegas District Office of the Bureau of Land Management.

#### SEC. 605. MANAGEMENT.

(a) **IN GENERAL.**—The Secretary, acting through the Director of the Bureau of Land Management, shall manage the Conservation Area—

(1) in a manner that conserves, protects, and enhances the resources of the Conservation Area; and

(2) in accordance with—

(A) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(B) other applicable law, including this Act.

(b) **MANAGEMENT PLAN.**—

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the Secretary, in consultation with the State, the city of Henderson, the County, and any other interested persons, shall develop a comprehensive management plan for the Conservation Area.

(2) **REQUIREMENTS.**—The management plan shall—

(A) describe the appropriate uses and management of the Conservation Area; and

(B)(i) authorize the use of motorized vehicles in the Conservation Area—

(I) for installing, repairing, maintaining, and reconstructing water development projects, including guzzlers, that would enhance the Conservation Area by promoting healthy, viable, and more naturally distributed wildlife populations; and

(II) subject to any limitations that are not more restrictive than the limitations on such uses authorized in wilderness areas under clauses (i) and (ii) of section 208(c)(2)(C); and

(ii) include or provide recommendations on ways of minimizing the visual impacts of such activities on the Conservation Area.

(c) **USE.**—The Secretary may allow any use of the Conservation Area that the Secretary determines will further the purpose described in section 602.

(d) **MOTORIZED VEHICLES.**—Except as needed for administrative purposes or to respond to an emergency, the use of motorized vehicles in the Conservation Area shall be permitted only on roads and trails designated

for the use of motorized vehicles by the management plan developed under subsection (b).

(e) **WITHDRAWAL.**—

(1) **IN GENERAL.**—Subject to valid existing rights and the right-of-way issued under subsection (h), all public land in the Conservation Area is withdrawn from—

(A) all forms of entry and appropriation under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(2) **ADDITIONAL LAND.**—Notwithstanding any other provision of law, if the Secretary acquires mineral or other interests in a parcel of land within the Conservation Area after the date of enactment of this Act, the parcel is withdrawn from operation of the laws referred to in paragraph (1) on the date of acquisition of the land.

(f) **HUNTING, FISHING, AND TRAPPING.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the Secretary shall permit hunting, fishing, and trapping in the Conservation Area in accordance with applicable Federal and State laws.

(2) **LIMITATIONS.**—

(A) **REGULATIONS.**—The Secretary may designate by regulation areas in which, and establish periods during which, for reasons of public safety, administration, or compliance with applicable laws, no hunting, fishing, or trapping will be permitted in the Conservation Area.

(B) **CONSULTATION.**—Except in emergencies, the Secretary shall consult with, and obtain the approval of, the appropriate State agency before promulgating regulations under subparagraph (A) that close a portion of the Conservation Area to hunting, fishing, or trapping.

(g) **NO BUFFER ZONES.**—

(1) **IN GENERAL.**—The establishment of the Conservation Area shall not create an express or implied protective perimeter or buffer zone around the Conservation Area.

(2) **PRIVATE LAND.**—If the use of, or conduct of an activity on, private land that shares a boundary with the Conservation Area is consistent with applicable law, nothing in this title concerning the establishment of the Conservation Area shall prohibit or limit the use or conduct of the activity.

(h) **RIGHT-OF-WAY.**—Not later than 90 days after the date of enactment of this Act, the Secretary shall convey to the city of Henderson the public right-of-way requested for rural roadway and public trail purposes under the application numbered N-65874.

#### SEC. 606. SALE OF FEDERAL PARCEL.

(a) **IN GENERAL.**—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713) and subject to valid existing rights, not later than 180 days after the date of enactment of this Act, the Secretary shall convey to the highest qualified bidder all right, title, and interest of the United States in and to the Federal parcel.

(b) **DISPOSITION OF PROCEEDS.**—Of the gross proceeds from the conveyance of land under subsection (a)—

(1) 5 percent shall be available to the State for use in the general education program of the State;

(2) 8 percent shall be deposited in the special account established by section 4(e)(1)(C) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105-263; 112 Stat. 2345), to be available without further appropriation for a comprehensive southern Nevada litter cleanup and public awareness campaign; and

(3) the remainder shall be deposited in the special account described in paragraph (2), to be available to the Secretary, without further appropriation for—

(A) the construction and operation of facilities at, and other management activities in, the Conservation Area;

(B) the construction and repair of trails and roads in the Conservation Area authorized under the management plan;

(C) research on and interpretation of the archaeological and geological resources of Sloan Canyon; and

(D) any other purpose that the Secretary determines to be consistent with the purpose described in section 602.

#### SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

### TITLE VII—PUBLIC INTEREST CONVEYANCES

#### SEC. 701. DEFINITION OF MAP.

In this title, the term “map” means the map entitled “Southern Nevada Public Land Management Act” and dated June 10, 2002.

#### SEC. 702. CONVEYANCE TO THE UNIVERSITY OF NEVADA AT LAS VEGAS RESEARCH FOUNDATION.

(a) **FINDINGS AND PURPOSES.**—

(1) **FINDINGS.**—Congress finds that—

(A) the University of Nevada, Las Vegas, needs land in the greater Las Vegas area to provide for the future growth of the university;

(B) the proposal by the University of Nevada, Las Vegas, for construction of a research park and technology center in the greater Las Vegas area would enhance the high tech industry and entrepreneurship in the State; and

(C) the land transferred to the Clark County Department of Aviation under section 4(g) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105-263; 112 Stat. 2346) is the best location for the research park and technology center.

(2) **PURPOSES.**—The purposes of this section are—

(A) to provide a suitable location for the construction of a research park and technology center in the greater Las Vegas area;

(B) to provide the public with opportunities for education and research in the field of high technology; and

(C) to provide the State with opportunities for competition and economic development in the field of high technology.

(b) **TECHNOLOGY RESEARCH CENTER.**—

(1) **CONVEYANCE.**—Notwithstanding section 4(g)(4) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105-263; 112 Stat. 2347), the Clark County Department of Aviation may convey, without consideration, all right, title, and interest in and to the parcel of land described in paragraph (2) to the University of Nevada at Las Vegas Research Foundation for the development of a technology research center.

(2) **DESCRIPTION OF LAND.**—The parcel of land referred to in paragraph (1) is the parcel of Clark County Department of Aviation land—

(A) consisting of approximately 115 acres; and

(B) located in the SW 1/4 of section 33, T. 21 S., R. 60 E., Mount Diablo Base and Meridian.

#### SEC. 703. CONVEYANCE TO THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT.

The Secretary shall convey to the Las Vegas Metropolitan Police Department, without consideration, all right, title, and interest in and to the parcel of land identified as “Tract F” on the map for use as a shooting range.

#### SEC. 704. CONVEYANCE TO THE CITY OF HENDERSON FOR THE NEVADA STATE COLLEGE AT HENDERSON.

(a) **DEFINITIONS.**—In this section:

(1) **CHANCELLOR.**—The term “Chancellor” means the Chancellor of the University system.

(2) CITY.—The term “City” means the city of Henderson, Nevada.

(3) COLLEGE.—The term “College” means the Nevada State College at Henderson.

(4) UNIVERSITY SYSTEM.—The term “University system” means the University and Community College System of Nevada.

(b) CONVEYANCE.—

(1) IN GENERAL.—Notwithstanding the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and section 1(c) of the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act”) (43 U.S.C. 869(c)), not later than 60 days after the date on which the survey is approved under paragraph (3)(A)(ii), the Secretary shall convey to the City all right, title, and interest of the United States in and to the parcel of Federal land identified as “Tract H” on the map for use as a campus for the College.

(2) CONDITIONS.—

(A) IN GENERAL.—As a condition of the conveyance under paragraph (1), the Chancellor and the City shall agree in writing—

(i) to pay any administrative costs associated with the conveyance, including the costs of any environmental, wildlife, cultural, or historical resources studies;

(ii) to use the Federal land conveyed for educational and recreational purposes;

(iii) to release and indemnify the United States from any claims or liabilities which may arise from uses that are carried out on the Federal land on or before the date of enactment of this Act by the United States or any person;

(iv) to provide to the Secretary, on request, any report, data, or other information relating to the operations of the College that may be necessary, as determined by the Secretary, to determine whether the College is in compliance with this Act;

(v) as soon as practicable after the date of the conveyance under paragraph (1), to erect at the College an appropriate and centrally located monument that acknowledges the conveyance of the Federal land by the United States for the purpose of furthering the higher education of citizens in the State;

(vi) to provide information to the students of the College on the role of the United States in the establishment of the College; and

(vii) to assist the Bureau of Land Management in providing information to the students of the College and the citizens of the State on—

(I) public land in the State; and

(II) the role of the Bureau of Land Management in managing, preserving, and protecting the public land.

(B) VALID EXISTING RIGHTS.—The conveyance under paragraph (1) shall be subject to all valid existing rights.

(3) USE OF FEDERAL LAND.—

(A) IN GENERAL.—The College and the City may use the land conveyed under paragraph (1) for any purpose relating to the establishment, operation, growth, and maintenance of the College, including the construction, operation, maintenance, renovation, and demolition of—

(i) classroom facilities;

(ii) laboratories;

(iii) performance spaces;

(iv) student housing;

(v) administrative facilities;

(vi) sports and recreational facilities and fields;

(vii) food service, concession, and related facilities;

(viii) parks and roads; and

(ix) water, gas, electricity, phone, Internet, and other utility delivery systems.

(B) PROFITABLE ACTIVITIES.—The manufacturing, distribution, marketing, and selling of refreshments, books, sundries, College

logo merchandise, and related materials on the Federal land for a profit shall be considered to be an educational or recreational use for the purposes of this section, if—

(i) the profitable activities are reasonably related to the educational or recreational purposes of the College; and

(ii) any profits are used to further the educational or recreational purposes of the College.

(C) OTHER ENTITIES.—The College may—

(i) consistent with Federal and State law, lease or otherwise provide property or space at the College, with or without consideration, to religious, public interest, community, or other groups for services and events that are of interest to the College, the City, or any community located in the Las Vegas Valley;

(ii) allow the City or any other community in the Las Vegas Valley to use facilities of the College for educational and recreational programs of the City or community; and

(iii) in conjunction with the City, plan, finance, (including the provision of cost-share assistance), construct, and operate facilities for the City on the Federal land conveyed for educational or recreational purposes consistent with this section.

(4) REVERSION.—

(A) NOTICE.—If the Federal land or any portion of the Federal land conveyed under paragraph (1) ceases to be used for the College, the Secretary shall notify the President and the City in writing of the intention of the Secretary to reclaim title to the Federal land or any portion of the Federal land, including any improvements to the Federal land, on behalf of the United States.

(B) EVIDENCE.—Not later than 180 days after the date of receipt of a notification under subparagraph (A), the President may submit to the Secretary any evidence that the Federal land, or any portion of the Federal land, is being used in accordance with the purposes of this section.

(C) PURCHASE BY UNIVERSITY SYSTEM.—

(i) OFFER.—Instead of reclaiming title to the Federal land or any portion of the Federal land under this paragraph, the Secretary may allow the University system to obtain title to the Federal land or any portion of the Federal land in exchange for payment by the University system of an amount equal to the fair market value of the land, excluding the value of any improvements, for any portions of the Federal land not being used for the purposes specified in this section.

(ii) AUCTION.—If the University system elects not to purchase the Federal land under clause (i)—

(I) the Federal land shall revert to the United States; and

(II) the Secretary shall—

(aa) dispose of the Federal land at public auction for fair market value; and

(bb) deposit the proceeds of the disposal in accordance with section 4(e)(1) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105-263; 112 Stat. 2343).

#### SEC. 705. CONVEYANCE TO THE CITY OF LAS VEGAS, NEVADA.

(a) DEFINITIONS.—In this section:

(1) CITY.—The term “City” means the city of Las Vegas, Nevada.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(b) CONVEYANCE.—The Secretary shall convey to the City, without consideration, all right, title, and interest of the United States in and to the parcels of land identified as “Tract C” and “Tract D” on the map.

(c) REVERSION.—If a parcel of land conveyed to the City under subsection (b) ceases to be used for affordable housing or for a pur-

pose related to affordable housing, the parcel shall, if determined to be appropriate by the Secretary, revert to the United States.

#### SEC. 706. HENDERSON ECONOMIC DEVELOPMENT ZONE.

(a) DEFINITIONS.—In this section:

(1) CITY.—The term “City” means the city of Henderson, Nevada.

(2) FEDERAL LAND.—The term “Federal land” means the parcels of Federal land identified as “Tract G” on the map.

(b) CONVEYANCE.—

(1) IN GENERAL.—Subject to paragraph (2) and valid existing rights, on request by the City, the Secretary shall convey to the City, without consideration, all right, title, and interest of the United States in and to the Federal land.

(2) CONDITIONS.—As a condition of the conveyance of land under paragraph (1), the City shall agree—

(A) to manage, in consultation with the Clark County Department of Aviation, the land in accordance with section 47504 of title 49, United States Code; and

(B) that if any portion of the Federal land is sold, leased, or otherwise conveyed by the City—

(i) the sale, lease, or conveyance shall be—

(I) for the purposes of implementing the economic development goals of the City;

(II) subject to a requirement that any use of the transferred land be consistent with section 47504 of title 49, United States Code; and

(III) for an amount equal to—

(aa) at least fair market value; plus

(bb) as the City determines to be appropriate, any administrative costs of the City relating to the Federal land, including costs—

(AA) associated with the sale, lease, or conveyance of the Federal land;

(BB) for planning, engineering, surveying, and subdividing the land; and

(CC) as the City determines appropriate, for the planning, design, and construction of infrastructure for the economic development zone; and

(ii) the City shall deposit the proceeds from any sale, lease, or other conveyance of the Federal land, excluding any administrative costs received under item (bb), in accordance with section 4(e)(1) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105-263; 112 Stat. 2343).

(3) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in—

(A) the Office of the Director of the Bureau of Land Management;

(B) the Office of the State Director of the Bureau of Land Management of the State; and

(C) the Las Vegas District Office of the Bureau of Land Management.

(4) RESERVATION FOR RECREATIONAL OR PUBLIC PURPOSES.—

(A) IN GENERAL.—The City may elect to use 1 or more parcels of Federal land for recreational or public purposes under the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act”) (43 U.S.C. 869 et seq.).

(B) CONSIDERATION.—If the City makes an election under subparagraph (A), the City shall pay to the Bureau of Land Management an amount determined under that Act.

(5) REVERSION.—A parcel of Federal land shall revert to the United States if—

(A) a parcel used by the City for local recreational or public purposes under paragraph (4)—

(i) ceases to be used by the City for such purposes; and

(ii) is not sold, leased, or conveyed in accordance with paragraph (2)(B); or

(B) by the date specified in paragraph (6), the City does not—

(i) elect to use the parcel for local recreational or public purposes under paragraph (4); or

(ii) sell, lease, or convey the Federal parcel in accordance with paragraph (2)(B).

(6) **TERMINATION OF EFFECTIVENESS.**—The authority provided by this section terminates on the date that is 20 years after the date of enactment of this Act.

**SEC. 707. CONVEYANCE OF SUNRISE MOUNTAIN LANDFILL TO CLARK COUNTY, NEVADA.**

(a) **IN GENERAL.**—Not later than 1 year after the date on which a cleanup of the land identified as “Tract E” on the map is completed, the Secretary shall convey to the County, without consideration, all right, title, and interest of the United States in and to the land.

(b) **SURVEY.**—

(1) **IN GENERAL.**—The Secretary shall conduct a survey to determine the exact acreage and legal description of the land to be conveyed under subsection (a).

(2) **COST.**—The County shall be responsible for the cost of the survey conducted under paragraph (1).

(c) **CONDITIONS.**—

(1) **IN GENERAL.**—As a condition of the conveyance of the land under subsection (a), the County shall enter into a written agreement with the Secretary that provides that—

(A) the Secretary shall not be liable for any claims arising from the land after the date of conveyance; and

(B) the County may use the land conveyed for any purpose.

(2) **VALID EXISTING RIGHTS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the conveyance of land under subsection (a) shall be subject to valid existing rights.

(B) **EXCEPTION.**—On conveyance of the land under subsection (a), the Secretary shall terminate any lease with respect to the land that—

(i) was issued under the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act”) (43 U.S.C. 869 et seq.); and

(ii) is in effect on the date of enactment of this Act.

(d) **WAIVER OF CERTAIN REQUIREMENTS.**—The conveyance of land under subsection (a)—

(1) shall not require the Secretary to update the 1998 Las Vegas Valley Resource Management Plan; and

(2) shall not be subject to any law (including a regulation) that limits the acreage authorized to be transferred by the Secretary in any transaction or year.

**SEC. 708. OPEN SPACE LAND GRANTS.**

(a) **CONVEYANCE.**—

(1) **IN GENERAL.**—Notwithstanding section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), the Secretary shall convey to the city of Henderson, Nevada (referred to in this section as the “City”), subject to valid existing rights, for no consideration, all right, title, and interest of the United States in and to the parcel of land identified as “Tract B” on the map entitled “McCulloughs” and dated June 10, 2002.

(2) **COSTS.**—Any costs relating to the conveyance of the parcel of land under paragraph (1), including costs for a survey and other administrative costs, shall be paid by the City.

(b) **USE OF LAND.**—

(1) **IN GENERAL.**—The parcel of land conveyed to the City under subsection (a)(1) shall be used—

(A) for the conservation of natural resources;

(B) for public recreation, including hiking, horseback riding, biking, and birdwatching;

(C) as part of a regional trail system; and

(D) for flood control facilities.

(2) **FACILITIES.**—Any facility on the parcel of land conveyed under subsection (a)(1) shall be constructed and managed in a manner consistent with the uses specified in paragraph (1).

(3) **REVERSION.**—If the parcel of land conveyed under subsection (a)(1) is used in a manner that is inconsistent with the uses specified in paragraph (1), the parcel of land shall, if determined to be appropriate by the Secretary, revert to the United States.

(c) **WILDERNESS RELEASE.**—Congress finds that the parcel of land identified in subsection (a)(1)—

(1) has been adequately studied for wilderness designation for the purposes of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(2) shall not be subject to the requirements of that section relating to the management of wilderness study areas.

**SEC. 709. RELOCATION OF RIGHT-OF-WAY CORRIDOR LOCATED IN CLARK AND LINCOLN COUNTIES IN THE STATE OF NEVADA.**

(a) **DEFINITIONS.**—In this section:

(1) **AGREEMENT.**—The term “Agreement” means the land exchange agreement between Aerojet-General Corporation and the United States, dated July 13, 1988.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(b) **RELOCATION.**—The Secretary shall, without consideration, relocate the right-of-way corridor described in subsection (c) to the area described in subsection (d).

(c) **DESCRIPTION OF RIGHT-OF-WAY CORRIDOR.**—The right-of-way corridor referred to in subsection (a) consists of the right-of-way corridor—

(1) numbered U-42519;

(2) referred to in the patent numbered 27-88-0013 and dated July 18, 1988; and

(3) more particularly described in section 14(a) of the Agreement.

(d) **DESCRIPTION OF AREA.**—The area referred to in subsection (a) consists of an area—

(1) 1,000 feet wide; and

(2) located west of and parallel to the centerline of United States Route 93.

Mr. ENSIGN. Mr. President, today it is a great privilege and honor for me to introduce the Clark County Conservation of Public Land and Natural Resources Act of 2002 with my good friend and colleague from Nevada, Senator HARRY REID.

The introduction of this legislation today is the culmination of over a year of work. We held public forums in Clark County to solicit the input of interested parties. My staff spent many hours with local government officials, the environmental community, multiple-use groups, utility providers, home developers, sportsmen, and other Nevadans to reach a compromise on how we tackle the tough issues we face in Clark County. While it is a daunting job to bring Nevadans with opposing perspectives together on the controversial topic of wilderness, I believe we have achieved a consensus that is good for all citizens in Clark County. We will look back 30 years from now and realize how this legislation contributed to the quality of life we cherish in southern Nevada.

Because the Federal government manages 87 percent of the land in Ne-

vada, the federal presence imposes enormous barriers to land use planning in a state that, again, outpaces every other state in population growth. I know I speak for many Nevadans when I say that we wish we did not have so much federal land within our borders. But the reality is that we do, and that this legislation is necessary to plan for growth and to set aside our pristine lands for future generations to enjoy and visit. In many states, land use planning takes place in city council chambers. We do not have that luxury, as we have to obtain the consent of the Congress to make some of the most basic decisions. Despite those obstacles, Senator REID and I are putting forward legislation that is a model for fast-growing communities struggling to balance the equally important goals of environmental protection, planned residential and business development, and the allocation of scarce resources such as water.

One of my proudest achievements during my service in the U.S. House of Representatives was the enactment of the Southern Nevada Public Land Management Act, or what is probably better known in Nevada as the Ensign-Bryan bill. Like the legislation Senator REID and I are introducing today, the Ensign-Bryan bill was the product of bipartisan cooperation and the spirit of inclusion. Senator Bryan, who deserves much credit for that landmark measure, and I hosted a public lands task force to identify and propose solutions to the unique problems we faced in the Las Vegas Valley. One of the major reforms that came about because of the Ensign-Bryan bill was the change in the way public land is disposed of in the Las Vegas Valley. We drew a disposal boundary around the valley and asked the Bureau of Land Management to auction the land to the highest bidder, in consultation with local governments. The proceeds of those land auctions millions of dollars have been going into a special fund to build parks and trails, acquire environmentally sensitive land, initiate capital improvements in our beautiful recreation and conservations areas, and maintain the Clark County Multi-Species Habitat Conservation Plan. We also allocated funds for water infrastructure and to the general education fund of the State of Nevada. This legislation continues to encourage orderly growth, improves the environment, and benefits the schoolchildren of Nevada.

Federal land has become so valuable because of the infrastructure installed by private developers, local governments, and the taxpayers of Nevada. It is because of the phenomenal growth in southern Nevada that public land auctions have brought in millions of dollars. Eighty-five percent of the proceeds from public land auctions in southern Nevada are reinvested in environmental projects. So, I would challenge those who claim that the federal government is not getting its fair share of the proceeds from land sales. In fact,



the federal government is receiving large sums of money because of the value-added infrastructure supported by Nevadans.

In the Clark County Conservation of Public Lands and Natural Resources Act, we build upon the Southern Nevada Public Lands Management Act and settle a number of wilderness designations that have been pending since 1991. This bill designates 224,000 acres of BLM wilderness while it releases 231,000 acres of wilderness study areas. In the jurisdiction of the National Park Service adjacent to the Colorado River and Lake Mead, 184,000 acres of wilderness are designated. In all, 444,000 acres in Clark County will be added to our national wilderness preservation system. While the acreage is more than supported by a coalition of multiple-use advocates in Nevada, the acreage is about one-fifth of the amount requested by the Friends of Nevada Wilderness. This compromise is fair.

I am particularly proud that the bill creates a second National Conservation Area in southern Nevada, the Sloan Canyon National Conservation Area. Having such a magnificent resource at the edge of the City of Henderson will provide countless new recreation opportunities for those residents and provide open space that is so important to the quality of life in the Las Vegas Valley. I am happy we were able to improve the existing Red Rock National Conservation Area by adding pristine land to the NCA held by the Howard Hughes Corporation.

An important feature of this legislation I worked to include is the creation of a comprehensive Southern Nevada Litter Cleanup Campaign. As is the case in many desert communities, there is unfortunately a prevalence of discarded trash along our highways and on tracts of vacant BLM land within city limits. We must instill an ethic in our community and sense of awareness that we cannot continue to treat our desert lands as garbage dumps. While I attended college in Oregon, I saw how effective the "Keep Oregon Green" campaign worked. I am certain the same approach can produce results in southern Nevada, and that it can be accomplished through the leadership of volunteers, civic organizations, environmental groups, and private industry, without the bureaucracy. I look forward to leaving to my children a community that is much cleaner than the one we have today.

I worked to include protections in the Clark County Conservation of Public Land and Natural Resources so that existing access in wilderness is preserved. In addition to reserving motorized access through cherry-stemmed roads on maps referred to in the bill, we make it clear that reasonable access to water developments is permitted in wilderness areas. Groups such as the Fraternity of the Big Horn Sheep provide critical water to ensure the health of big horn sheep popu-

lations in southern Nevada. Of course, all valid existing rights are honored including grazing and mining. Buffers of at least 100 along each side of the road are preserved. We also authorize fire suppression and climatological data collection. All in all, reasonable access to wilderness has been achieved and I am especially appreciative of Senator REID's flexibility in addressing the concerns of multiple-use groups in this regard.

This legislation ensures Clark County's orderly growth over the next several decades through the establishment of educational and research institutions, industrial parks, and residential development. The original disposal boundary defined in the Ensign-Bryan Act has been expanded to accommodate planned growth in Clark County, the City of Las Vegas, the City of North Las Vegas, and the City of Henderson. We have some of the finest planned communities in the world in southern Nevada and I know that the new lands will be showcases for quality living for a broad spectrum of Nevadans. The bill sets aside land for the Clark County Department of Aviation for the development of the Ivanpah Airport south of Las Vegas, the only major international airport in the United States that will be constructed from scratch in the next ten years. And very importantly, we have opened up an energy corridor that will augment Nevada's and the Southwest's electricity needs.

I also wanted to mention the Clark County Multi-Species Habitat Conservation Plan. As the home to many threatened species, Clark County has entered into an agreement with the Fish and Wildlife Service so that the rapid growth we have been experiencing does not destroy critical plant and animal habitats. Senator REID and I have included language to ensure that the MSHCP is not revoked when releasing lands from wilderness study status. However, the agreement Senator REID and I reached does not mean that lands will be unavailable for multiple-use in the future; we wanted to give Clark County and the Fish and Wildlife Service the flexibility they need to amend the MSHCP as circumstances warrant, particularly as this legislation is implemented.

Senator REID and I went through a spirited campaign for the U.S. Senate against each other in 1998. It was a very close race and I conceded it by 428 votes. Our friendship is now strong, and I believe that this bill is a testament to the fact that legislators from different political perspectives can come together for the good of their state. It is not easy work to bridge philosophical differences, but it can and must be done for the sake of the people we represent.

I would like to thank Congressman JIM GIBBONS for his support of this measure in the U.S. House of Representatives. Congressman GIBBONS was an active participant in the development of this bill, and he offered sev-

eral constructive and good changes to its content. I appreciate very much his guidance and assistance.

Finally, I would like to thank members of my staff who worked hard on the development of this bill here in Washington and in Nevada: John Lopez, Margot Allen, Julene Haworth, and Mac Bybee are talented Nevadans who care very much about Clark County and our great state. I also appreciate the input and assistance of Clint Bentley, the tireless organizer of the Nevada Land Users Coalition. Clint was an articulate and reasoned advocate of multiple use principles and ensured that the Nevada Land Users Coalition spoke with one voice during these negotiations.

I look forward to quick passage of the Clark County Conservation of Public Lands and Natural Resources in the 107th Congress.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 3827. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 625, to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, and for other purposes; which was ordered to lie on the table.

SA 3828. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 625, supra; which was ordered to lie on the table.

SA 3829. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 3823 submitted by Mr. HATCH and intended to be proposed to the bill (S. 625) to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, and for other purposes; which was ordered to lie on the table.

SA 3830. Mr. MCCONNELL (for himself and Mr. KYL) submitted an amendment intended to be proposed to amendment SA 3815 submitted by Mr. MCCONNELL and intended to be proposed to the bill (S. 625) supra; which was ordered to lie on the table.

SA 3831. Mr. CONRAD proposed an amendment to the bill H.R. 8, to amend the Internal Revenue Code of 1986 to phaseout the estate and gift taxes over a 10-year period, and for other purposes.

#### TEXT OF AMENDMENTS

SA 3827. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 625, to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

##### SEC. \_\_\_\_ . DEFINITION OF BORN-ALIVE INFANT.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

**"§ 8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant**

**"(a)** In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words 'person', 'human being', 'child', and 'individual', shall include every infant member of the species homo sapiens

who is born alive at any stage of development.

“(b) As used in this section, the term ‘born alive’, with respect to a member of the species *homo sapiens*, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, caesarean section, or induced abortion.

“(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species *homo sapiens* at any point prior to being born alive as defined in this section.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by adding at the end the following new item:

“8. ‘Person’, ‘human being’, ‘child’, and ‘individual’ as including born-alive infant.”

**SA 3828.** Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 625, to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 10. REMOVAL OF CIVIL LIABILITY BARRIERS THAT DISCOURAGE THE DONATION OF FIRE EQUIPMENT TO VOLUNTEER FIRE COMPANIES.**

(a) LIABILITY PROTECTION.—A person who donates fire control or fire rescue equipment to a volunteer fire company shall not be liable for civil damages under any State or Federal law for personal injuries, property damage or loss, or death proximately caused by the equipment after the donation.

(b) EXCEPTIONS.—Subsection (a) does not apply to a person if—

(1) the person’s act or omission proximately causing the injury, damage, loss, or death constitutes gross negligence or intentional misconduct; or

(2) the person is the manufacturer of the fire control or fire rescue equipment.

(c) PREEMPTION.—This section preempts the laws of any State to the extent such laws are inconsistent with this section, except that notwithstanding subsection (b), this section shall not preempt any State law that provides additional protection from liability for a person who donates fire control or fire rescue equipment to a volunteer fire company.

(d) DEFINITIONS.—In this section:

(1) PERSON.—The term “person” includes any governmental or other entity.

(2) FIRE CONTROL OR RESCUE EQUIPMENT.—The term “fire control or fire rescue equipment” includes any fire vehicle, fire fighting tool, protective gear, fire hose, or breathing apparatus.

(3) GROSS NEGLIGENCE.—The term “gross negligence” means voluntary and conscious conduct harmful to the health or well-being of another person by a person who, at the time of the conduct, knew that the conduct was likely to be harmful to the health or well-being of another person.

(4) INTENTIONAL MISCONDUCT.—The term “intentional misconduct” means voluntary and conscious conduct harmful to the health or well-being of another person by a person who, at the time of the conduct, knew that the conduct was harmful to the health or well-being of another person.

(5) STATE.—The term “State” includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

(6) VOLUNTEER FIRE COMPANY.—The term “volunteer fire company” means an association of individuals who provide fire protection and other emergency services, where at least 30 percent of the individuals receive little or no compensation compared with an entry level full-time paid individual in that association or in the nearest such association with an entry level full-time paid individual.

(e) EFFECTIVE DATE.—This section applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (a), is donated on or after the date that is 30 days after the date of the enactment of this Act.

**SA 3829.** Mr. HATCH submitted an amendment intended to be proposed to amendment SA 3823 submitted by Mr. HATCH and intended to be proposed to the bill (S. 625) to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike line 3 and all that follows through line 6, and insert the following:

“(B) the State has requested that the Federal Government assume jurisdiction;

“(C) the State does not object to the Federal Government assuming jurisdiction; or

“(D) the State has failed to investigate or prosecute the bias-motivated offense in a manner that denies the victim equal protection of the State’s laws.

**SA 3830.** Mr. MCCONNELL (for himself and Mr. KYL) submitted an amendment intended to be proposed to amendment SA 3815 submitted by Mr. MCCONNELL and intended to be proposed to the bill (S. 625) to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike lines 1 through 17 and insert the following:

**“§ 250. Newspaper theft in violation of first amendment rights**

“(a) NEWSPAPER DEFINED.—In this section, the term ‘newspaper’ means any periodical that is distributed on a complimentary or compensatory basis on or near a college or university.

“(b) OFFENSE.—Whoever willfully or knowingly obtains or exerts unauthorized control over newspapers, or destroys such newspapers, with the intent to prevent other individuals from reading the newspapers shall be guilty of an offense under subsection (a)(1) of section 249 of this title and shall be punished as provided in that section.”

(2) CHAPTER ANALYSIS.—The chapter analysis for chapter 13 of title 18, United States Code, is amended by inserting at the end the following:

“250. Newspaper theft in violation of first amendment rights.”

(b) STUDY.—The Attorney General, in cooperation

**SA 3831.** Mr. CONRAD proposed an amendment to the bill H.R. 8, to amend the Internal Revenue Code of 1986 to

phase out the estate and gift taxes over a 10-year period, and for other purposes; as follows:

Strike all after the enacting clause, and insert the following:

**SECTION 1. RESTORATION OF ESTATE TAX; REPEAL OF CARRYOVER BASIS.**

(a) IN GENERAL.—Subtitles A and E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subtitles, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subtitles, and amendments, had never been enacted.

(b) SUNSET NOT TO APPLY.—

(1) Subsection (a) of section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking “this Act” and all that follows and inserting “this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.”

(2) Subsection (b) of such section 901 is amended by striking “, estates, gifts, and transfers”.

(c) CONFORMING AMENDMENTS.—Subsections (d) and (e) of section 511 of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subsections, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subsections, and amendments, had never been enacted.

**SEC. 2. MODIFICATIONS TO ESTATE TAX.**

(a) INCREASE IN EXCLUSION EQUIVALENT OF UNIFIED CREDIT.—

(1) IN GENERAL.—Subsection (c) of section 2010 of the Internal Revenue Code of 1986 (relating to applicable credit amount) is amended by striking all that follows “the applicable exclusion amount” and inserting “. For purposes of the preceding sentence, the applicable exclusion amount is \$3,000,000 (\$3,500,000 in the case of estates of decedents dying after December 31, 2008).”

(2) EARLIER TERMINATION OF SECTION 2057.—Subsection (f) of section 2057 of such Code is amended by striking “December 31, 2003” and inserting “December 31, 2002”.

(b) MAXIMUM ESTATE TAX RATE TO REMAIN AT 50 PERCENT; RESTORATION OF PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—Paragraph (2) of section 2001(c) of such Code is amended to read as follows:

“(2) PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—The tentative tax determined under paragraph (1) shall be increased by an amount equal to 5 percent of so much of the amount (with respect to which the tentative tax is to be computed) as exceeds \$10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of the applicable credit amount under section 2010(c) and \$224,200.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 2002.

**SEC. 3. VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS; LIMITATION ON MINORITY DISCOUNTS.**

(a) IN GENERAL.—Section 2031 of the Internal Revenue Code of 1986 (relating to definition of gross estate) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

“(d) VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS.—For purposes of this chapter and chapter 12—

“(1) IN GENERAL.—In the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092)—

“(A) the value of any nonbusiness assets held by the entity shall be determined as if the transferor had transferred such assets directly to the transferee (and no valuation

discount shall be allowed with respect to such nonbusiness assets), and

“(B) the nonbusiness assets shall not be taken into account in determining the value of the interest in the entity.

“(2) NONBUSINESS ASSETS.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘nonbusiness asset’ means any asset which is not used in the active conduct of 1 or more trades or businesses.

“(B) EXCEPTION FOR CERTAIN PASSIVE ASSETS.—Except as provided in subparagraph (C), a passive asset shall not be treated for purposes of subparagraph (A) as used in the active conduct of a trade or business unless—

“(i) the asset is property described in paragraph (1) or (4) of section 1221(a) or is a hedge with respect to such property, or

“(ii) the asset is real property used in the active conduct of 1 or more real property trades or businesses (within the meaning of section 469(c)(7)(C)) in which the transferor materially participates and with respect to which the transferor meets the requirements of section 469(c)(7)(B)(ii).

For purposes of clause (ii), material participation shall be determined under the rules of section 469(h), except that section 469(h)(3) shall be applied without regard to the limitation to farming activity.

“(C) EXCEPTION FOR WORKING CAPITAL.—Any asset (including a passive asset) which is held as a part of the reasonably required working capital needs of a trade or business shall be treated as used in the active conduct of a trade or business.

“(3) PASSIVE ASSET.—For purposes of this subsection, the term ‘passive asset’ means any—

“(A) cash or cash equivalents,

“(B) except to the extent provided by the Secretary, stock in a corporation or any other equity, profits, or capital interest in any entity,

“(C) evidence of indebtedness, option, forward or futures contract, notional principal contract, or derivative,

“(D) asset described in clause (iii), (iv), or (v) of section 351(e)(1)(B),

“(E) annuity,

“(F) real property used in 1 or more real property trades or businesses (as defined in section 469(c)(7)(C)),

“(G) asset (other than a patent, trademark, or copyright) which produces royalty income,

“(H) commodity,

“(I) collectible (within the meaning of section 401(m)), or

“(J) any other asset specified in regulations prescribed by the Secretary.

“(4) LOOK-THRU RULES.—

“(A) IN GENERAL.—If a nonbusiness asset of an entity consists of a 10-percent interest in any other entity, this subsection shall be applied by disregarding the 10-percent interest and by treating the entity as holding directly its ratable share of the assets of the other entity. This subparagraph shall be applied successively to any 10-percent interest of such other entity in any other entity.

“(B) 10-PERCENT INTEREST.—The term ‘10-percent interest’ means—

“(i) in the case of an interest in a corporation, ownership of at least 10 percent (by vote or value) of the stock in such corporation,

“(ii) in the case of an interest in a partnership, ownership of at least 10 percent of the capital or profits interest in the partnership, and

“(iii) in any other case, ownership of at least 10 percent of the beneficial interests in the entity.

“(5) COORDINATION WITH SUBSECTION (b).—Subsection (b) shall apply after the application of this subsection.

“(e) LIMITATION ON MINORITY DISCOUNTS.—For purposes of this chapter and chapter 12, in the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092), no discount shall be allowed by reason of the fact that the transferee does not have control of such entity if the transferee and members of the family (as defined in section 2032A(e)(2)) of the transferee have control of such entity.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

## NOTICES OF HEARINGS/MEETINGS

### SUBCOMMITTEE ON NATIONAL PARKS

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, June 20, 2002, at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of the hearing is to receive testimony on the following bills:

S. 139 and H.R. 3928, to assist in the preservation of archaeological, paleontological, zoological, geological, and botanical artifacts through construction of a new facility for the University of Utah Museum of Natural History, Salt Lake City, Utah;

S. 1609 and H.R. 1814, to amend the National Trails System Act to direct the Secretary of the Interior to conduct a study on the feasibility of designating the Metacomet-Mattabesett Trail extending through western Massachusetts and central Connecticut as a national historic trail;

S. 1925, to establish the Freedom's Way National Heritage Area in the States of Massachusetts and New Hampshire, and for other purposes;

S. 2196, to establish the National Mormon Pioneer Heritage Area in the State of Utah, and for other purposes;

S. 2388, to direct the Secretary of the Interior to study certain sites in the historic district of Beaufort, South Carolina, relating to the Reconstruction Era;

S. 2519, to direct the Secretary of the Interior to conduct a study of Coltsville in the State of Connecticut for potential inclusion in the National Park System; and

S. 2576, to establish the Northern Rio Grande National Heritage Area in the State of New Mexico, and for other purposes.

Because of the limited time available for the hearing, witnesses must 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, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks of the committee staff at (202-224-9863).

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, June 19, 2002, at 9:30 a.m. in room 366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of the hearing is to receive testimony on the following bills addressing the recreation fee program on Federal lands:

S. 2473, to enhance the Recreational Fee Demonstration Program for the National Park Service, and for other purposes; and

S. 2607, to authorize the Secretary of the Interior and the Secretary of Agriculture to collect recreation fees on Federal lands, and for other purposes.

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, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks of the committee staff at (202) 224-9863.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 11, 2002, at 10:45 a.m., to hold a hearing on public diplomacy.

### Agenda

#### Witnesses

Panel 1: The Honorable Charlotte Beers, Under Secretary for Public Diplomacy and Public Affairs, Department of State, Washington, DC; and the Honorable Norman Pattiz, Governor, Broadcasting Board of Governors, Washington, DC.

Panel 2: The Honorable Mark Ginsberg, Former Ambassador to Morocco, CEO and Managing Director, Northstar Equity Group, Washington, DC; the Honorable Newt Gingrich, Former Speaker, U.S. House of Representatives, Senior Fellow, American Enterprise Institute, Washington, DC; Mr. David Hoffman, President, Internews, Arcadia, CA; and Mr. Veton Surroi, Chairman, Koha Media Group, Pristina, Kosovo.

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

### COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate

on Tuesday, June 11, 2002, at 2:30 p.m., to hold a hearing on Liberia.

#### Agenda

##### Witnesses

Panel 1: The Honorable Walter Kansteiner, Assistant Secretary for African Affairs, Department of State, Washington, DC.

Panel 2: Ms. Binaifer Nowrojee, Senior Researcher, Human Rights Watch Africa Division, New York, New York; and Ms. Rory Anderson, Africa Policy Specialist, World Vision, Washington, DC.

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

##### COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, June 11, 2002 at 1:30 p.m. in room 485 of the Russell Senate Office Building to conduct an oversight hearing on the work of the U.S. Department of Interior's Branch of Acknowledgment and Research within the Bureau of Indian Affairs.

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

##### COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "The Criminal Justice System and Mentally Ill Offenders" on Tuesday, June 11, 2002 in Dirksen room 226 at 10:00 a.m.

#### Agenda

##### Witnesses

Panel I: The Honorable Ted Strickland, U.S. Representative (D-OH-6th), Washington, DC.

Panel II: Chief Gary Margolis, University of Vermont, Director of Police Services, Burlington, VT; Ms. Marylou Sudders, Commissioner of Mental Health, Commonwealth of Massachusetts, Boston, MA; the Honorable Kenneth Mayfield, President-Elect, National Association of Counties, Commissioner, Dallas County, Dallas, TX; and Captain John Caceci, Monroe County Jail, Rochester, NY.

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

##### SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, June 11, 2002, at 10 a.m. to hold a closed hearing on the joint inquiry into the events of September 11, 2001.

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

##### SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, June 11, 2002, at 2:30 p.m. to hold a closed hearing on the joint inquiry into the events of September 11, 2001.

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

##### SUBCOMMITTEE ON AGING

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Aging be authorized to meet for a hearing on "Preventing Elder Falls" during the session of the Senate on Tuesday, June 11, 2002, at 2:30 p.m. in SD-430.

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

##### SUBCOMMITTEE ON COMMUNICATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Communications of the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, June 11, 2002, at 9:30 a.m. on "Spectrum Management: Improving the Management of Government and Commercial Spectrum Domestically and Internationally."

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

##### SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION, AND FEDERAL SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on International Security, Proliferation and Federal Services be authorized to meet on Tuesday, June 11, 2002, at 10 a.m. for a hearing regarding "Cruise Missile and UAV Threats to the United States."

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

#### PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. I ask unanimous consent that Nicolette Boehland be granted the privilege of the floor for the duration of the debate on S. 625.

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

#### ORDERS FOR WEDNESDAY, JUNE 12, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, June 12; that following the prayer and the pledge, 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 there then be a period of morning business until 10:40 a.m., with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Republican leader or his designee; that at 10:40 a.m., the Senate proceed to the House Chamber for the Joint Meeting with the Prime Minister of Australia; and then the Senate stand in recess until 12:30 p.m.; further, that at 12:30 p.m., the Senate resume consideration of H.R. 8.

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

#### MEASURE RETURNED TO THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that S. 625 be returned to the calendar.

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

#### PROGRAM

Mr. REID. Mr. President, as I indicated, tomorrow we believe Senator DORGAN will lay down an amendment at 12:30. That would mean that debate would culminate at about 2:30 tomorrow afternoon, at which time we would have a vote on his amendment, the second-degree amendment, and the Conrad amendment. Following that, unless there is some other amendment, the Senator from Texas would lay down his amendment, and that would mean at approximately 5:15 or 5:30 we would vote on his amendment. We hope to complete this legislation tomorrow evening sometime.

The majority leader will make a determination as to what we will move to. That would be good because it is Thursday. I know he has been working with the Senator from Kansas to come up with an agreement to move forward on the cloning, stem cell legislation. That would allow us to hopefully complete that matter the following day. We have a lot of work to do.

Hopefully, on Friday we can even do something that is constructive in nature and complete more legislation.

The majority leader indicated on the floor today that prior to the July 4 recess, he will move to the defense authorization bill. That is a very difficult bill, as we know. There are a lot of amendments always. So that will take a good part of the legislative week. So there is a lot of work to do and little time to do it.

#### APPOINTMENT OF COMMITTEE TO ESCORT THE HONORABLE JOHN HOWARD, PRIME MINISTER OF AUSTRALIA

Mr. REID. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join a like committee on the part of the House of Representatives to escort the Honorable John Howard, Prime Minister of Australia, into the House Chamber for a joint meeting on Wednesday, June 12, 2002.

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

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, I believe there is no further business to come before the Senate. That being the case, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:14 p.m., adjourned until Wednesday, June 12, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by  
the Senate June 11, 2002:

THE JUDICIARY

FERN FLANAGAN SADDLER, OF THE DISTRICT OF CO-  
LUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR  
COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM  
OF FIFTEEN YEARS, VICE PATRICIA A. WYNN, RETIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
IN THE RESERVE OF THE ARMY TO THE GRADES INDI-  
CATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. WAYNE M. ERCK, 0000  
BRIG. GEN. CHARLES E. MCCARTNEY JR., 0000  
BRIG. GEN. BRUCE E. ROBINSON, 0000

*To be brigadier general*

COL. DAVID L. EVANS, 0000

COL. WILLIAM C. KIRKLAND, 0000  
COL. JAMES B. MALLORY III, 0000  
COL. JOHN P. MCLAREN JR., 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
IN THE UNITED STATES ARMY TO THE GRADE INDICATED  
UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COLONEL CLINTON T. ANDERSON, 0000  
COLONEL MICHAEL D. BARBERO, 0000  
COLONEL VINCENT K. BROOKS, 0000  
COLONEL SALVATORE F. CAMBRIA, 0000  
COLONEL SAMUEL M. CANNON, 0000  
COLONEL JAMES A. CERRONE, 0000  
COLONEL ROBERT W. CONE, 0000  
COLONEL ROBERT CREAR, 0000  
COLONEL JOHN M. CUSTER III, 0000  
COLONEL DAVID P. FRIDOVICH, 0000  
COLONEL RUSSELL L. FRUTIGER, 0000  
COLONEL WILLIAM T. GRISOLI, 0000  
COLONEL CARTER F. HAM, 0000  
COLONEL JEFFERY W. HAMMOND, 0000  
COLONEL THOMAS M. JORDAN, 0000  
COLONEL FRANCIS H. KEARNEY III, 0000

COLONEL DANIEL J. KEEFE, 0000  
COLONEL STEPHEN R. LAYFIELD, 0000  
COLONEL JOHN A. MACDONALD, 0000  
COLONEL RICHARD L. MCCABE, 0000  
COLONEL WILLIAM H. MCCOY JR., 0000  
COLONEL MARVIN K. MCNAMARA, 0000  
COLONEL JOHN W. MORGAN III, 0000  
COLONEL STEPHEN D. MUNDT, 0000  
COLONEL MICHAEL L. OATES, 0000  
COLONEL MARK E. ONEILL, 0000  
COLONEL JOSEPH E. ORR, 0000  
COLONEL ERVIN PEARSON, 0000  
COLONEL ROBERT M. RADIN, 0000  
COLONEL JOSE D. RIOJAS, 0000  
COLONEL CURTIS M. SCAPARROTTI, 0000  
COLONEL MARK E. SCHEID, 0000  
COLONEL JAMES H. SCHWITTERS, 0000  
COLONEL JOHN F. SHORTAL, 0000  
COLONEL JOSEPH A. SMITH, 0000  
COLONEL MERDITH W. TEMPLE, 0000  
COLONEL LOUIS W. WEBER, 0000  
COLONEL SCOTT G. WEST, 0000